



Office of the Auditor General of Ontario

Annual Report *2018*



Volume 1 of 2



Office of the Auditor General of Ontario

To the Honourable Speaker
of the Legislative Assembly

In my capacity as the Auditor General, I am pleased to submit to you Volume 1 of the *2018 Annual Report* of the Office of the Auditor General of Ontario to lay before the Assembly in accordance with the provisions of section 12 of the *Auditor General Act*.

A handwritten signature in black ink, reading "Bonnie Lysyk". The signature is fluid and cursive, with the first letters of the first and last names being capitalized and prominent.

Bonnie Lysyk, MBA, FCPA, FCA
Auditor General

Fall 2018
Toronto, Ontario

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Bonnie Lysyk
Auditor General of Ontario

Reflections

Introduction

In part, the story of the *2018 Annual Report* can be told by the numbers: 15 value-for-money audit reports, 25 follow-up reports on our audits of two years ago along with those of the Standing Committee on Public Accounts (PAC) of the Legislative Assembly, continuous follow-up work on almost 1,100 earlier audit recommendations, and attest audits of the financial statements of the Province and dozens of Crown agencies and Crown-controlled corporations. Our report is presented in two volumes. **Volume 1** contains our value-for-money audits and chapters on the public accounts and government advertising. **Volume 2** is dedicated to our work on following up on the implementation of our audit recommendations and those of PAC.

While most of our work in this Annual Report is focused on our value-for-money audits, I would be remiss this year if I did not lead off by commenting on a key area of our work that until the last couple of years had usually drawn little public attention: our audit of the Province's consolidated financial statements.

For the past two years, as an independent Officer of the Legislative Assembly, I was unable to give positive assurance to the Legislature and Ontarians that the state of the finances of the Province of Ontario was being fairly presented in the Province's

consolidated financial statements. Our Office is mandated under the *Auditor General Act* to communicate the existence of errors in those financial statements as identified by our audit work. Our concerns were also highlighted in our report titled *Review of the 2018 Pre-Election Report on Ontario's Finances* tabled in April 2018 as required under the *Fiscal Transparency and Accountability Act, 2004* and Ontario Regulation 41/18.

However, we are pleased that the current government has corrected those past errors in the consolidated financial statements of the Province for the year ended March 31, 2018, and committed on a go-forward basis to prepare the Province's consolidated financial statements in accordance with Canadian Public Sector Accounting Standards. This means that the Province's financial results as reported by the government can be relied upon.

Turning to our value-for-money work, this year we conducted 16 audits, including two that were performed at the request of PAC. One audit, **Metrolinx—GO Station Selection**, is contained in this Annual Report. The other audit, of the **Niagara Peninsula Conservation Authority**, was published separately in a special report tabled in the Legislature in September 2018.

Our value-for-money audits identify numerous areas within the public sector and broader public sector where money can be better spent and where more services can be better delivered for the money

that is spent. It is significantly important to maximize value for taxpayer dollars.

In reviewing the results of our value-for-money audits, two overarching observations can be made.

Achievement of Public-Service Objectives Can Be Hindered by Poor Program Delivery

This year we audited a number of programs and organizations that have the potential to provide significant benefits to the people of Ontario if they successfully fulfill their objectives and mandates. Those objectives and mandates are to help Ontarians in need, protect the safety and privacy of the public, and just get things done effectively. We found that the spending of taxpayer dollars did not always result in the effective achievement of anticipated program benefits. For example:

- **Ontario Works** is a \$3-billion program designed to provide financial and employment assistance to unemployed or underemployed Ontarians who are in temporary financial need. About 250,000 Ontarians, supporting over 200,000 family members, received financial aid in 2017/18 from this program, which is overseen by the Ministry of Children, Community and Social Services. A key objective of Ontario Works is to help recipients find employment and become self-reliant. However, even though the economy has been in reasonably good shape in recent years, we found that in each of the last five years, Ontario Works has helped only 10% to 13% of recipient cases to successfully find employment and leave the program. Compared to 2009, when we last audited this program, the average length of time that recipients receive Ontario Works benefits has nearly doubled, from an average of 19 months

in 2008/09 to an average of almost three years in 2017/18. Program success appears to be getting worse, not better. As well, the Ministry lacks measures to assess whether service managers are effective in helping the 36% of recipients identified as having barriers to employment, such as mental-health issues and homelessness, overcome them.

- The idea behind the creation of **Waterfront Toronto** in 2002 was to have one agency “oversee all aspects of revitalization of Toronto’s waterfront.” Although Waterfront Toronto’s communications to the public gave the impression that it was playing a crucial role in the world-class transformation of Toronto’s 2,840-acre waterfront, this was not our conclusion. Successful oversight requires that the overseer has the authority to ensure the job is done right, but, unfortunately, Waterfront Toronto was never given this authority, and as a result, the development of Toronto’s waterfront lands has largely continued to be driven by historical practices, existing bylaws, and other regulations governing commercial and residential development. Oversight entities established by other cities were given much greater authority, making it possible for them to implement such measures as restricting building heights, creating large public spaces, providing public access to the water’s edge and expropriating land in cases where the intended use was not consistent with overall revitalization plans. Waterfront Toronto essentially co-ordinated the interests of the municipal, provincial and federal governments. In fact, \$700 million of the original \$1.5 billion in total municipal, provincial and federal funding commitments to Waterfront Toronto was redirected to other agencies for other projects such as GO Transit expansion, the Union Pearson Express, the second subway platform at Union Station and shoreline regeneration in Port Union and Mimico. Since its inception in 2002,

Waterfront Toronto has directly developed only 5% of the total publicly owned developable land in the waterfront area, and has provided development funding to other organizations for revitalization projects for another 151 acres. Conversely, Waterfront Toronto took the initiative by entering into preliminary planning agreements with Sidewalk Labs, its innovation and funding partner in 2017 and 2018 for the planning of a smart city project on the Quayside lands that it owns, and potentially on the broader waterfront area. However, while taking the initiative to develop the Quayside lands was a positive step, there are decisions and actions that will need to be taken along the way that directly impact the public interest, not just in Quayside and the broader waterfront area, but potentially beyond those areas. In this case, the public interest will be sufficiently protected only if there is proactive provincial government oversight and decision-making (working in collaboration with the municipal and federal governments) before any further commitments are made between Waterfront Toronto and Sidewalk Labs.

- The **Technical Standards and Safety Authority (TSSA)** is mandated to promote and enforce public safety in four areas: fuels storage and handling; boilers and pressure vessels; upholstered and stuffed articles; and elevators, amusement rides and ski lifts. It is self-funded through the fees it charges to the organizations it regulates. However, the TSSA does not have the required oversight processes in place to be effective in promoting and enforcing public safety in nearly all of the sectors it is responsible for regulating. For example, the TSSA does not inspect pipelines or private fuel storage sites that pose a threat to source water intakes, and its inspection practices for companies that maintain and install fuel-burning equipment leave many of their technicians' jobs uninspected. As well,

the TSSA is aware that some oil distributors are delivering oil into leaking tanks and tanks that pose a high risk of carbon monoxide release but has done nothing to deal with this safety hazard. Furthermore, there are significant weaknesses in its processes to inspect boilers and pressure vessels, and articles in the upholstered and stuffed-articles sector. As well, most Ontario elevators and escalators are not fully in compliance with safety laws, and the situation is getting worse. In turn, the Ministry of Government and Consumer Services has not monitored to ensure that the TSSA is actually fulfilling its delegated mandate.

- Since 2011, the expanded mandate of **Health Quality Ontario (HQP)** has been to continuously improve the quality of health care in Ontario. HQP has spent about \$240 million over the last seven years monitoring and reporting on the quality of health services in Ontario and making evidence-based recommendations to the Minister of Health and Long-Term Care on which health-care services and medical devices should be publicly funded. As well, HQP is developing clinical care standards to reduce variability in patient care and promote better client outcomes. However, it has little information on how successful it has been in achieving its mandate, and the Ministry of Health and Long-Term Care and the Local Health Integration Networks are not ensuring that HQP's recommendations and advice are acted on. As long as HQP's recommendations remain optional for health-care providers, Ontarians may not obtain the full benefit from HQP's work.
- The **Office of the Public Guardian and Trustee** has the critical responsibility to protect the rights and property of people who lack the mental capacity to do this themselves. However, we noted that it has a number of weaknesses in its internal procedures that hinder its ability to fulfill its role. For instance, it is not making a sufficient

effort to periodically visit those under its guardianship, nor to identify and proactively follow up on possible entitlements—for example, Ontario Disability Support Program benefits—for its clients. Based on the Public Guardian’s own data, it has visited only between 7% and 15% of its 12,000 clients under property guardianship in each of the last five years. Our review of a sample of clients who have been with the Public Guardian for as many as 28 years indicated that half have not been visited since coming under guardianship. The Public Guardian also acts as the personal-care guardian for only about 30 clients. The Public Guardian needs to devote more effort to defining success in fulfilling its mandate.

- Metrolinx is mandated to provide leadership in the co-ordination, planning, financing and development of an integrated transportation network in the Greater Toronto and Hamilton Area. However, this leadership was not demonstrated in our audit on the **Metrolinx—GO Station Selection** process. Our audit confirmed that, as a result of political influence, Metrolinx overrode its own planning process and recommendations to justify construction of the Kirby and Lawrence East stations. The Ministry of Transportation issued news releases announcing the Kirby and Lawrence East stations would be built before the Metrolinx Board of Directors had met to make its final determination of which stations to approve. As a result, Metrolinx modified which stations it recommended to its Board for approval. The Minister of Transportation did not, as would have been possible under legislation, issue a ministerial directive requesting that certain stations be built. A ministerial directive would have transparently confirmed that the decision to build the stations was the Minister’s and that the Minister was therefore accountable for it. Our audit of **Metrolinx—LRT Construction**
- **and Infrastructure Planning** concluded that Metrolinx’s ability to cost-effectively plan and deliver an integrated transportation system has been impacted by requested changes to plans by both municipal and provincial governments, resulting in project delays and unnecessary costs.
- **Legal Aid Ontario** is responsible for providing legal services to low-income Ontarians, including funding for community legal clinics. About 44% of these clinics’ case-load deals with Ontario Disability Support Program (ODSP) applications and appeals. Thus, about \$21 million of taxpayer money is being used annually to pay clinics, including their lawyers, to help applicants access or appeal decisions of another taxpayer-funded program. ODSP appeals are heard at the taxpayer-funded Social Benefits Tribunal, where about 75% of the cases are ruled in favour of the appellant. In other words, one provincial program—community legal clinics—spends taxpayer funds to help finance legal disputes with another—ODSP. If Legal Aid Ontario and ODSP could find ways to reduce or eliminate these cases, Legal Aid Ontario could apply the resulting savings of up to \$21 million a year to other services, or return the unspent funds—and ODSP would also save on its legal costs.
- Seventy-two district school boards funded by the Ministry of Education spent about \$227 million on IT in 2017/18, as noted in our audit of **School Boards—IT Systems and Technology in the Classroom**. IT helps in school board and school administration; is used in training students in math skills, programming coding, design and other subject areas; provides students with quick access to the Web for research; and supports teachers in designing and delivering lessons. The Ministry of Education does not have a broad IT strategy or co-ordinated IT implementation plans for curriculum delivery, use of IT by

students and administration of IT affecting school boards. As a result, students' access to classroom technology varied across the province, with student-to-computer ratios in one board ranging from 1:1 to 8:1. The age of equipment and software also varied in classrooms across the province, as did IT policies and procedures between school boards and schools.

The first step in assessing whether government programs are delivering their expected benefits for tax dollars spent is to ensure that programs are objectively and routinely monitored and assessed to confirm that they are effectively meeting their mandates and objectives. For a variety of reasons (for example, a lack of willingness, a lack of authority, a lack of accountability within the program/organization, a lack of information, a lack of strategic planning, and/or a lack of oversight) the benefits from the programs/organizations noted above are not being fully realized, and some risks are not being proactively addressed.

Insufficient Assurance that Public Programs Provide Financial Assistance Only to Eligible People and that Payments to Suppliers are for Cost-Effective Services/Work

Several of the programs we looked at this year used taxpayer funds to either provide financial assistance to those in need or to third-party service providers and suppliers. It is important that care be taken to ensure payments are made only to eligible individuals and organizations. Taxpayers would assume that all steps are taken to recover monies when overpayments are made. This was not always the case. We reported that improvements are needed in the following areas:

- The **Ontario Works** program provides temporary financial and employment assistance to Ontarians who are unemployed or underemployed. We concluded that the Ministry of Children, Community and Social Services, together with the service managers who deliver the program, do not have effective systems and procedures in place to ensure that only eligible recipients receive financial assistance. More checks on eligibility are needed. As well, the underlying cause of overpayments to Ontario Works recipients is not tracked in the Ministry's IT system. Without data to understand the most common causes of overpayments, service managers are unable to identify which of their processes they need to improve to prevent or reduce overpayments in the future. As well, service managers across Ontario are approximately one year behind in investigating approximately 6,000 fraud tips. Service managers investigated about 17,000 fraud tips in the last three years. More than 25% of these investigations identified overpayments and another 10% resulted in termination of benefits.
- The **Assistive Devices Program** of the Ministry of Health and Long-Term Care reimburses vendors for providing assistive devices to patients with long-term physical disabilities. The Program paid \$514 million in 2017/18 to approximately 1,200 vendors, covering about 400,000 claims to provide basic assistive devices—for example, hearing aids, mobility equipment and respiratory devices—to Ontario residents. The Ministry had enhanced Program service delivery since our last audit in 2009. However, we found that the Ministry's oversight efforts to identify ineligible claims and to ensure that vendors adhere to Program policies remains inadequate. This results in the Ministry, and in some cases clients, overpaying vendors, sometimes for devices clients do not even

need. Limited vendor reviews are conducted, as the Ministry has only two staff conducting post-payment reviews to identify and recover overpayments. In the past eight years, the two staff were able to conduct only 235 reviews—an average of 29 vendors per year—out of a total of 1,200 vendors submitting over 400,000 claims per year. The Ministry found instances of non-compliance in almost 99% of these reviews, recovering more than \$10 million. Expanded efforts will likely generate additional recoveries from overpayments.

- Effective for the academic school year beginning August 1, 2017, the **Ontario Student Assistance Program (OSAP)** mainly provides non-repayable grants to help eligible students pay for post-secondary studies at universities, colleges or private career colleges. The Ministry of Training, Colleges and Universities introduced changes to OSAP to provide a significantly larger percentage of aid in the form of non-repayable grants (98% of aid in grants in 2017/18, compared to 60% in 2016/17) and less in the form of repayable loans (2% of aid in loans in 2017/18, compared to 40% in 2016/17). It also provided mainly non-repayable grants to a new category of mature students who previously were ineligible. Following the changes, enrolments rose only about 2%, but the number of people receiving aid (mainly in the form of non-repayable grants) rose 25%, suggesting that students already in post-secondary studies who became eligible for non-repayable grants only in 2017/18 simply applied for a grant and received it. Although 2017/18 was the first year that the changes took effect, making it difficult to draw conclusions about the future, it could be useful for OSAP to pursue a clearer definition of what constitutes success. A future evaluation of whether the program is increasing access to post-secondary education for under-represented groups, and of whether mature students supported

by their parents financially require grants, is needed. The March 2018 Provincial Budget forecast that OSAP would cost \$2 billion in non-repayable grants to students a year by 2020/21, which represents a 50% increase from the fiscal year ending March 31, 2017.

- **Legal Aid Ontario** pays private-sector lawyers for legal services rendered on its behalf. Improved oversight is needed to confirm that payments to lawyers are for the services delivered. Legal Aid Ontario does not routinely verify lawyers' billings for time spent in court because it does not have direct access to the original court documents and other information that contains the start and end times for each court proceeding—key information to determine how much a lawyer is paid.
- As per the *Canada Health Act*, all Canadian provinces and territories partially contribute to their residents' insured health-services costs wherever they travel. In 2017/18, the Ministry of Health and Long-Term Care paid more than \$200 million toward the medical costs of Ontarians travelling to other provinces or territories, or outside Canada. The Ministry provides certain health-insurance coverage to Ontarians for **Interprovincial and International Health Services** at either pre-established or pre-negotiated rates. However, we found that Ontario hospitals may be subsidizing the health-care costs of out-of-province patients because they sometimes provide services at a cost higher than they can bill back to other provinces and territories. Information on these costs is not tracked and monitored. We also noted that the Ministry has not reviewed claims from physicians from other provinces who billed it directly for services rendered to Ontarians in the last five years.
- The Province does not always ensure that the **Use of Consultants and Senior Advisors in Government** results in paying for pre-identified deliverables. Contracts should

consistently identify specific deliverables that can be linked to payments, to enable confirmation that payments are made only for those deliverables. During our audit, we found situations where this was not the case. As well, we noted that the Province makes extensive use of consultants to meet ongoing work requirements. It may be more cost-effective to have this work done by term or permanent employees.

- Our audit of **Metrolinx—LRT Construction and Infrastructure Planning** highlighted that the use of consulting contracts could be better managed and that deliverables need to be more clearly identified. As well, Metrolinx entered into an Alternative Financing and Procurement (AFP) contract for the design and construction of the Eglinton Crosstown LRT. The consortium constructing the LRT filed a claim against Metrolinx. Metrolinx's negotiated settlement of the claim cost it \$237 million over and above the initial AFP contract cost, to reach an agreement that the Eglinton LRT would continue to be completed on time as per the initial AFP contract.

Our audits confirmed that there needs to be a stronger willingness, combined with a higher degree of skepticism, to ensure that taxpayer dollars are spent appropriately and paid only to those entitled to them. The same stronger willingness and higher degree of skepticism are needed to identify where there is a risk of overpayment, to determine whether there is sufficient evidence of overpayment, and to effectively pursue recovery of taxpayer dollars where overpayments have been made or costs need to be recovered.

As well, while it is important to work collegially with third-party service providers and suppliers, there is also a need to have a certain level of skepticism to ensure that government programs and agencies are not overbilled and are receiving products and services commensurate with what Ontario taxpayers are paying for them under agreements and contracts. We concluded from our audit

work that, in many cases, there needs to be more proactive oversight.

Some Good News

Our audit of the **Darlington Nuclear Generating Station Refurbishment Project** noted some positive findings. Ontario Power Generation (OPG) operates the Darlington Nuclear Generating Station, which generally provides more than 15% of Ontario's electricity. The four reactors at Darlington went into service in 1990 and will reach the end of their useful life in the early 2020s. OPG announced in 2016 the start of a refurbishment for Darlington that would cost \$12.8 billion, take until 2026 to complete, and extend the useful life of the reactors to 2055. Lessons learned from the overruns and delays in project work begun prior to January 2016 have been applied, under the leadership of a new Chief Executive Officer, to the remaining project work and in the development of its cost and time estimates and assumptions. The audit recognized that a clear accountability structure was in place to manage the project and that sufficient monitoring was being done of project timelines and costs, and corrective actions were being taken when necessary. Considerable work remains, and there are several significant risks associated with work not yet done (such as potential labour shortages in the skilled trades required, the eligibility for retirement of more than 30% of management in the next few years, and the fact that OPG will be working on more than one nuclear reactor at the same time in the future). However, OPG seems well-positioned to proactively address those risks.

Magnetic resonance imaging (MRI) and computed tomography (CT) scans provide important diagnostic information about patients to help doctors accurately diagnose and treat many diseases earlier in their course. Of the six provinces that measure the wait times for patients requiring MRI and CT scans using 90th percentile data, Ontario's

wait times were the lowest. Ontario has set more stringent targets that it remains focused on achieving so that Ontarians obtain more timely MRI and CT scans. These findings were noted in our audit of **MRI and CT Scanning Services**. As well, our audit found that most Ontario patients assessed as emergency or urgent cases got their MRI or CT scans within the targets set by the Ministry of Health and Long-Term Care, although lower-priority cases waited longer than Ministry targets. There remain opportunities to further improve wait times by increasing the utilization rates of MRI machines (at 56% in 2017/18) and CT machines (at 37% in 2017/18), and reducing the variation in wait times attributable to where a person lives in Ontario. In addition, the Ministry could improve its funding method to hospitals, which has remained unchanged for the last 10 years, by incorporating into it key information such as the actual cost per scan, individual hospitals' demand and capacity, and the complexity of scans needed by patients.

Finally, it is encouraging to see that the implementation rate of our past audit recommendations is increasing. **Volume 2** of this year's Annual Report discusses this further.

It is also important to acknowledge and thank the various experts who shared with us their knowledge and advice, and the external accounting firms that provided us with assistance during the past year and whose relationships with us we value.

We look forward to continuing to serve the Legislative Assembly and, through it, the citizens of Ontario.

Sincerely,



Bonnie Lysyk, MBA, FCPA, FCA
Auditor General of Ontario

Acknowledgements

I appreciate and am thankful for the support of members of the all-party Standing Committee on Public Accounts. I also want to thank the staff in my Office for their outstanding work during the year and their significant contributions to this Annual Report, and our excellent Panel of Senior Advisors, who contributed their extensive knowledge, insight, judgment and advice to help guide us in addressing issues of importance to legislators and the public.

As well, thank you to the many people in the public and broader public sectors who were involved in our work for their assistance and co-operation in the completion of this year's audits.

Our Team

It takes a massive effort by many people to perform the research, audit, writing and administrative-support work required to produce an Annual Report of this scope and substance. The following is a list of the people with our Office who worked to produce this Report:

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Ditta, Sara	Myers, Sohani	Wong, Nancy
Du, Daniel	Ng, Wendy	Wu, Christine
Dufour, Jesse	Nguyen, Lisa	Yarmolinsky, Michael
Dupuis, Vanessa	Parmar, Gurinder	Yip, Gigi
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Elshebiny, Ahmed	Pedias, Christine	Yosipovich, Rebecca
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Summaries of Value-for-Money Audits

3.01 Assistive Devices Program

The Assistive Devices Program (Program) of the Ministry of Health and Long-Term Care (Ministry) provides basic assistive devices to Ontarians with long-term physical disabilities. (Long-term is defined as requiring a device for six months or longer, with the exception of home oxygen, which has a shorter use requirement.)

The Program funds approximately 8,000 assistive devices in 19 categories, such as mobility, hearing, and respiratory devices. Clients must first have a medical specialist or physician confirm the diagnosis of a long-term disability, and then have the appropriate device prescribed by a specialized health-care “authorizer.”

In 2017/18, the Ministry paid about \$514 million through the Program to organizations (vendors) registered with the Ministry to supply assistive devices to clients. These vendors supplied devices to over 400,000 Ontarians. This represents an approximate 48% increase in both the expenditures and the number of clients over the last 10 years.

We found that the Ministry has improved Program service delivery since our last audit in 2009. However, several areas relating to oversight and device-pricing need improvement to ensure that the Ministry is paying only eligible claims at Program-approved prices.

Among our findings:

- The Ministry consistently continues to overpay vendors for ineligible claims. It has only two compliance staff conducting the post-

payment reviews used to identify and recover overpayments. There are approximately 1,200 vendors submitting 400,000 claims a year. Over the last eight years, the two compliance staff were able to review only 235 vendors in total and effectively recover about \$10 million in overpayments. There may be an opportunity to increase recoveries if more resources were dedicated to conducting post-payment reviews.

- The Ministry needs to be more proactive in following up and taking timely action on vendors suspected of abusing the Program. When early action is not taken, the risk exists that collection of overpayments may be difficult. For example, since 2009, the Ministry has taken issue with 13 vendors significantly abusing the Program and was able to recover only \$1,000 (or 0.02%) of the almost \$5.5 million in estimated payments made to them for ineligible claims.
- The Ministry does not regularly conduct follow-up reviews of vendors known to have submitted ineligible claims in the past. For example, one such vendor repaid about \$250,000 in 2015/16. However, since then there has been no follow-up on this vendor, who continues to submit claims and received about \$5.8 million in total for 2016/17 and 2017/18.
- Device pricing reviews are not conducted consistently and effectively. The Ministry

conducts pricing reviews to set the Ministry's Program-approved maximum price for all models of a particular device, as a basis for paying vendors. The set maximum price is used to pay vendors no matter what model is provided to clients. For example, the Ministry found one of its approved models of a sleep apnea device had a retail price under \$400. However, it kept the Program-approved maximum price for all sleep apnea models at \$860. This means that if a client purchases a sleep apnea device model that could be purchased for \$400 in the retail market, the vendor could still bill the Ministry the maximum price of \$860 because the Ministry is not setting prices on a model-by-model basis.

- Our review of a sample of manufacturer and vendor invoices found varying mark-ups from vendor to vendor, with some mark-ups exceeding 200%. We also found instances where vendors charged clients up to \$1,000 (or about 60%) more per hearing aid than what Program policy allows. More compliance work is needed by the Ministry to ensure vendors do not take advantage of clients in this way.
- The Ministry requires vendors of certain devices to include serial numbers on invoices to ensure it is not paying for used or returned devices. However, the Ministry's system is unable to check, before paying a claim, whether a serial number has already been used in another claim, or even if one was entered at all. Our review of claim data for 2017/18 identified 7,500 claims that did not list serial numbers, and almost 2,300 claims, worth a total of about \$1.5 million, that were paid even though they had duplicate serial numbers.
- The Ministry's information system, implemented almost eight years ago and costing about \$7 million, could be updated to accept claim submissions electronically. However, at the time of our audit, the Ministry still

accepted claims only through the mail. While the Ministry began work in 2018 on changes to its system to allow electronic claim submissions, this work is not scheduled to be fully completed until mid-2020.

3.02 Darlington Nuclear Generating Station Refurbishment Project

Ontario Power Generation (OPG), a corporation wholly owned by the Province, produces more than half of Ontario's electricity through more than 60 hydroelectric stations and two nuclear plants: Darlington Nuclear Generating Station (Darlington Station) and Pickering Nuclear Generating Station.

Darlington Station began operating its four nuclear reactors in 1990, and has generally produced over 15% of Ontario's electricity. In 2006, OPG began assessing the feasibility of refurbishing the four reactors, whose useful life was expected to end in the early 2020s.

In January 2016, OPG publicly announced the execution of the Darlington Nuclear Generating Station Refurbishment Project (Project), which it estimated would cost \$12.8 billion and be completed by February 2026. The Project is expected to extend the useful life of the four reactors to around 2055.

As of June 30, 2018, OPG had spent about \$5 billion on the Project and had about 980 of its own full-time-equivalent staff working on it alongside another 1,500 contractor staff.

While OPG faced significant challenges, cost overruns and delays in Project work begun prior to January 2016, it has applied lessons learned from that work to the remainder of the Project. OPG subsequently established time and cost estimates based on reliable information and reasonable assumptions.

OPG currently forecasts the Project will meet the time and cost estimates it publicly announced in January 2016, but several significant risks remain that could push the Project over its estimates. For example, OPG has to date performed refurbishment

work on only one nuclear reactor at a time. It may face unexpected challenges when, in 2021, it starts working on the refurbishment of more than one reactor at the same time.

The following are some of our additional significant observations:

- OPG will be in competition for skilled trades during several years when the Project will overlap with another refurbishment project at the Bruce Nuclear Generating Station. In particular, a potential shortage of boilermakers, a specialized trade for removing and installing nuclear reactor unit components, will pose the biggest risk.
- OPG estimates that over 30% of its management staff and nearly all of its executives working on the Project will be eligible to retire by 2025, a year before the Project's scheduled completion, which could potentially create a major staffing gap. OPG has not yet identified replacements for all of these potential retirees.
- OPG estimated that it will spend almost \$50 million more overall on Project oversight and support (such as additional assistance to contractors) than it initially estimated. However, OPG has not yet factored in the impact of this additional cost when determining the amount it pays the contractors.
- Prior to starting the main refurbishment work on the four reactors in 2016, OPG started 18 prerequisite projects at a total cost expected to exceed \$725 million, or 75% more than its initial estimate. The main causes for the expected cost overrun include a lack of detailed planning and understanding of the work's complexity, resulting in inaccurate estimates and scoping; poor risk assessment; underweighting technical criteria when selecting contractors; assigning work to staff with limited relevant experience with complex work; and poor project management and oversight of contractors.
- While there have been no serious injuries to Project staff, OPG has not met its safety

targets; the frequency of safety incidents has remained mostly unchanged since 2016 when the actual refurbishment started. OPG could have also been more proactive in trying to reduce recurring preventable safety incidents. For example, an incident in November 2017 resulted in a contractor stopping its 800 staff from working on the Project for two days, which cost OPG over \$700,000. There had already been eight incidents that year with the same cause (workers had dropped tools and parts when working at heights above ground).

3.03 Health Quality Ontario

Health Quality Ontario (HQO) is an agency funded by the Ministry of Health and Long-Term Care (Ministry) to advise the Province on the quality of Ontario's health care. Its overall purpose is to support quality improvement in the health-care system. In 2017/18, it spent \$44.2 million on its operations and employed the equivalent of 291 full-time staff.

HQO provides tools such as clinical care standards, and information such as health-care performance reporting, that health-care providers can use to improve their quality of care.

However, HQO has had difficulty assessing and demonstrating its impact on the quality of health care in Ontario. This is largely because its recommendations and advice are not required to be implemented by the Ministry or Local Health Integration Networks (LHINs), two parties that provide funding to and have accountability agreements with health-care providers.

The focus of the LHINs and health-care providers is to meet their own performance goals—and these may not always correspond to the areas that HQO identifies as needing improvement. Similarly, the Ministry and the LHINs both have the ability to require that HQO's clinical care standards be used by health-care providers, but are not doing so. (Clinical care standards describe the care patients should be getting for a specific medical condition in line with current evidence of best practices.)

Among the specific issues we identified:

- Although HQO sets priority performance indicators for the different health-care sectors, it does not identify a minimum target or an ideal target range for each indicator. Therefore, health-care organizations (that is, hospitals, long-term-care homes, home-care teams and primary-care teams) set their own targets. We found large variations in targets set by health-care organizations in their quality improvement plans, meaning that the quality of care patients receive will likely continue to vary widely depending on where they receive their care.
- HQO is currently not monitoring the adoption rate of the clinical care standards it develops, and the Ministry-accepted medical devices and health-care services it recommends. Nor is it assessing what impact its work, including the annual performance data it publishes, is having on the overall quality of health care in Ontario.
- HQO does not currently assess the training and potential resources required by health-care providers to implement a clinical care standard. Stakeholders we spoke with said they would welcome more guidance on implementing standards. Between May 2015 and September 2018, HQO released 14 clinical care standards with a total of 166 quality statements (meant to guide clinicians and patients on what high-quality care looks like) and 235 recommendations for implementation (meant to help the health-care sector implement a standard).
- One of HQO's four core functions is the assessment of medical devices and health-care services to determine whether the Ministry should fund them. HQO mostly conducts its own assessments. However, it could potentially reduce the time taken and money spent to complete these assessments by collaborating with other jurisdictions or relying on similar work already done in other provinces or by the Canadian Agency for Drugs and Technologies in Health (Agency). In 2017, HQO started working with the Agency on a limited basis.
- Physicians are not required to receive individualized practice reports aimed at changing physician behaviour and improving their practices' performance. As of July 2018, only 32% of primary care physicians and 23% of primary care physicians caring for residents of long-term-care homes had signed up to receive an individualized practice report. Further, these individualized reports do not include performance data on all key provincial improvement priorities.
- With the consolidation of five organizations into HQO in 2011/12, the government expected cost efficiencies would help lower expenditures from the \$23.4 million spent for the five organizations, combined, in 2010/11. As of March 31, 2018, however, HQO's annual expenditures had increased to about \$44.2 million (excluding spending by the Patient Ombudsman's Office) and staffing had increased over the same period from the equivalent of 111 full-time employees to 291. Expenditures increased partially because HQO's mandate was expanded to include patient relations and because HQO has undertaken more quality improvement initiatives, including the development of clinical care standards.

3.04 Interprovincial and International Health Services

The Ministry of Health and Long-Term Care (Ministry) operates Ontario Health Insurance Plan (OHIP) programs to cover Ontarians travelling outside the province or internationally. This complies with the portability principle of the *Canada Health Act*, which requires that public health insurance be provided to all Canadians regardless of where they travel, or when they move from one province to another.

In 2017/18, the Ministry paid a total of \$204 million for about 737,000 claims and applications under OHIP's out-of-country and out-of-province programs; over the past five years, it has processed an average of about 836,000 claims and applications per year.

Ontario is a “provider” province—it provides more hospital in-patient services to residents of other provinces and territories than Ontarians receive elsewhere in Canada—and sometimes for more than what they can bill back to the patients' home provinces and territories. This means that, in some cases, Ontario is subsidizing health-care costs for out-of-province patients; however, hospitals in this province do not track the full extent of this.

We also found that the Ministry has not rejected any claims from the out-of-province physicians who directly billed it for services rendered to Ontarians in the last five years, even though there have been cases where claims should have been rejected. In addition, we found a need for more public education to tell Ontario travellers that they may be financially responsible for any difference between what OHIP covers and the actual cost of the health-care service they receive when they are away from Ontario. While the Ministry recommends on its website that travellers buy additional private medical insurance, it has not yet used social media to send that message to more people.

The following are some of our other significant observations:

- Ontario patients who may require emergency health services while in other countries are covered by the Ministry at pre-established rates that represent only a small percentage of actual costs. Between 2013/14 and 2017/18, on average, the Ministry reimbursed just five cents for every dollar that an Ontarian was billed by a foreign physician or hospital.
- Ontario patients who need health services while in other Canadian provinces and territories may pay higher fees for these services. When reimbursing a resident who receives health services outside of the province,

Ontario, like other provinces and territories, covers only medically necessary, insured hospital and physician services. It does not pay for other health services such as long-term-care homes and ambulance services. Ontario patients receiving ambulance services in some other provinces pay a higher fee—up to \$732.95—than the \$240 that Ontario charges non-residents.

- Ontario patients may receive Ministry pre-approved funding to access health services from certain facilities outside of Canada. However, the Ministry does not follow up with these patients to confirm that they had good experiences at those facilities, which would support referring other patients to those facilities for treatment.
- The Ministry does not monitor foreign patients' financial impact on Ontario and their wait-time impact on Ontario patients. In 2014, the Ministry directed hospitals to serve international patients only under specific conditions (such as for humanitarian reasons), but it has not collected information on an ongoing basis to monitor hospitals' compliance with this requirement.
- Claims are primarily paper-based and could take up to six to eight weeks to be processed and paid. The use of technology could make claims processing more efficient and accurate.

3.05 Legal Aid Ontario

Legal Aid Ontario is an agency of the Ontario Government responsible for providing legal services to low-income Ontarians. It reports to the Ministry of the Attorney General (Ministry) under the *Legal Aid Services Act, 1998 (Act)*.

Legal Aid Ontario provides services in three principal ways:

- It funds 80 community legal clinics (clinics) across Ontario to serve low-income clients. In 2017/18, the clinics handled over 170,000 files at a cost of \$85.8 million.

- It issues certificates (a voucher for legal services) to qualified individuals, who then use them to retain private-sector lawyers. The lawyers then bill Legal Aid Ontario for services provided. In 2017/18, the agency issued about 102,870 certificates at a cost of \$252.8 million.
- It provides free duty-counsel services in the province's courts. In 2017/18, duty-counsel lawyers assisted over 643,970 people at a cost of \$56.1 million.

The costs for the three major programs, plus \$81.4 million in operating costs for its head office and 17 district and area offices, totalled \$476.1 million in 2017/18, up 27% from 2013/14. Legal Aid Ontario incurred total deficits of \$40 million for 2015/16 and 2016/17.

Among our findings:

- In 2016/17, legal aid clinics handled 9,435 cases related to Ontario Disability Support Program (ODSP) applications and appeals, representing 44% of the clinics' total case-loads. Seventy-eight percent of respondents to our survey of clinics indicated that they could better serve other needs in human-rights matters, employment law, and issues affecting senior citizens if the ODSP case volume was reduced.
- Legal Aid Ontario's Clinic Information System was completed in September 2017, three years late and for more than double its original budget of \$3.25 million, because the vendor started the project late and declared bankruptcy months before completing it. Legal Aid Ontario subsequently hired the vendor's former employees on contract and had its own internal IT department manage the project. This could have been avoided if the agency had evaluated the vendor's financial viability prior to awarding the contract.
- The process for Legal Aid Ontario to verify lawyers' billings is ineffective, because the agency does not have direct access to court documents and other information about each court proceeding. As such, it is difficult to verify both the nature of the proceedings and the amount of time spent by the lawyer in court, both of which affect how much a lawyer is paid.
- More than 90% of certificate services and over one-third of duty-counsel assists were delivered by private-sector lawyers in 2017/18. The Act states that Legal Aid Ontario has the authority to direct the Law Society of Ontario to perform quality assurance audits of lawyers—but Legal Aid Ontario has never asked for one. It did, however, refer individual lawyers to the Law Society when it became aware of serious issues. Legal Aid Ontario received 211 complaints in 2016/17, of which about one-third concerned lawyers' services, up 30% from 2012/13.
- Legal Aid Ontario has been using a larger portion of the provincial funding to address the increase in refugee and immigration cases. Provincial funding allocated by Legal Aid Ontario for these cases increased to \$24.9 million in 2017/18, or by almost 30% from 2014/15. Ontario's federal funding portion was only 37% in 2016/17 and 39% in 2017/18. In contrast, British Columbia's federal funding portion was 72% of total funding in 2017/18, and Manitoba's was 90% for the same year. For Quebec, the federal funding portion was 69% of total funding in 2016/17.
- Legal Aid Ontario expanded its eligibility criteria for certificates in 2015 in order to keep unspent funding. Instead of eventually returning the 2015/16 projected unused funding to the Ministry as required, Legal Aid Ontario expanded eligibility in June 2015 to allow more people to qualify for certificates. More people qualified than the agency expected, which subsequently contributed to the deficits it incurred in 2015/16 and 2016/17.

3.06 Metrolinx—GO Station Selection

On September 27, 2017, the Standing Committee on Public Accounts (Committee) passed a motion requesting that “the Auditor General conduct a value-for-money audit on the proposed Metrolinx GO stations at Kirby and Lawrence East.”

We found that the Minister of Transportation (Minister) and the City of Toronto (City) influenced Metrolinx’s decision-making process leading up to the selection of the two stations. As a result, Metrolinx inappropriately changed its recommendations on Kirby and Lawrence East. It had originally concluded that the stations’ costs and disadvantages significantly outweighed their benefits. Metrolinx overrode that conclusion because the Minister and the City made it clear they wanted the stations and then Metrolinx recommended that its Board approve them. While the Board was aware that the Minister and City wanted the stations, it approved the stations based on the information Metrolinx staff provided, which supported the construction of the two stations.

The stations were two of 12 new GO stations that Metrolinx recommended for construction in June 2016. The new stations became part of a provincial initiative that had already begun to expand the regional rail network of the Greater Toronto and Hamilton area (GTHA). The Committee’s motion followed controversy around Kirby and Lawrence East highlighted by media reports between March and August 2017.

Our audit focused on the process that led to Metrolinx’s decision to recommend construction of the stations.

The following are some of our specific findings:

- The Minister did not use the legislative channels available to him under the *Metrolinx Act, 2006* (Act) to direct the agency’s regional transportation planning work; instead, he and the City influenced Metrolinx to override its own planning process. Under the Act, the Minister can give written directives to

Metrolinx regarding any matter under the Act. A written directive from the Minister to add Kirby and Lawrence East would have provided greater transparency and accountability by signalling clear ownership of the decision.

- Metrolinx’s 2016 original business-case analyses of the Kirby and Lawrence East stations noted that construction of both stations was expected to result in a net loss of GO ridership, a net increase in vehicle use (driving) in the GTHA and an overall decrease in fare revenue.
- Metrolinx’s lack of a rigorous transit-planning process that weighs all costs and benefits against established criteria enabled Metrolinx to deviate from the recommendations of the original business-case analysis. Metrolinx removed Kirby and Lawrence East stations from the original list of “not recommended” stations and put them into a new category it created of “low” performing stations. It put the remaining “not recommended” stations into another new category it created of “very low” performing stations. These new categories were used in Metrolinx’s June 28, 2016, report to the Board, which recommended building all but the “very low” performing stations.
- In Metrolinx’s updated February 2018 analysis, the expected benefits of the stations to the GTHA increased. However, in its analysis, Metrolinx used outdated information and made best-case scenario assumptions about future changes to the GO rail system (for example, fare integration with transit agencies, express service and level boarding) that, to varying degrees, are not certain to be fully implemented as planned when the two stations are completed.

3.07 Metrolinx—LRT Construction and Infrastructure Planning

Metrolinx is the agency responsible under the *Metrolinx Act, 2006* (Act) for planning an integrated regional transit system for the Greater Toronto and Hamilton Area (GTHA), overseeing transit capital projects, and operating GO Transit trains and buses, the Union Pearson Express and the PRESTO fare payment system.

In November 2008, Metrolinx formally adopted its first Regional Transportation Plan setting the priorities, policies and programs over the next 25 years for a GTHA regional transportation system. Its top transit priorities included five “rapid transit” projects to allow people to travel quickly in special transit vehicles that have “exclusive right of way” (other vehicles are not allowed on the lanes). The high capacity of these special vehicles and the exclusive right of way make them faster than traditional buses and streetcars, which are smaller and travel on lanes shared with other vehicles.

Our audit looked at Metrolinx’s regional planning responsibilities and work, and its oversight of capital projects designated as “light rail transit” (LRT): Eglinton Crosstown, Finch West, Sheppard East, Scarborough Rapid Transit, Hamilton and Hurontario. We focused on the Eglinton Crosstown LRT, as this was the only project under construction during our audit.

Among our specific findings:

- Metrolinx incurred about \$436 million in sunk and additional costs between 2009 and 2018—\$125 million for cancelling and delaying two projects, \$286 million for costs over and above contract values, and \$25 million to manage issues with the company contracted to supply vehicles for the Eglinton Crosstown.
- The consortium building the Eglinton Crosstown LRT fell significantly behind schedule throughout 2017. Under the alternative financing and procurement (AFP) contract for this project, Metrolinx had limited remedies to hold the consortium responsible for delays so long as the consortium certified it would still finish the project on time. In February 2018, the consortium filed a claim against Metrolinx for compensation and a deadline extension. Metrolinx negotiated and settled with the consortium, holding it to the contracted completion date of September 2021 by paying the consortium \$237 million.
- Metrolinx contracted with one consulting firm under three separate contracts totalling \$272 million to provide project management services between 2010 and 2022 for all LRT projects and certain other projects. Before issuing the requests for proposal prior to the selection of the consulting firm, Metrolinx did not formally assess the extent of work it would require or what would constitute reasonable costs for this work.
- For two of the consulting contracts, totalling \$145 million, over 50% (about \$97 million) has already been spent, only two years into their five-year contract periods. At the time of our audit, Metrolinx staff overseeing these contracts did not adequately check that the consulting firm performed the work to support the hours charged on their invoices and may not have addressed concerns with the consulting firm’s poor performance in a timely manner.
- Metrolinx assigned approximately \$1.5 million of work to the consulting firm that did not relate to the projects specified in the consulting contracts noted above. For example, Metrolinx spent \$1.2 million on unrelated program management services for the Union Pearson Express and about \$367,000 for advice on reorganizing Metrolinx’s capital project group.
- The one consulting firm—used by Metrolinx to provide project management services for all LRT projects and certain other projects between 2010 and 2022—often used sub-consultants to perform work under its

contracts with Metrolinx. Metrolinx may be able to obtain better value for money if it used competitive bidding for consulting services that are currently being provided by sub-consultants.

- Metrolinx committed to purchasing LRT vehicles (that is, for Eglinton Crosstown, Sheppard East, Finch West and Scarborough Rapid Transit) with specific delivery dates without construction contracts in place to build the LRT projects. The LRT vehicle purchase contract did not contain provisions to address the risk that construction plans could change. The number of vehicles and when those vehicles are needed did change, costing Metrolinx \$49 million for these changes (included in the \$436 million noted above).

3.08 MRI and CT Scanning Services

Magnetic resonance imaging (MRI) and computed tomography (CT) scans provide important information for diagnosing and monitoring patients' conditions. Timely, quality and medically necessary scans help doctors accurately diagnose and treat many diseases earlier in their course, which can improve patient health outcomes.

In the five years up to 2017/18, the number of MRI scans performed increased by 17% and CT scans by more than 30%. (These statistics exclude emergency cases because emergency data was not required to be collected before 2015/16).

The Ministry of Health and Long-Term Care (Ministry) is responsible for capacity planning, policy development, and overseeing the funding and performance of MRI and CT services in Ontario. Of the 137 public hospitals in Ontario as of April 2018, 78 had at least one MRI or CT machine. The Ministry also contracts with seven independent health facilities (IHF) to provide MRI and/or CT services.

Ontario's Wait Time Strategy has four priority levels for MRI and CT scans, with a wait-time target for each: emergency (within 24 hours), urgent

(within two days), semi-urgent (within 10 days) and non-urgent (within 28 days). These targets are set at the 90th percentile—the time within which 90% of patients in each category should receive their scan from the date of referral for the scan. This means that no more than 10% should wait longer.

Our audit found that, overall, Ontario's wait times for MRI and CT scans were the lowest when compared to five provinces where 90th-percentile wait-time data was available. However, many Ontarians who needed scans had significantly long waits in comparison to the Ministry targets, particularly for semi-urgent and non-urgent cases.

Among our findings:

- Almost two-thirds of semi-urgent and non-urgent MRI patients and one-third of semi-urgent and non-urgent CT patients waited longer than their targeted wait times. Long wait times for these patients delay diagnosis and treatment and can result in deterioration of the patients' condition.
- Wait times for MRI and CT scans vary depending on where in Ontario the patient lives. The Ministry has not analyzed why wait times vary significantly among regions.
- We found that MRI and CT machines could have been operating more hours per day, thereby reducing wait times, but the hospitals were financially unable to increase operating hours. The 108 MRI machines in Ontario's hospitals were used at only 56% capacity in 2017/18. If all 108 MRI machines operated for 16 hours, seven days a week, hospitals would have outperformed the Ministry's wait-time targets. In addition, the province's 165 CT machines were used at approximately 37% capacity in 2017/18.
- The Ministry has not reviewed its funding method for either MRI or CT services for more than a decade, and it has not incorporated into its funding method the actual cost-per-scan information, hospitals' demand and capacity, and the complexity of scans required by patients.

- Hospitals' lack of user-friendly communication systems to allow patients to confirm receipt of their appointment, including emails and text messaging, contributed to patient no-shows. This resulted in scanning machines sitting idle unless hospitals filled the time slot quickly. None of the four hospitals we audited routinely tracks reasons for no-shows.
- Province-wide peer review of MRI and CT scan results is not mandatory across Ontario hospitals. Lack of a peer review program exposes patients and hospitals to the risk of misinterpretation of MRI and CT images and/or misdiagnosis of a patient's condition.

3.09 Office of the Public Guardian and Trustee

The main mandate of the Office of the Public Guardian and Trustee (Public Guardian) is to protect the rights, property and well-being of people (clients) who lack the mental capacity to do it for themselves. This includes managing the finances of about 12,000 clients, acting as the personal-care guardian of about 30 clients, and administering certain estates of Ontarians who have died without a will and without next of kin residing in Ontario.

The Public Guardian had 388 full-time staff as of March 31, 2018, of whom 89% worked directly or indirectly to manage the property of clients found to be incapable, or to administer estates of deceased persons. In 2017/18, the Ontario Government allocated \$40 million to fund the Public Guardian, which also charged \$31 million in service fees, primarily to clients.

Our audit found that the Public Guardian has not ensured that it safeguarded the interests of clients under guardianship and estate heirs. We also found that management lacks useful reports from the case management system to effectively oversee many areas of its operation. These weaknesses increase the risk of hardship and financial loss to clients and heirs of estates.

We further found that the Public Guardian invested funds according to its internal policies—but these investment rules have not been reviewed by the Public Guardian's external investment consultant or the government-appointed panel that provides it with strategic investment advice. The existing investment rules may be too restrictive, limiting the returns for some clients.

Our more significant audit findings include:

- The Public Guardian does not require staff to visit the people whose property they manage, although it does require them to conduct initial visits when individuals first come under property guardianship. However, these initial visits are usually not performed due to Public Guardian policies that exempt staff from conducting visits if, for example, a client is violent or aggressive, or resides in a supportive setting. Our review of a sample of clients who had been with the Public Guardian for as many as 28 years indicated that half have not been visited since coming under guardianship.
- Legal staff have missed acting on several time-sensitive legal cases for clients because of weaknesses in the case-management system. For example, the Public Guardian's legal staff missed deadlines to apply for benefits on behalf of clients, in certain cases, which left the Public Guardian liable for an estimated \$5 million to pay to these clients involved in motor-vehicle accidents.
- Public Guardian staff detected about \$1 million in financial transaction errors between April 2015 and March 2018. About half the total related to missed opportunities to collect income such as disability benefits and extended health-insurance benefits for clients. Although these specific errors were identified, others could go undetected, given various systemic risks that resulted in the errors occurring in the first place.
- The Public Guardian pays commissions to an auction house on behalf of clients whose belongings the auction house appraises

and sells, but it has not entered into any formal agreement with this company since it first began using its services in the 1980s. As well, it has not competitively procured these services.

- About \$28 million from about 260 estates was eligible to be turned over to the Crown because the Public Guardian did not identify heirs and distribute assets of the estates under its management to heirs within 10 years of a person's death. Several factors under the Public Guardian's control have contributed to delays in distributing assets. For example, estates staff could not consistently locate contact information for a deceased client's next of kin because caseworkers did not always obtain and document this information when the clients were still alive (about half of estates administered belonged to deceased property-guardianship clients).

3.10 Ontario Student Assistance Program

The Ontario Student Assistance Program (OSAP) provides grants and loans to students pursuing a post-secondary education, usually at a university, college or private career college. The amount of aid depends primarily on educational costs and family income and size. OSAP is administered by the Ministry of Training, Colleges and Universities (Ministry).

The Ministry introduced major program changes to OSAP in the 2017/18 academic year starting August 1, 2017, to make post-secondary education more accessible and affordable to students, providing a larger percentage of aid in the form of non-repayable grants rather than repayable loans—98% in grants in the 2017/18 academic year, compared to 60% the year before. However, the number of people receiving financial aid increased by about 25% while enrolments over the same period increased by only 1% for universities and 2% for colleges, indicating that the number of people

accessing higher education did not increase to the same extent.

Furthermore, these program changes were expected to have a positive impact on the Province's finances, because the elimination of Ontario's Tuition and Education Tax Credits was expected to more than offset the increase in grants. However, the uptake of student grants to date has exceeded expectations. As a result, the Province's March 2018 Budget projected that OSAP could cost \$2 billion annually by the 2020/21 fiscal year, a net increase of 50% from the 2016/17 fiscal year.

Among the issues we identified in our audit:

- The Ministry tracks limited data about recipients and so cannot determine whether the latest program changes helped more new students access post-secondary education. However, 27% of mature students who qualified for OSAP for the first time in the 2017/18 academic year had already attended post-secondary studies the previous year without receiving OSAP support.
- One major program change was to expand eligibility to mature students—defined as those who have been out of high school for at least four years. Where students have been out of high school for less than four years and are financially dependent on their parents, parental income is used to determine OSAP eligibility. However, if a student is out of school for four or more years and still lives with their parents, parental income is not used to determine OSAP eligibility. We noted that the number of mature students who received OSAP aid increased 33% between the 2016/17 and 2017/18 academic years, and that close to 30% of mature students said on their applications that they were living with their parents. Although these students were entitled to OSAP support, the Ministry was unable to say whether they actually needed OSAP support.
- Prior to the program changes, grant recipients who withdrew from their studies did not

have to repay their grants, which cost OSAP \$74.4 million from the 2013/14 to 2016/17 academic years. Starting August 1, 2017, recipients were required to repay the full amount of a grant if they withdrew within 30 days of starting school, or a prorated amount after 30 days. OSAP said it planned to convert these grants to loans on a prorated basis.

However, both before and after the program change, we found instances where students received grants after they had withdrawn.

- The Ministry of Finance does not begin aggressive collection activities until student loans are nine months in arrears, and may be incurring a higher cost than needed to recover overdue loan payments. Private collection agencies, charging a 16% commission on what they recover (about \$20 million over the last five years), are used initially. As a last resort, the Canada Revenue Agency (CRA) is used to assist with collection and it charges only about 1% to garnish income-tax refunds. However, it would likely cost less if the CRA was used prior to private collection agencies.
- Private career colleges had the highest overall student loan-default rates, followed by public colleges and public universities. The Ministry operates a cost-sharing program with these private institutions for loans in default. But in the two latest years, the cost-sharing policy required that only \$417,000 be collected from private institutions on defaults totaling \$14 million. Therefore, the Ministry is assuming a higher risk and the related cost of non-collection.

3.11 Ontario Works

About 250,000 unemployed or underemployed Ontarians (and over 200,000 of their family members) received financial aid in 2017/18 from the Ontario Works program of the Ministry of Children, Community and Social Services (Ministry) to help with basic living expenses.

Ontario Works provides temporary financial assistance and employment supports to help recipients find work and become self-reliant. To be eligible, applicants must prove that they live in Ontario and that their income and assets are below specified amounts. Applicants are also generally required to participate in activities to help them find work.

The Ministry contracts with 47 service managers (large municipalities or groups of smaller municipalities) and 101 First Nations to deliver Ontario Works. In 2017/18, the Ministry provided almost \$3 billion to service managers to deliver the program.

Our audit concluded that the Ministry and service managers do not have effective systems and procedures in place to ensure that only eligible recipients receive financial assistance, or that recipients receive the employment supports required to find jobs and become self-reliant.

The following are some of our specific concerns:

- Although Ontario Works is intended to be a temporary assistance program, the length of time people depend on the program has nearly doubled since our last audit of the program, from an average of 19 months in 2008/09 to almost three years in 2017/18. Service managers have identified that 36% of recipients have barriers affecting their employability, such as homelessness and mental health concerns, that they need help to address.
- We found significant differences in employment outcomes for recipients depending on their service managers. In 2017/18, for example, we noted that the percentage of recipients across all service managers who found employment was just 10%—but this ranged from a low of 2% at one service manager to a high of 29% at another. In addition, the Ministry's current performance measures do not track whether individuals leaving the program retain employment over time or later return to Ontario Works.

- We found service managers did not consistently meet with recipients on a timely basis to review their progress in activities designed to help them find employment. In addition, service manager decisions to temporarily exempt recipients from participating in such activities were not always supported with sufficient evidence to confirm that recipients were unable to participate.
- We found that the Ministry's IT system, called the Social Assistance Management System (SAMS), does not have the functionality to allow caseworkers to record recipient skills, barriers to employment or referrals to training or community services in a way that would enable service managers to analyze such factors for their entire caseload. This functionality would help service managers better understand the profiles and needs of recipients in their caseload.
- Ministry contracts with service managers lack meaningful targets for recipient employment, and mechanisms to hold them accountable for program delivery.
- Service managers often overlooked or did not obtain and review critical applicant information, increasing the risk of errors in determining eligibility for Ontario Works. In addition, we found that not all service managers reassess recipients every two years as required to confirm their eligibility for Ontario Works, increasing the risk that overpayments can occur.
- The underlying cause of overpayments to recipients is not tracked in the Ministry's IT system. Without data to understand the most common causes of overpayments, service managers are unable to identify which of their processes they need to improve to prevent or reduce overpayments in the future.
- Service managers across Ontario are approximately one year behind in investigating approximately 6,000 benefit-fraud tips. We noted that service managers investigated

about 17,000 fraud tips in the last three years, and more than 25% of these identified overpayments and another 10% resulted in termination of benefits.

3.12 School Boards—IT Systems and Technology in the Classroom

The Ministry of Education (Ministry) funds 72 district school boards that provide elementary and secondary education to about two million Ontario students as of the 2017/18 school year. School boards and individual schools determine how much funding they allocate to school operations and classroom technology.

School boards reported total information technology (IT) spending of \$227.8 million for the 2017/18 fiscal year, with \$160.6 million of that going to IT systems and computers (including software and licences), and the remaining \$67.2 million to the boards' own IT operations and administration.

Schools use IT in the classroom for training in math skills, programming, coding, design and other subject areas, as well as to give students quick access to the Web for research. Teachers use IT to help design and deliver lessons, and for administrative tasks such as tracking attendance and grades.

Overall, we found that the Ministry had no broad IT strategy for curriculum delivery, use of IT by students, or administration of IT. In addition, student access to IT varied across the province because each board makes its own decisions on equipment acquisition.

The following are some of our findings:

- The availability of tablets, laptops, computers and applications varied among schools, and school boards generally did not formally assess whether classrooms had adequate, up-to-date, and consistently allocated IT resources. At some schools, for example, eight students shared a single computer; at others, each student was assigned their own computer.

- Classroom IT equipment ranged from new and modern to outdated, which can be slow and incompatible with the latest software. Older technology can also adversely affect the learning experience and is more vulnerable to cybersecurity threats because vendors no longer provide regular security updates.
- The Ministry IT system used to administer the Ontario Education Number, issued to every student in the province, collects and stores students' personal information and educational records. We found that almost one-fifth of staff user accounts in all school boards in Ontario (971 of 5,229, or 19%) for this system had never been used, and that accounts are not always deleted after staff leave their jobs. As these user accounts are accessible by staff and some former staff on the Internet, there is a risk to the security of confidential student information.
- Some school boards provide no formal security-awareness training, and some lack cybersecurity policies. Fifty-one of the 69 boards that responded to our survey (74% of respondents) indicated that they do not provide formal IT security or privacy training to staff who use technology at boards and schools.
- Although school boards have established policies and guidelines on bullying prevention and intervention, in accordance with Ministry requirements, they do not measure the effectiveness and performance of anti-cyberbullying programs. Of the school boards that responded to our survey, 25 (36%) indicated that they did not log cyberbullying incidents and therefore lacked the information to study and address such incidents.
- Two of the four school boards we visited as part of our audit lack sufficient oversight of their classroom IT assets, such as laptops and tablets, to keep track of them. In some cases, board staff were unable to verify whether any equipment was missing.
- We found that a majority of school boards do not have formal business continuity and disaster recovery plans to deal with serious damage to their IT systems from natural or man-made disasters should such events occur.
- The Ministry has spent more than \$18.6 million on virtual learning environment (VLE) software in the past five years, which it provides for free to the school boards; however, most boards purchase their own software to make up for gaps in the VLE software and for ease of use. Approximately 26% of the school boards that responded to our survey indicated they rarely use the VLE software. As such, value for money is not always obtained from their IT purchases.
- The Ministry's system that school boards use to report student data to the Ministry is inefficient and lacks performance targets over the preparation and submission of student data. Training and support on the system is insufficient to help resolve errors with data validation issues in a timely manner.

3.13 Technical Standards and Safety Authority

The Government of Ontario established the Technical Standards and Safety Authority (TSSA) in 1997 with a mandate to promote and enforce public safety on its behalf over a broad range of equipment and industrial operations.

The TSSA promotes and enforces public safety through four programs:

- Fuels Storage and Handling (Fuels);
- Boilers and Pressure Vessels and Operating Engineers (Boilers and Pressure Vessels);
- Upholstered and Stuffed Articles; and
- Elevating Devices, Amusement Devices and Ski Lifts (Elevating Devices).

The TSSA is self-funded through the fees that it charges the organizations it regulates, and receives no government funding. The TSSA is responsible for registering, licensing and inspecting the

manufacture, installation, maintenance and operation of the devices and companies it regulates. It is also responsible for ensuring that upholstered and stuffed articles sold in Ontario, such as toys, mattresses and furniture, are made with new and clean filling materials, and that their labels correctly describe their contents. The TSSA has the authority to shut down unsafe devices and prosecute companies that do not comply with safety laws.

The Ministry of Government and Consumer Services (Ministry) is responsible for overseeing the TSSA, but we found the Ministry has not ensured that the TSSA is actually fulfilling its mandate, and we observed that the TSSA's own current oversight processes are not fully effective.

Among our significant findings:

- The TSSA does not have consistent inspection standards that all inspectors are required to follow. The TSSA could also not explain why it does not periodically inspect some areas in the fuel sector, such as pipelines, compressed natural gas stations and propane distributors.
- A small number of large elevator-maintenance companies dominate the Ontario market and for years have been failing to maintain most of the province's operating elevators in accordance with safety laws. The TSSA has tried with little success to have these large companies perform required maintenance and safety tests. When we discussed this issue with representatives of the maintenance companies, their view was that sometimes the owners can also be responsible for poor compliance with safety laws.
- The TSSA's computer system is outdated and contains inconsistent and incomplete information about the safety status of devices and businesses that it regulates. As a result, in 2018, the TSSA renewed the operating licences of over 300 elevators that at the same time were still shut down by the TSSA for being unsafe to operate.
- When the TSSA finds a mislabelled upholstered and stuffed article that it deems to be

a risk to the public, it orders the inspected retailer to remove the article from sale. However, we found that the TSSA does not check whether the same mislabelled article is sold in other stores in Ontario or online. We were able to purchase from other stores the same mislabelled articles that the TSSA ordered to be removed from sale at locations it inspected. Also, we were able to purchase one out of every two mislabelled articles from the same inspected stores that the TSSA ordered to immediately stop selling these articles.

- For almost 20 years, the TSSA has done little to enforce and promote the safety of approximately 65,000 installed and operating boilers and pressure vessels as required under its Act. The TSSA does not know how many devices operate in Ontario and where they are located. The TSSA told us that these devices are being inspected by insurers, but it does not collect evidence to confirm this. We also noted that insurance coverage is not mandatory for operating boilers and pressure vessels.
- Ontario is the only province in Canada where boilers and pressure vessels used in agricultural operations are exempt from safety laws.
- The TSSA is responsible for ensuring that owners of fuel storage sites clean up their sites after they cease operations, but we found that in cases where the owner has abandoned the site and cannot be located, it is not ensuring that these sites are cleaned up because there is no one to recover the costs of the clean-up from.

3.14 Use of Consultants and Senior Advisors in Government

The Ontario Public Service requires external services and advice from time to time when its own staff are unavailable or lack the required skills or expertise. It usually fills these needs by using consultants and advisors. As a general rule:

- consultants provide expertise and strategic advice to government for use in decision-making; and
- advisors provide high-level advice to the Premier or a minister.

Overall spending on consultants by ministries has dropped more than 15% over the past 10 years, from \$434 million in the 2008/09 fiscal year to \$360 million in 2017/18. About 80% of the 2017/18 spending was for IT consultants, and the rest for consultants in management, communications, policy, technology, and research and development.

The Province does not track its spending on advisory services, but we estimated it at about \$4 million a year.

Using consultants can be costly, as they are generally paid more than full-time staff. However, they can be cost-effective when engaged for short periods or to provide specialized services or expertise, instead of having to hire new permanent full-time staff.

We noted that some improvements were needed to ensure consulting and advisory services are used with due regard for economy and delivered efficiently. We found that the Province does not assess the overall cost-effectiveness of its use of consultants, and ministries often rely on consultants rather than considering hiring full-time or term employees.

The following are some of our significant observations:

- Ministries used consultants for regular operational and ongoing work such as project management and information technology, instead of for short terms, specialized services or expertise, for which they are best suited. For example, an individual consultant was hired to provide analysis and development for a software application. The initial contract from February 2014 to March 2015 was for \$210,000, but was extended three times to March 2018 at a total cost of over \$900,000. Based on the average cost of permanent IT staff, this work could have been done for about 40% less by permanent full-time staff.
- Twenty-two percent of the contracts we reviewed that were competitively procured had amendments greater than \$10,000, without an option in the contract to allow for the amendment or where the amended amount exceeded the amount approved for the contract. Most amendments were between \$100,000 and \$500,000, with two as high as \$1.5 million, and the additional services included in the amendment were not competitively procured.
- We found in our review of consulting contracts that most did not have specific costs attached to the various deliverables in the contract. This can make it difficult to determine if the deliverables were received before making payment, and if they provided value for money.
- The Province may be missing out on potential savings because it lacks the reliable and timely information needed to perform analysis and make strategic decisions on the overall use of consultants. We noted errors in the self-reported information on consulting contracts collected from ministries, such as contracts being counted twice and amended contracts being reported as new. In addition, the information was not available on a timely basis, and was not reviewed for strategic analysis purposes.
- We noted that 25% of the advisors we reviewed did not complete a conflict-of-interest disclosure.
- Government ministries spent \$960 million over the past three fiscal years on professional services (services provided by licensed professionals, such as physicians, dentists, nurses, pharmacists, veterinarians, engineers, land surveyors, architects, accountants, lawyers and notaries, for regular work in their licensed capacity). In addition, Crown agencies and Crown-controlled corporations

told us in a survey that they spent approximately \$1.38 billion during the same period. Although we did not review the use of professional services by ministries and agencies in this audit, the recommendations in our report on consulting services may equally apply to professional services, and we suggest that they also be reviewed by the Province to identify any potential cost savings and to confirm whether value for money has been achieved.

3.15 Waterfront Toronto

The federal, provincial and Toronto municipal governments established Waterfront Toronto in 2002 to oversee and lead the revitalization of Toronto's waterfront. As the land was owned by a variety of public and private interests, it was widely accepted that it could only be successfully revitalized under a co-ordinated and well-planned approach.

Successful oversight requires that the overseer be given the authority to ensure the job is done right. However, Waterfront Toronto was never given this authority, so the development of waterfront lands has continued to be largely driven by historical practices, existing bylaws, and other regulations governing commercial and residential development. Waterfront Toronto has directly developed only 5% (55 acres) of the publicly owned developable waterfront land and provided funding to other organizations for revitalization projects for another 14% (151 acres) since its inception in 2002.

Other waterfront development entities in other cities were given greater authority than what Waterfront Toronto had regarding restriction of building heights, creation of large public spaces and public access to the water's edge, and the right to expropriate land in cases where the intended use was not consistent with overall revitalization plans. From day one, Waterfront Toronto was well aware of the constraints that it operated under and, on several occasions, informed the three levels of government of the constraints, but few changes were made.

Waterfront Toronto's purchase of Quayside land between 2007 and 2009 created an opportunity for Waterfront Toronto to develop this land. It was proactive of Waterfront Toronto to obtain an innovation and funding partner for Quayside. However, its project with Sidewalk Labs raises concerns in areas such as consumer protection, data collection, security, privacy, governance, antitrust and ownership of intellectual property. These are areas with long-term and wide-ranging impacts, which may need to be addressed from a provincial policy perspective in order to protect the public interest before any formal long-term commitment is reached with Sidewalk Labs regarding the development in Quayside and potentially areas within the broader waterfront area, including the Port Lands.

By May 2018, the federal, provincial and city governments committed to providing \$1.25 billion to Waterfront Toronto to cover the cost of flood protection of the Port Lands. This also extended Waterfront Toronto's operation to 2028 without the benefit of an operational review of Waterfront Toronto. Sidewalk Labs' provision of \$50 million USD to further explore the development in Quayside was contingent on the three levels of government providing this \$1.25 billion toward Port Lands flood protection. A second agreement with Sidewalk Labs, signed in July 2018, potentially opens the door to expand the Sidewalk Labs' project to the approximately 600 acres of land in the Port Lands.

Some of our other specific concerns include:

- Waterfront Toronto was given ownership and control of just 1% of the land it was tasked to revitalize and, therefore, the vision of those with the remaining ownership controlled the decisions over waterfront development. The three governments and the Toronto and Region Conservation Authority continued to own 75% of the developable waterfront area.
- Waterfront Toronto's development mandate overlaps with the mandates of other provincial and City entities. The Province did not give Waterfront Toronto the authority to plan

and zone lands. Under the *Planning Act*, this authority remains with the City of Toronto. Waterfront Toronto used the City's existing plan to guide waterfront development rather than create its own master plan or large-scale vision.

- Governments also approved and provided Waterfront Toronto with funding on a project-by-project basis, which focused on individual projects versus the broader revitalization mandate.
- The governments redirected nearly \$700 million of the \$1.5 billion they publicly committed to the revitalization of the waterfront to other agencies for other projects.
- We reviewed all projects over \$10 million that Waterfront Toronto directly managed and found that five of the 13 projects we reviewed cost 22% (\$43 million) more than the estimated project cost. It was difficult to obtain sufficient documentation to be able to compare actual project cost against estimated project cost. Waterfront Toronto also did not provide sufficient oversight of projects when it transferred funds to other organizations conducting development work. As a result, one project ended up costing 55% (\$49 million) more than its initial estimate.
- The \$1.25 billion funding for the Port Lands flood protection work was approved by all three governments based on preliminary estimates. Consulting, operating and other costs are now forecast to be about \$15 million higher than the initial estimate.
- In March 2017, Waterfront Toronto issued a request for proposal (RFP) for an innovation and funding partner for the Quayside area. Respondents were given only six weeks to respond to the complex RFP—in comparison to 10 weeks previously being given to respondents for public art projects in West Don Lands. Sidewalk Labs was selected as the innovation and funding partner. Waterfront Toronto communicated with Sidewalk Labs and other potential bidders providing them with information prior to issuing the RFP. However, Sidewalk Labs received more information from Waterfront Toronto prior to the RFP than other parties that would be responding to the RFP.
- With respect to the Quayside project, members of the Intergovernmental Steering Committee (Committee), who provide oversight and governance to Waterfront Toronto, were concerned that while the Committee was informed during a September 2017 Committee meeting that Waterfront Toronto had internally selected a successful bidder, the Committee was only made aware of the name of the successful bidder five days before the public announcement.
- On Friday, October 13, 2017, Waterfront Toronto's CEO presented the Framework Agreement to Board members and it was approved by the Board on Monday, October 16, 2017, just one day before the public announcement was made. Prior to that, a three-member committee of the Waterfront Toronto Board received the draft terms of the Framework Agreement and met with management a number of times over the course of a month to review issues. However, the Board's committee could not reach a consensus on whether or not to support the project.
- While the Intergovernmental Steering Committee was briefed about the project and the RFP, the October 16, 2017, final signed Framework Agreement was not shared with all levels of government until November 2, 2017.

Public Accounts of the Province

1.0 Summary

This year, the audit opinion on the Province’s consolidated financial statements is unqualified, or “clean.” Based on our audit work, we have concluded that the statements for the 2017/18 fiscal year are fairly presented and free from material errors.

The issuance this year of an unqualified audit opinion is significant in light of the fact that we issued qualified opinions in the previous two years. An unqualified opinion confirms that the consolidated financial statements accurately present the Province’s financial position and results for the year ended March 31, 2018.

This year’s unqualified opinion came after the current government made appropriate changes to the Province’s financial statements in two key areas to comply with Canadian public sector accounting standards (PSAS) as follows:

- It recorded a full valuation allowance on the net pension assets relating to the Ontario Teachers’ Pension Plan and the Ontario Public Service Employees’ Union Pension Plan to reflect that it has no legal authority to draw on the assets as at March 31, 2018.
- It excluded the Independent Electricity System Operator (IESO) market accounts from the Province’s consolidated financial position in 2017/18 and restated the comparative 2016/17 balances. In addition, in 2016/17 the government reversed the inappropriate

use of rate-regulated accounting in connection with certain balances recorded by the IESO in connection with Ontario’s electricity rate reduction.

Canadian PSAS are the most appropriate standards for the Province to use in preparing its consolidated financial statements because they ensure that information about the surplus and the deficit is fair, consistent, and comparable to data from previous years and from peer governments. This allows legislators and the public to better assess government management of public finances.

In **Chapter 2** of our *2016 and 2017 Annual Reports*, we discussed the government’s use of external advisors to provide accounting analysis, advice and interpretation. We also highlighted that the interests of Treasury Board Secretariat, the Ministry of Finance and the Office of the Auditor General are best served when the work of external advisors is brought to our attention and discussed on a timely basis when it impacts the consolidated financial statements of the Province in current and future years.

We continue to recommend that Treasury Board Secretariat notify our Office and request our input when a private-sector accounting firm provides accounting advice to the government, and that the Secretariat consult with us when a government agency or organization plans to engage and/or retain the same private-sector accounting firm for both accounting advice and auditing services.

In **Chapter 2** of our *2017 Annual Report*, we recommended that our Office conduct an attest audit

of the December 31, 2017, financial statements of the IESO. In early 2018, we undertook and completed a special audit of the IESO. Unfortunately, we encountered a pattern of atypical pushback on our audit inquiries from the IESO Board.

In order to perform our work, we require certain information on all of our attest audits. The IESO consistently refused to provide us with written acknowledgement of their roles and responsibilities with respect to our audit; nor would management sign a representation letter confirming that they had provided us with all relevant information that may affect the financial statements. As a result of these refusals, we issued a disclaimer of opinion as required by Canadian Auditing Standards.

In our letters to the Standing Committee on Public Accounts on March 20, 2018, and April 11, 2018, we highlighted significant issues with the IESO's financial statements that could potentially impact the Province's consolidated financial statements.

Another of our statutory responsibilities relates to the *Fiscal Transparency and Accountability Act, 2004* (Act). The Act requires the government to issue a pre-election report on the province's finances ahead of a provincial election, and it requires our Office to review that report.

In April 2018, we tabled our report titled *Review of the 2018 Pre-Election Report on Ontario's Finances* (Pre-Election Report) in accordance with the Act. The Pre-Election Report was the third issued in Ontario (the first two were issued in 2007 and 2011).

Between 2004, when the Act was passed, and 2016, the fixed election date was set as the first Thursday in October, every four years. However, the *Election Statute Law Amendment Act, 2016* was passed in December 2016 to move the fixed election date to the first Thursday in June, every four years, to ensure the fixed provincial election date would not overlap with Ontario's municipal election dates. The impact of this amendment was to reduce by 17 weeks the time between the issuance of the Pre-Election Report and the fixed election date. Our Office completed our review with the co-operation of staff at the Ministry of Finance and

Treasury Board Secretariat, along with various other ministries.

The Province's growing debt burden (without plans to manage it) also remains a concern this year, as it has been since we first raised the issue in 2011. This year, we again focus on the critical implications for the Province's finances of the growing debt. The Province should provide legislators and the public with long-term targets for addressing Ontario's current and projected debt.

This chapter contains three recommendations, consisting of four actions, to address our observations.

2.0 Background

Ontario's Public Accounts for the fiscal year ending March 31, 2018, were prepared under the direction of the Minister of Finance, as required by the *Financial Administration Act*, and the President of the Treasury Board. The Public Accounts consist of the Province's Annual Report, including Ontario's consolidated financial statements, and three supplementary volumes of additional financial information.

The government is responsible for preparing the consolidated financial statements for the Province, and for ensuring that this information, including many amounts based on estimates and judgment, is presented fairly. The government is also responsible for ensuring that an effective system of internal controls, with supporting procedures, is in place to authorize transactions, safeguard assets and maintain proper records.

Our Office, under the *Auditor General Act*, is responsible for the annual audit of these consolidated financial statements. The objective of our audit is to obtain reasonable assurance that the statements are free of material misstatements—that is, free of significant errors or omissions. The consolidated financial statements, along with the Auditor General's Independent Auditor's Report, are included in the Province's Annual Report.

The Province's Annual Report also contains a Financial Statement Discussion and Analysis (FSD&A) section that provides additional information regarding the Province's financial condition and fiscal results. This additional information is intended to enhance the fiscal accountability of the government to both the Legislative Assembly and the public.

The three supplementary volumes of the Public Accounts consist of the following:

- Volume 1—unaudited statements from all ministries and a number of schedules providing details of the Province's revenue and expenses, its debts and other liabilities, its loans and investments, and other financial information;
- Volume 2—audited financial statements of significant provincial corporations, boards and commissions whose activities are included in the Province's consolidated financial statements, as well as other miscellaneous audited financial statements; and
- Volume 3—detailed unaudited schedules of ministry payments to vendors and transfer-payment recipients.

Our Office reviews the information in the FSD&A, and in Volumes 1 and 2 of the Public Accounts, for consistency with the information presented in the Province's consolidated financial statements.

The *Financial Administration Act* requires that, except in extraordinary circumstances, the government deliver its Annual Report to the Lieutenant Governor in Council within 180 days of the end of the fiscal year. The deadline for the 2017/18 fiscal year was September 27, 2018. The three supplementary volumes must be submitted to the Lieutenant Governor in Council within 240 days of the end of the fiscal year. Upon receiving these documents, the Lieutenant Governor in Council must lay them before the Legislative Assembly or, if the Assembly is not in session, make the information public and then lay it before the Assembly within 10 days of the time it resumes sitting.

This year, the government released the Province's 2017/18 Annual Report and Consolidated Financial Statements, along with the three Public Accounts supplementary volumes, on September 21, 2018, meeting the legislated deadline.

The Auditor General's audit opinion on the Province's consolidated financial statements was unqualified for the first time in three years because the current government corrected the accounting issues that were of past concern (the incorrect treatment of certain pension plans' surpluses and the improper accounting design of the global adjustment refinancing portion of the electricity rate reduction).

An unqualified opinion means that the consolidated financial statements are free from material errors. The unqualified audit opinion is discussed in **Section 3.0** below.

3.0 The Province's 2017/18 Consolidated Financial Statements

3.1 Auditor's Responsibilities

As the legislature's independent auditor of the Province's consolidated financial statements, the Auditor General's objective is to express an opinion on whether the financial statements are free of material misstatements and are prepared in accordance with Canadian PSAS so that they give a true and fair view of the financial position and results of the Province. It is this independence, combined with the professional obligation to comply with established Canadian Auditing Standards and relevant ethical requirements, that allows the Auditor General to issue an opinion that provides users with confidence in the Province's consolidated financial statements.

To enable the Auditor General to form her opinion, our Office collects sufficient appropriate audit evidence and evaluates it to determine whether the financial statements are free of material

misstatements. This includes assessing the government's preferred accounting treatment over certain transactions, and analyzing the appropriateness of those treatments under Canadian PSAS.

An assessment of what is material (significant) and immaterial (insignificant) is based primarily on our professional judgment. In making this assessment, we seek to answer the following question: "Is this error, misstatement or omission significant enough that it could affect decisions made by users of the Province's consolidated financial statements?" If the answer is yes, then we consider the error, misstatement or omission as material.

To help us make this assessment, we determine a materiality threshold. This year, as in past years and consistent with most other auditors in provincial jurisdictions, we set our threshold at 0.5% of the greater of government expenses or revenue for the year.

Our audit is conducted on the premise that management has acknowledged certain responsibilities that are essential to the conduct of the audit in accordance with Canadian Auditing Standards. These responsibilities are discussed below.

3.2 Management's Responsibilities

The auditor's report distinguishes between the responsibilities of management and of the auditor with respect to a financial-statement audit. Management (for the Province, that is, Treasury Board Secretariat and the Ministry of Finance, with support from the Office of the Provincial Controller Division) is responsible for the preparation of the financial statements in accordance with Canadian PSAS. The auditor examines the financial statements in order to express an opinion as to whether they have been prepared in accordance with Canadian PSAS. The division of responsibility between management and the auditor is fundamental and preserves the auditor's independence, a cornerstone of the auditor's report.

In addition to preparing the financial statements and having the relevant internal controls, manage-

ment is also required to provide the auditor with all information relevant to the preparation of the financial statements, additional information that the auditor may request, and unrestricted access to individuals within the entity who the auditor determines are necessary to obtain audit evidence. Canadian Auditing Standards are clear on these requirements, and the fulfillment of these is formally communicated to the auditor in the form of a signed management-representation letter at the end of the audit.

When a transaction occurs, it is management's responsibility to identify the applicable accounting standards, determine the implications of the standards on the transaction, decide on an accounting policy and ensure that the financial statements present the transaction in accordance with the applicable financial reporting framework (for example, Canadian PSAS for governments). The auditor must also be proficient in the applicable financial reporting framework in order to form an independent opinion on the financial statements, and may perform similar procedures in identifying the applicable standards and understanding the implications of the standards on the accounting transaction. However, unlike management, the auditor does not select an accounting policy or the bookkeeping entries for the organization. These decisions are in the hands of management.

When there are disagreements between an auditor and management on the application or adequacy of accounting policies, the auditor must assess the materiality or significance of the issue to the overall financial statements in forming the audit opinion. If the issue is material, it would result in a qualified opinion in which the auditor concludes that the statements are fairly presented except for the items described in the basis for the qualification.

The Office of the Auditor General may make suggestions about the consolidated financial statements but this does not change management's responsibility for the statements. Similarly, the government may seek external advice on accounting treatments of certain transactions. In such

situations, the government still has the ultimate responsibility for the decisions made, and the use of external advisors does not diminish, change or replace the government's accountability as the preparer of the Province's consolidated financial statements.

3.3 The Independent Auditor's Report

The auditor's report, which is issued at the conclusion of an audit engagement, comprises:

- an introductory paragraph that identifies the financial statements audited;
- a description of the responsibility of management for the proper preparation of the financial statements in accordance with the applicable financial reporting framework;
- a description of the auditor's responsibility to express an opinion on the financial statements and the scope of the audit; and
- an opinion paragraph containing an expression of opinion on the financial statements and a reference to the applicable financial reporting framework used to prepare the financial statements.

The auditor's report may further include:

- an Emphasis of Matter paragraph that refers to a matter appropriately presented or disclosed in the financial statements that, in the auditor's judgment, is of such importance that it is fundamental to users' understanding of the financial statements; and
- an Other Matter paragraph that refers to a matter other than those presented or disclosed in the financial statements that, in the auditor's judgment, is relevant to users' understanding of the audit, the auditor's responsibilities or the auditor's report.

3.4 The Significance of an Unqualified Audit Opinion

The independent auditor's report is how the auditor communicates their opinion to users of the finan-

cial statements as to whether the statements of an entity are presented fairly. After the audit of the financial statements is completed, the auditor can sign one of four possible opinions:

- **Unqualified, or clean, opinion:** The financial statements present fairly, in all material respects, the financial position and results of the entity.
- **Qualified opinion:** The statements contain one or more material misstatements or omissions.
- **Adverse opinion:** The statements do not fairly present the financial position, results of operations and changes in financial position, as per Canadian generally accepted accounting principles.
- **No opinion or disclaimer of opinion:** It is not possible to give an opinion on the statements because, for example, key records of the entity were destroyed and thus unavailable for examination.

An *unqualified* audit opinion indicates that the financial statements are reliable. For the first time in three years, the Office of the Auditor General has issued an unqualified opinion on the Province's consolidated financial statements. As a result of the corrections it made, the government is now in full compliance with Canadian PSAS. The consolidated financial statements can be relied on to fairly and accurately present the Province's fiscal results for the year ended March 31, 2018, in all material respects.

3.5 The 2017/18 Audit Opinion

The *Auditor General Act* requires that we report annually on the results of our examination of the Province's consolidated financial statements. The Independent Auditor's Report to the Legislative Assembly on the Province's consolidated financial statements for the year ended March 31, 2018, is reproduced on the following page.



Office of the Auditor General of Ontario
Bureau de la vérificatrice générale de l'Ontario

INDEPENDENT AUDITOR'S REPORT

To the Legislative Assembly of the Province of Ontario

I have audited the accompanying consolidated financial statements of the Province of Ontario, which comprise the consolidated statement of financial position as at March 31, 2018, and the consolidated statements of operations, change in net debt, change in accumulated deficit and cash flow for the year then ended, and a summary of significant accounting policies and other explanatory information.

Management's Responsibility for the Consolidated Financial Statements

The Government of Ontario (Government) is responsible for the preparation and fair presentation of these consolidated financial statements in accordance with Canadian public sector accounting standards, and for such internal control as Government determines is necessary to enable the preparation of consolidated financial statements that are free from material misstatement, whether due to fraud or error.

Auditor's Responsibility

My responsibility is to express an opinion on these consolidated financial statements based on my audit. I conducted my audit in accordance with Canadian generally accepted auditing standards. Those standards require that I comply with ethical requirements and plan and perform the audit to obtain reasonable assurance about whether the consolidated financial statements are free from material misstatement.

An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the consolidated financial statements. The procedures selected depend on the auditor's judgment, including the assessment of the risks of material misstatement of the consolidated financial statements, whether due to fraud or error. In making those risk assessments, the auditor considers internal control relevant to the entity's preparation and fair presentation of the consolidated financial statements in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the entity's internal control. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of accounting estimates made by the Government, as well as evaluating the overall presentation of the consolidated financial statements.

I believe that the audit evidence I have obtained is sufficient and appropriate to provide a basis for my audit opinion.

Opinion

In my opinion, these consolidated financial statements present fairly, in all material respects, the consolidated financial position of the Province of Ontario as at March 31, 2018, and the consolidated results of its operations, change in its net debt, change in its accumulated deficit and its cash flows for the year then ended in accordance with Canadian public sector accounting standards.

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Toronto, Ontario
September 12, 2018

Bonnie Lysyk, MBA, FCPA, FCA, LPA
Auditor General

3.6 Independent Financial Commission of Inquiry

In July 2018, the newly elected government announced the creation of an Independent Financial Commission of Inquiry (Commission). The Commission's mandate was to look into the former government's accounting practices and provide the new government with advice and recommendations going forward. In its report to the government on August 30, 2018, the Commission made several recommendations to the government.

In the Province's consolidated financial statements for the year ended March 31, 2018, the government appropriately made significant accounting changes that were required to present the statements in accordance with Canadian PSAS and consistent with the recommendations in the Commission's report.

The accounting changes included:

- recognition of a full valuation allowance against the pension assets for both the Ontario Teachers' Pension Plan and the Ontario Public Service Employees' Union Pension Plan;
- discontinuation of the use of rate-regulated accounting in connection with Ontario's electricity rate reduction; and
- recording the full financial impact of the Fair Hydro Plan.

Although not included as a recommendation in the Commission's report, the government removed the IESO electricity market account assets and liabilities from the consolidated financial statements to be in accordance with Canadian PSAS.

The impact of the above changes are discussed further in **Section 3.7** below.

3.7 Changes to the Consolidated Financial Statements

3.7.1 Net Pension Assets and the Consolidated Financial Statements

As at March 31, 2018, the government reported pension assets before any valuation allowance from the Ontario Teachers' Pension Plan (OTPP) of \$13.635 billion (2016/17 – \$11.511 billion) and from the Ontario Public Service Employees' Union Pension Plan (OPSEUPE) of \$1.014 billion (2016/17 – \$0.918 billion), for a total of \$14.649 billion (2016/17 – \$12.429 billion).

In order to comply with Canadian PSAS, a full valuation allowance against these assets in pension plans the government co-sponsors with its employees should be recorded to reflect that the government does not have the unilateral right to reduce its minimum contributions or withdraw surplus without reaching a formal agreement with the plans' other joint sponsors. We concluded that the government did not have a legally enforceable right to benefit from the pension assets because agreements with the other joint sponsors were not obtained in 2015/16. We arrived at the same conclusion in 2016/17 and 2017/18.

The Commission's report recommended the government “[a]dopt the Auditor General’s proposed accounting treatment for any net pension assets of the Ontario Teachers’ Pension Plan and Ontario Public Service Employees’ Union Pension Plan on a provisional basis, until an agreement is reached between the government and the Auditor General. For the Public Accounts of Ontario 2017/18, this included restatement of the prior year’s figures for comparative purposes.” The government accepted and implemented the Commission’s recommendation.

As a result, a full valuation allowance was taken against the pension assets of OTPP and OPSEUPE in the consolidated financial statements of the Province as at March 31, 2018. In accordance with the Commission’s recommendation and Canadian PSAS, the prior year’s comparative figures were

also restated to take a full valuation allowance in 2016/17.

The adjustments to the consolidated financial statements with respect to the two pension plans reduced the net pension assets reported on the consolidated statement of financial position for 2017/18 by \$14.649 billion (2016/17 – \$12.429 billion), resulting in a net pension liability of \$0.855 billion (2016/17 – \$1.396 billion) being reported. This is illustrated in **Figure 1** and disclosed in Notes 6 and 19A to the 2017/18 consolidated financial statements of the Province. The effect of recording the full valuation allowance against the pension assets for the OTPP and the OPSEUPP on the consolidated statement of operations was to increase the Province’s reported annual deficit for 2017/18 by \$2.220 billion (2016/17 – \$1.444 billion).

3.7.2 Exclusion of IESO’s Market Accounts from the Consolidated Financial Statements

We also qualified our audit opinion on the Province’s consolidated financial statements in 2016/17 because the Province inappropriately recorded market account assets and liabilities (which are not assets and liabilities of either the IESO or the Province).

The IESO operates the Province’s electricity market, and the market account assets and liabilities cover the amounts the IESO collects from local distribution companies and pays to power generators, respectively.

The Province has no access or discretionary power to use the market account assets for its own benefit; nor does the Province have an obligation to settle the market account liabilities in the event of default by market participants. As such, the market accounts do not meet the criteria for recognition as assets and liabilities in the Province’s consolidated financial statements.

The government removed the IESO electricity market account assets and liabilities from the consolidated financial statements to be in accordance with Canadian PSAS, even though this was not included as a recommendation in the Commission’s report. On this issue, the Commission recommended the government “[a]dopt the Auditor General’s proposed accounting treatment for global adjustment refinancing, which is a major component of the Fair Hydro Plan.” The government excluded the IESO market accounts from the Province’s consolidated statement of financial position in 2017/18 and restated the comparative 2016/17 period for the same. The change in accounting and prior year restatement was disclosed in Note 19B to

Figure 1: Pension Asset (Liability) as at March 31, 2018

Sources of data: March 31, 2018, Province of Ontario Consolidated Financial Statements and the Office of the Auditor General of Ontario

	2018 Pensions (\$ million)	2017 Pensions (\$ million)
Obligation for benefits	133,854	124,700
Less: plan fund assets	(162,600)	(149,851)
Obligation over/(under) plan assets	(28,746)	(25,151)
Unamortized actuarial gains	14,707	14,104
Accrued pension asset	14,039	11,047
Valuation allowance – OTPP	(13,635)	(11,511)
Valuation allowance – OPSEUPP	(1,014)	(918)
Valuation allowance – all other plans	(245)	(14)
Net pension asset (liability)*	(855)	(1,396)

* As presented in the March 31, 2018, Province of Ontario Consolidated Financial Statements.

the 2017/18 consolidated financial statements of the Province.

3.7.3 Discontinued Use of Rate-Regulated Accounting for Other Government Organizations

In 2016/17, we included an Other Matter paragraph in our audit opinion referring to the IESO's retroactive adoption of rate-regulated accounting. We noted then that although the adoption of rate-regulated accounting at the consolidated provincial level did not result in material misstatement in the Province's 2016/17 consolidated financial statements, the statements could become materially misstated in future as a result of the legislated accounting prescribed under the *Ontario Fair Hydro Plan Act, 2017*.

The IESO is classified as an Other Government Organization (OGO). Under provisions of Canadian PSAS, the financial results of an OGO must be conformed to Canadian PSAS prior to consolidation in the Province's consolidated financial statements. Rate-regulated accounting is not permitted when a government or a government-controlled OGO presents its financial statements in accordance with Canadian PSAS.

As noted, the Commission recommended the government adopt the Auditor General's proposed accounting treatment for the Fair Hydro Plan. The government accepted the recommendation and discontinued the use of rate-regulated accounting in connection with balances related to the global adjustment refinancing, and reversed all rate-regulated accounting balances recorded by the IESO in 2016/17, which were not yet material.

3.7.4 Changes to the Province's Financial Statement Discussion and Analysis (FSD&A)

In 2017/18, the government adjusted all current and historical figures in the Province's FSD&A to reflect full valuation allowances for the OTTP and

OPSEUPP, the exclusion of IESO market accounts, and the reversal of rate-regulated accounting balances recognized in 2016/17 recorded in anticipation of the provisions of the *Fair Hydro Plan Act, 2017*.

These changes were made to ensure alignment with the corrected consolidated financial statements that would now be reported in accordance with Canadian PSAS and aligned with the recommendations of the Commission. As a result, no Other Matter paragraph was required in our 2017/18 audit opinion.

4.0 The Province's Use of External Consultants

In **Chapter 2** of our 2016 and 2017 Annual Reports, we reported on the Province's use of external advisors to obtain accounting analysis, advice and interpretation.

We highlighted that the interests of Treasury Board Secretariat, the Ministry of Finance and the Office of the Auditor General are best served when there is full disclosure on the use of external advisors. For this reason, any work performed by external advisors should be shared with our Office as soon as possible, as part of the audit of the Province's consolidated financial statements. We recommended that the Treasury Board Secretariat provide our Office with copies of all contracts with external advisors so that we are aware of the scope of the work they perform, and can assess the impact on the annual audit. We also recommended that Treasury Board Secretariat incorporate in its contracts with external advisors a provision that the external advisors also notify our Office of their engagement with the Province.

We noted in our Special Audit of the 2017 financial statements of the IESO that in 2017/18, the IESO Board engaged the same private accounting firm both to perform the audit of the IESO's financial statements and to provide accounting advice relating to the design and implementation of the

former government's Fair Hydro Plan at the IESO. Without sufficient safeguards, this can represent an inherent conflict of interest, as the role of an auditor is incompatible with that of an advisor to management. An auditor needs to perform their work serving the public interest, whereas an advisor acts in the best interests of management. In addition to being engaged to provide both audit and accounting advisory services, we found that the private accounting firm billed the IESO significantly more for accounting advice than for its annual auditing fee (see **Section 5.0** below). In situations like this, there is a risk that private accounting firms may not be able to maintain the independence, objectivity and professional skepticism needed to perform a high-quality audit.

Similarly, there may also be instances where external advisors can have a potential conflict of interest in providing the government and the public with independent advice. For example, in November 2016, the former government created the Pension Asset Expert Advisory Panel (Panel) and tasked it with providing independent advice on how to account for the net pension assets of the OTPP and the OPSEUPP. Just before the release of the Panel's first report in February 2017, one of the panel members entered into an agreement to provide actuarial consulting services to the government. The agreement contained a clause stating that the panel member's participation would not begin until after the completion of work for the Panel. Despite the clause, there is still an inherent risk that this additional work could influence the panel member's advice and impair their independence.

The Independent Financial Commission of Inquiry noted similar concerns in its report, which recommended that the government notify and seek comment from the Office of the Auditor General when ministries and agencies propose to engage external advisors to provide accounting advice. In addition, the report recommends that the Province consult our Office before approving retention of the

same private-sector firm for both accounting advice and auditing services.

RECOMMENDATION 1

Recognizing that the Auditor General is appointed under the *Auditor General Act* as the auditor for the consolidated financial statements of the Province, we recommend that Treasury Board Secretariat:

- notify the Office of the Auditor General (Office) and request its comment when a ministry, government agency or Crown-controlled corporation consolidated into the financial statements of the Province proposes to engage an external advisor to provide accounting advice; and
- consult the Office when a government agency or Crown-controlled corporation plans to engage and/or retain the same external advisor for both accounting advice and auditing services.

TREASURY BOARD SECRETARIAT RESPONSE

The government engages external advisors throughout the year in various capacities that include providing accounting analysis, advice and interpretation. External advisors are generally engaged to provide advice and guidance to supplement internal analysis.

The interests of the Treasury Board Secretariat (Secretariat) and the Office of the Auditor General are best served when there is full disclosure on the intent and use of external advisors.

To further promote full disclosure, the Secretariat will evaluate options to support the proactive notification and consultation with the Office when ministries, consolidated agencies and Crown-controlled corporations propose to engage an external advisor for accounting advice.

5.0 Independent Electricity System Operator

5.1 Audit of the IESO for Fiscal Year 2018

The IESO recently communicated to us that it will appoint us as the attest auditors for the year ended December 31, 2018, and that it will be retroactively adjusting its 2016 and 2017 financial statements to remove the market accounts and to reverse the use of rate-regulated accounting. Its accounting policies will revert back to what they were in the audited financial statements for the year ended December 31, 2015.

We look forward to working with senior management of the IESO during the audit of its financial statements for the year ended December 31, 2018. We will provide an updated status in **Chapter 2** of our *2019 Annual Report*.

5.2 Challenges Encountered in Conducting the Special Audit of IESO

In early 2018, pursuant to section 9 of the *Auditor General Act* and subsection 25.2(2) of the *Electricity Act* and the above recommendation, we undertook and completed a special audit of the IESO financial statements for the year ended December 31, 2017. The audit was characterized by a pattern of atypical pushback on our inquiries from the IESO Board.

While the IESO stated that it would comply and fully co-operate with our special audit, there were several key instances of unusual and unco-operative behaviour that clearly suggested to us that the IESO was less than completely open and transparent.

At the start of the audit, the IESO Board did not support our conducting the financial statement audit for this period instead of KPMG LLP (their incumbent external auditor) or through a joint audit with KPMG. Therefore, we conducted our work separately but simultaneously with

KPMG's audit of IESO's December 31, 2017, financial statements.

During the audit, the IESO designated an individual as the IESO's audit co-ordinator. This individual was to attend all meetings between IESO staff and our auditors to record conversations, comments, and all audit requests, regardless of the sensitivity or confidentiality of the topics (for example, executive compensation or employee Human Resources records). In a discussion with another IESO employee, we became aware that staff were instructed not to send audit requests directly to our auditors based on an internal protocol established by the IESO. All requests were funnelled through the audit co-ordinator. The normal role of an audit co-ordinator is to provide the auditors with the appropriate contacts within the organization, set up initial meetings with those contacts and track down information requests if the information is not being provided in a timely fashion.

The chairs of the Board and Audit committees wrote us several letters conveying the message that they would co-operate, while maintaining that they would not sign key documents we needed to complete our audit in accordance with Canadian Auditing Standards. These documents, including the audit planning report and a letter of representation, are a formal acknowledgment by the IESO Board and management of their roles and responsibilities, and that they have provided us with all relevant information with respect to a financial statement audit. The IESO provided these standard acknowledgements to KPMG.

Toward the finalization of the audit, and despite numerous requests from our office to attend the Board meeting to approve the financial statements, the IESO indicated that they did not know when the meeting would be held. Our subsequent repeated requests received no responses. The IESO did not inform us of the date until after the Board meeting had taken place—and KPMG had issued an unqualified (clean) opinion on IESO's financial statements for the year ended December 31, 2017. In effect, the Board did not allow us to attend the meeting where

it approved the financial statements of the IESO. KPMG, however, was in attendance.

An additional aspect of the unprecedented accounting and auditing situation at the IESO was the comprehensive legal protection that IESO sought and obtained for its staff. An agreement signed by the Minister of Energy between the IESO and the Province, effective June 1, 2017, indemnified the IESO, its directors, officers and employees from a comprehensive list of possible actions against them, specifically in connection with the Fair Hydro Plan. This was highly unusual, and we are not aware of prior comprehensive indemnity agreements on any other specific accounting issue. We later learned that a similar indemnity agreement related to the Fair Hydro Plan was signed for Ontario Power Generation, its directors, officers and employees.

5.3 Results of the Special Audit of IESO for the Fiscal Year 2017

We reported on the results of our special audit of the financial statements of the IESO for the year ended December 31, 2017, to the Standing Committee on Public Accounts in letters dated March 20 and April 11, 2018. Our final Independent Auditor's Report to the IESO and the Standing Committee is reproduced on the following pages.

In order for us to perform our work in accordance with Canadian Auditing Standards, we require certain information on all of our audits. However, as noted in **Section 5.1** of this report, the IESO consistently refused to provide us with written acknowledgement of their roles and responsibilities with respect to our audit (all the while insisting in correspondence that they were co-operating); nor would management sign a representation letter confirming that they had provided us with all relevant information that may affect the financial statements.

As a result of these refusals, we were unable to provide an audit opinion on the IESO's financial statements under professional auditing standards.

We did, however, provide a disclaimer of opinion in our Independent Auditor's Report.

In our letters to the Standing Committee on Public Accounts, we highlighted significant issues with the IESO's financial statements and other items that had the potential to impact the Province's consolidated financial statements. These issues included:

- a lack of co-operation;
- the inappropriate inclusion of rate-regulated assets and market accounts on the IESO's financial statements that would result in an understatement of the Province's annual deficit and net debt if not reversed upon consolidation;
- the material understatement of the IESO's unfunded benefit-plan liabilities due to the use of inappropriate discount rates;
- the IESO's initial failure to disclose, and its disclosure only in a subsequent financial statement revision, of a December 2017 pledge of the current and future receivables from local distribution companies (LDCs) as collateral for debt investors of the Fair Hydro Trust (meaning that if the IESO defaults on its payments of carrying costs to the Fair Hydro Trust, the money it receives from ratepayers through LDCs must be used to pay the Trust before power generators can be paid); and
- a clarification of the roles of KPMG LLP, Deloitte LLP, and Ernst & Young LLP with respect to the Fair Hydro Plan, because none of the work of the firms, individually or in aggregate, constituted an accounting opinion on the consolidated financial statements of the Province.



Office of the Auditor General of Ontario
Bureau de la vérificatrice générale de l'Ontario

INDEPENDENT AUDITOR'S REPORT

To the Independent Electricity System Operator and
The Standing Committee on Public Accounts of Ontario

Report on the Financial Statements

I have audited the accompanying financial statements of the Independent Electricity System Operator (IESO), which comprise the statement of financial position as at December 31, 2017, and the statements of operations and accumulated surplus, remeasurement gains and losses, changes in net debt, and cash flows for the year then ended, and a summary of significant accounting policies and other explanatory information.

Management's Responsibility for the Financial Statements

Management is responsible for the preparation and fair presentation of these financial statements in accordance with Canadian public sector accounting standards, and for such internal control as management determines is necessary to enable the preparation of financial statements that are free from material misstatement, whether due to fraud or error.

Auditor's Responsibility

My responsibility is to express an opinion on these financial statements based on conducting the audit in accordance with Canadian generally accepted auditing standards. Because of the matter described in the Basis for Disclaimer of Opinion paragraph, however, I was not able to obtain sufficient appropriate audit evidence to provide a basis for an audit opinion.

Basis for Disclaimer of Opinion

Management and those charged with governance refused to acknowledge their roles and responsibilities in my audit and they have failed to sign a management representation letter addressed to me to confirm that management has fulfilled their responsibilities for the financial statements. As a result of this refusal, I am unable to obtain assurance over the accuracy and completeness of information provided by and representations made to me by management and those charged with governance.

Disclaimer of Opinion

Because of the significance of the matter described in the Basis for Disclaimer of Opinion, I have not been able to obtain sufficient appropriate audit evidence to provide a basis for an audit opinion. Accordingly, I do not express an opinion on the financial statements.

Other Matter

The financial statements of the IESO for the year ended December 31, 2016 were audited by another auditor who expressed an unqualified opinion on those financial statements on March 22, 2017.

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Report on Matters Arising from Special Audit

Auditor General Act

As the Auditor General, I have a responsibility under the Auditor General Act (Act) to report on matters that are significant to the consolidated financial statements of the Province of Ontario. When something of the magnitude, described below, affects the consolidated financial statements of the Province of Ontario, I am also responsible under the Act to take additional steps to understand and investigate the transactions.

Inappropriate Inclusion of Rate Regulated Assets and Market Accounts

As described in Notes 2d, 2e, 3, 5, 7 and 14c to these financial statements, the IESO has recognized rate regulated and market account assets and liabilities. IESO is considered an “other government organization” under Canadian public sector accounting standards. Rate regulated accounting is not permitted in an “other government organization” under Canadian public sector accounting standards and therefore, the regulated assets recognized by the IESO should not be recognized. The market accounts recognized track mainly buy and sell transactions between electricity market participants (electricity power generators and power distributors). These market accounts, as recorded on the financial statements are not assets and liabilities of the IESO. Under the current Market Rules, the IESO has no access or discretion to use the market account assets for its own benefit, nor does the IESO have an obligation to settle the market account liabilities in the event of default by market participants.

Beginning in July 2017, as part of its legislated role in the *Fair Hydro Plan Act, 2017*, the IESO incurs a shortfall arising from the difference between the amounts it collects from power distributors and it pays to contracted power generators. The electricity price ceiling imposed by the Fair Hydro Plan Act exposes the IESO to financial risk such that it is now responsible for obtaining financing to cover the shortfall in market settlement. To fund this legislated shortfall, the IESO receives advances from Fair Hydro Trust, a related party. At the same time, the IESO records the sale of a rate regulated asset to the Fair Hydro Trust in an amount equal to the shortfall, thereby removing the impact of the shortfall on the annual surplus and eliminating the obligation to the Fair Hydro Trust. This approach constitutes a departure from Canadian public sector accounting standards.

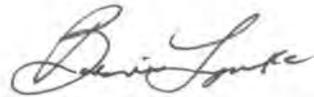
These departures will impact the Province’s consolidated financial statements for the year ended March 31, 2018 unless corrected by the Province. Based on the transactions for the period up to December 31, 2017, the estimated impact on the Province’s consolidated financial statements is as follows:

- Understatement of Annual Deficit by \$1.353 billion
- Overstatement of Total Financial Assets by \$2.045 billion
- Overstatement of Total Liabilities by \$0.627 billion
- Understatement of Provincial Net Debt by \$1.418 billion
- Overstatement of Ending Accumulated Surplus by \$1.418 billion

Inappropriate Discount Rate Used on Unfunded Retirement Benefit Plans

As described in Note 2i to these financial statements, the IESO uses an expected return on plan assets as the discount rate to value all of its pension and other post-employment plan liabilities. IESO provides certain non-registered defined benefit pensions and other employee future benefits through two unfunded non-registered benefit plans. As these unfunded plans have no plan assets, it is inappropriate to use an expected rate of return on plan assets for the discount rate. In accordance with PSAS, the IESO should use a discount rate based on their cost of borrowing for these unfunded plans. If IESO had used a discount rate based on its estimated cost of borrowing, as at December 31, 2017, opening accumulated surplus would decrease by \$53.2 million, benefit costs would increase by \$1.9 million, and total liabilities would increase by \$55.0 million.

Toronto, Ontario
April 5, 2018



Bonnie Lysyk, MBA, FCPA, FCA, LPA
Auditor General

5.4 Chapter 2 of our 2017 Annual Report—IESO Reference

In **Chapter 2** of our 2017 Annual Report, we outlined serious concerns about accounting changes made by the IESO for the year ended December 31, 2016. In particular, **Recommendation 5** of that chapter stated:

We recommend that the Independent Electricity System Operator (IESO), an “other government organization,” use the Canadian Public Sector Accounting Standards (PSAS) in the preparation of its financial statements. Specifically, it should:

- *remove market accounts recorded on its financial statements; and*
- *discontinue the inappropriate use of rate-regulated accounting in the preparation of its financial statements.*

To ensure that the members of the Legislative Assembly receive financial information on the operations of the IESO prepared in accordance with Canadian PSAS, the Office of the Auditor General will conduct an attest audit of the December 31, 2017, financial statements of the IESO as permitted under the Electricity Act, Subsection 25.2(2), which states: “The Auditor General may audit the accounts and transactions of the IESO.”

6.0 Review of 2018 Pre-Election Report

In April 2018, the Office of the Auditor General tabled its report titled *Review of the 2018 Pre-Election Report on Ontario’s Finances* (Pre-Election Report) in accordance with the Fiscal Transparency and Accountability Act, 2004 (Act).

The Act states that in such circumstances as may be prescribed by regulation, the Ministry of Finance (Ministry) shall release a Pre-Election Report about Ontario’s finances in a fixed election year, and shall do so before the deadline established by the regula-

tion. The same Act requires the Auditor General, after passage of the regulation, to review the Pre-Election Report and promptly release a report of her own outlining whether the government’s fiscal projections are reasonable.

In February 2018, the government filed Ontario Regulation 41/18, which required that the Pre-Election Report be released within seven days of the introduction and first reading of the 2018 Budget bill. The government introduced its Budget bill on March 28, 2018, and released the Pre-Election Report the same day. The Act specifies that the Pre-Election Report should provide an update to the most recent fiscal plan, which in this case was presented in the 2018 Ontario Budget. Accordingly, the fiscal forecasts presented in the Pre-Election Report were identical to those in the 2018 Budget.

Our review highlighted that the Pre-Election Report’s presentation of the Province’s finances was not reasonable, as it understated Ontario’s deficit and expense estimates for two items. After adjusting for these items, the annual deficit would be \$11.7 billion for 2018/19 (or 75% more than the reported \$6.7 billion), \$12.2 billion for 2019/20 (or 85% more than the reported \$6.6 billion) and \$12.5 billion for 2020/21 (or 92% more than the reported \$6.5 billion). The two understated expense items are:

- The government failed to properly reflect the true financial impact of its Fair Hydro Plan’s electricity rate reduction in its estimates.
- The government forecast pension revenues relating to the Ontario Teachers’ Pension Plan to reduce expenses, and understated future pension expenses for the Ontario Public Service Employees’ Union Pension Plan, even though the government did not have the unilateral right to use funds in these pension plans without first reaching a formal agreement with the plans’ other sponsors.

As noted in **Section 3.7**, the effects of these two items on expenses and the annual deficit were properly reflected in the Province’s consolidated financial statements for the year ended March 31, 2018.

The Pre-Election Report was the third issued in Ontario (the first two were issued in 2007 and 2011). From the time that the Act was passed in 2004 until 2016, the fixed election date was set as the first Thursday in October, every four years.

In December 2016, the *Election Statute Law Amendment Act, 2016* was passed to move the fixed election date to the first Thursday in June, every four years, to help ensure the Ontario provincial fixed election date would not overlap with Ontario's municipal election date. This change reduced the time between the issuance of the Pre-Election Report and the fixed election date by 17 weeks. Our Office completed our review with the co-operation of staff at the Ministry of Finance and Treasury Board Secretariat, along with other ministries.

7.0 Ontario's Debt Burden

We commented in previous annual reports on Ontario's growing debt burden, attributable to its large deficits and its investments in capital assets such as infrastructure, and we do so again this year.

In reporting on the Province's debt burden, the current government restated Ontario's debt figures in the 2017/18 consolidated financial statements to be in accordance with Canadian PSAS for two issues (described in more detail in **Section 3.7**): accounting for the net pension assets of the OTPP and the OPSEUPP, and accounting for the projected costs of the Fair Hydro Plan.

As a result, Ontarians now have a truer picture of Ontario's debt. We noted that the Province has relied on historically low interest rates to keep its debt-servicing costs relatively stable, but the debt itself, whether measured as total debt, net debt or accumulated deficit, has continued to grow, as illustrated in **Figure 2**. The three measures of debt are defined below:

- *Total debt* is the total amount of borrowed money the government owes to external parties, and consists of bonds issued in public capital markets, non-public debt, T-bills and U.S. commercial paper. Total debt provides the broadest measure of a government's debt load.
- *Net debt* is the difference between the government's total liabilities and its financial assets. Liabilities consist of all amounts the government owes to external parties, including total debt, accounts payable, pension and retirement obligations, and transfer-payment obligations. Financial assets are those that theoretically can be used to pay off liabilities or finance future operations, and include cash, accounts receivable, temporary investments and investments in government business enterprises. Net debt provides a measure of the amount of future revenues required to pay for past government transactions and events.
- *Accumulated deficit* represents the sum of all past annual deficits and surpluses of the government. It can also be derived by deducting

Figure 2: Total Debt, Net Debt and Accumulated Deficit, 2012/13–2020/21

Sources of data: March 31, 2018, Province of Ontario Consolidated Financial Statements; 2018 Ontario Budget; and the Office of the Auditor General of Ontario

	Actual (\$ million)						Estimate (\$ million)		
	2012/13	2013/14	2014/15	2015/16	2016/17	2017/18	2018/19	2019/20	2020/21
Total debt	281,065	295,758	314,960	327,413	333,102	348,660	358,837	369,000	384,400
Restated net debt*	259,947	276,169	294,557	306,357	314,077	323,834	346,528	369,911	393,274
Restated accumulated deficit*	174,256	184,835	196,665	203,014	205,939	209,023	220,640	232,911	245,474

* Restated for the net pension assets and the Fair Hydro Plan.

the value of the government's non-financial assets, such as its tangible capital assets, from its net debt.

7.1 Main Contributors to Net Debt

The Province's growing net debt is attributable to its large annual operating deficits, along with its capital expenditures for assets such as buildings and other infrastructure and equipment, whether acquired directly or through public-private partnerships. This extends to assets acquired for the government or its consolidated organizations, such as public hospitals, as illustrated in **Figure 3**, but not government business enterprises, such as Ontario Power Generation (OPG).

After properly accounting for the net pension assets of the OTPP and the OPSEUPP and the expected costs of the Fair Hydro Plan, the Province is projected to have annual deficits over the next three years, and net debt will continue to rise as the government borrows to finance its operations.

Ontario's net debt may increase by 80% over the 10-year period between 2011/12 and 2020/21, from \$217.8 billion to approximately \$393.3 billion. As illustrated in **Figure 2**, we estimate total debt will be \$384.4 billion by 2020/21.

To put this in perspective, the amount of net debt owed by each resident (including children) of Ontario on behalf of the government is expected to increase from about \$16,943 per person in 2011 to about \$26,865 per person in 2021. In other words, it would cost every Ontarian \$26,865 to eliminate the Province's net debt in 2021. In 2018, the amount of net debt owed by each resident of Ontario was \$22,529.

7.2 Ontario's Ratio of Net Debt to GDP

A key indicator of the government's ability to carry its debt is the level of debt relative to the size of the economy. The ratio of net debt to the market value of goods and services produced by an economy (the

Figure 3: Net Debt Growth Factors, 2011/12–2020/21 (\$ million)

Sources of data: March 31, 2018, Province of Ontario Consolidated Financial Statements; 2018 Ontario Budget; and the Office of the Auditor General of Ontario

	Restated Net Debt Beginning of Year ¹	Deficit/(Surplus)	Net Investment in Tangible Capital Assets ²	Miscellaneous Adjustments ³	Restated Net Debt End of Year ¹	Increase/(Decrease)
Actual						
2011/12	217,754	12,969	7,234	3,955	244,912	24,158
2012/13	241,912	9,220	7,784	1,031	259,947	18,035
2013/14	259,947	10,453	5,600	169	276,169	16,222
2014/15	276,169	10,315	6,509	1,564	294,557	18,388
2015/16	294,557	5,346	5,450	1,004	306,357	11,800
2016/17	306,357	2,435	4,795	490	314,077	7,720
2017/18	314,077	3,672	6,673	(588)	323,834	9,757
Estimated						
2018/19	323,834	6,700	14,200	1,749	346,528	22,694
2019/20	346,528	6,600	15,700	1,083	369,911	23,383
2020/21	369,911	6,500	15,800	1,063	393,279	23,363
Total over 10 years	–	74,210	89,745	11,565	–	175,520

1. Restated for the net pension assets and the Fair Hydro Plan.

2. Includes investments in government-owned and broader-public-sector land, buildings, machinery and equipment, and infrastructure assets capitalized during the year, less annual amortization and net gains reported on sale of government-owned and broader-public-sector tangible capital assets.

3. Unrealized Fair Value Losses/(Gains) on the Ontario Nuclear Funds Agreement (ONFA) Funds held by Ontario Power Generation Inc. and accounting changes.

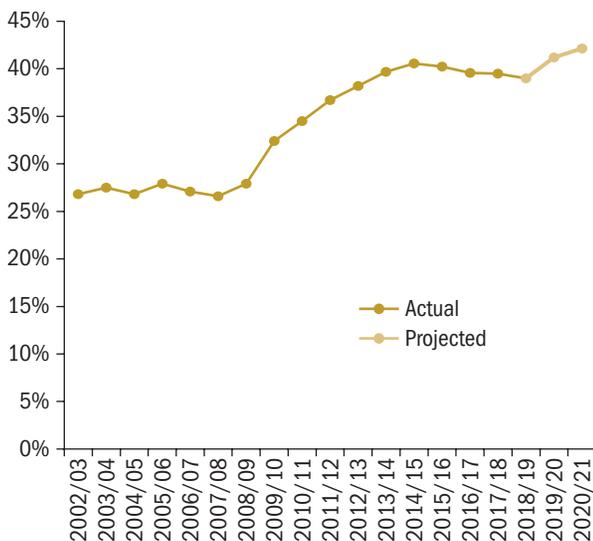
gross domestic product, or GDP) measures the relationship between a government's obligations and its capacity to raise the funds needed to meet them. It is an indicator of the burden of government debt on the economy.

If the amount of debt that must be repaid relative to the value of the GDP is rising—in other words, the ratio is rising—it means the government's net debt is rising faster than the provincial economy, and is becoming a growing burden.

Figure 4 shows that the Province's net debt-to-GDP ratio remained constant, from 26.8% in 2002/2003 to 26.6% in 2007/08. However, it has been trending upward since then, reflecting factors such as significantly increased borrowing to fund annual deficits and infrastructure spending. Ontario's net debt-to-GDP ratio rose from approximately 26.6% prior to the 2008/09 recession to approximately 39.0% in 2017/18. We project Ontario's net debt will increase by \$69.4 billion over the next three years, resulting in the net debt-to-GDP ratio rising to 42.1%.

Figure 4: Ratio of Net Debt to Gross Domestic Product (GDP), 2002/03–2020/21

Source of data: March 31, 2018, Province of Ontario Annual Reports—Financial Statement Discussion and Analysis; 2018 Ontario Budget; and the Office of the Auditor General of Ontario



Note: Net debt restated for the net pension assets and the Fair Hydro Plan.

The previous government committed to reducing the net debt-to-GDP ratio to its pre-recession level of 27% by 2029/30, together with an interim net debt-to-GDP ratio of 35% by 2023/24—but excluded this commitment from its 2018 Budget.

We noted in our previous Annual Reports that many experts believe when a jurisdiction's net debt-to-GDP ratio rises above 60%, that jurisdiction's fiscal health is at risk and is vulnerable to unexpected economic shocks. Of significance, the Financial Accountability Office in its report on the *Long-Term Budget Outlook 2017*, released October 19, 2017, projected Ontario's net debt-to-GDP ratio would rise to 63% by 2050/51, significantly above today's ratio of 39.1%.

We also noted it is an oversimplification to rely on just one measure to assess a government's borrowing capacity, because that measure does not take into account Ontario's share of federal and municipal debts. If the Province's share of those debts was included in its indebtedness calculations, the net debt would be considerably higher. However, consistent with debt-measurement methodologies used by most jurisdictions, we have focused throughout our analysis only on the provincial government's direct net debt.

Figure 5 shows the net debt of Ontario compared to other provinces and the federal government, along with their respective ratios of net debt to GDP. Generally, the western provinces have a significantly lower net debt-to-GDP ratio than Ontario and the Atlantic provinces, and Quebec has a higher ratio than Ontario.

7.3 Other Measures to Assess Government Debt Levels

7.3.1 Ratio of Net Debt to Total Annual Revenues

Another useful measure of government debt is the ratio of net debt to total annual revenues, an indicator of how much time it would take to eliminate the

Figure 5: Net Debt and the Net-Debt-to-GDP Ratios of Canadian Jurisdictions, 2016/17

Sources of data: Province of Ontario Annual Report and Consolidated Financial Statements; Annual Reports and Consolidated Financial Statements of other provincial jurisdictions; federal budgets and budget updates; budgets of provincial jurisdictions; and the Office of the Auditor General of Ontario

	Net Debt (\$ million)	Net Debt to GDP (%)
AB	19,344	6.0
SK	11,288	14.3
BC	41,869	14.9
PEI	2,208	33.1
MB	24,365	34.6
NS	14,959	34.6
Federal	758,763	35.4
ON	323,834	39.0
NB	13,926	39.2
QC	181,141	43.9
NL	14,674	45.2

debt if the Province spent all of its revenues only on debt repayment. For instance, a ratio of 250% indicates that it would take 2.5 years to eliminate the provincial debt if all revenues were devoted exclusively to it.

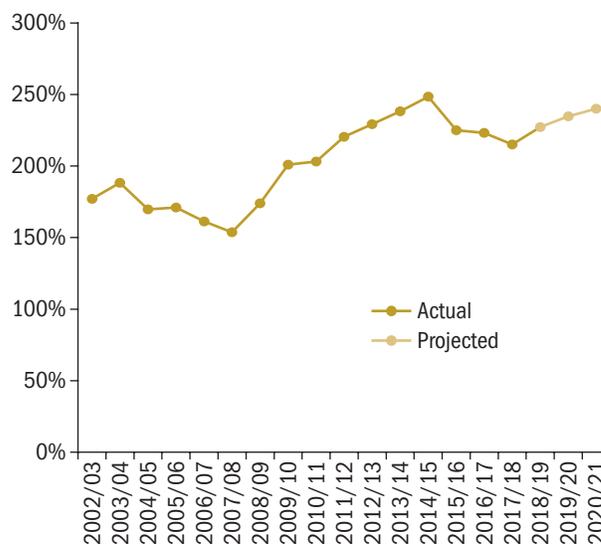
As shown in **Figure 6**, this ratio declined from about 177% in 2002/2003 to about 154% in 2007/08, reflecting the fact that the Province's net debt grew at a slower pace than annual provincial revenue. However, the ratio has increased steadily since 2007/08, and was expected to reach 240% by 2020/21. The ratio currently sits at 215%. This increasing ratio indicates the Province's net debt burden has relatively less revenue to support it.

7.3.2 Ratio of Interest Expense to Revenue

Increases in the cost of servicing total debt (interest expense), can directly affect the quantity and quality of programs and services that government can provide; the higher the proportion of government revenues going to pay interest costs on past borrowings, the lower the proportion available for spending in other areas.

Figure 6: Net Debt as Percentage of Total Annual Revenue, 2002/03–2020/21

Sources of data: March 31, 2018, Province of Ontario Consolidated Financial Statements; 2018 Ontario Budget; and the Office of the Auditor General of Ontario



Note: Net debt restated for the net pension assets and the Fair Hydro Plan.

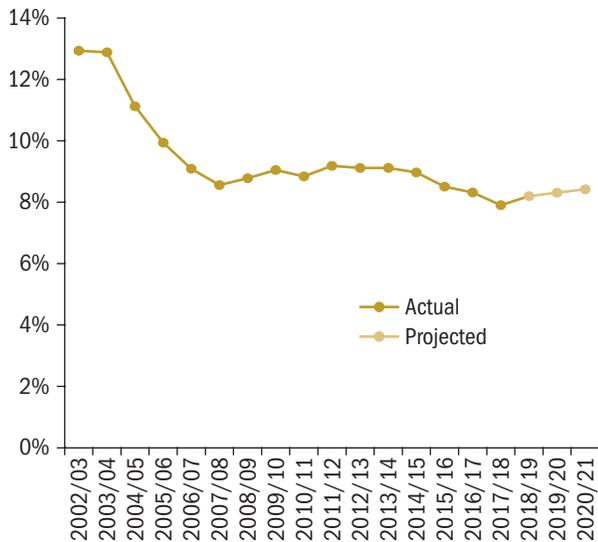
The interest-expense-to-revenue ratio illustrates the extent to which servicing past borrowings takes a greater or lesser share of total revenues.

As **Figure 7** shows, interest rates have been at historic lows since the beginning of this decade, and the actual interest-expense-to-total-revenues ratio held steady at around 9.0% from 2010/11 to 2014/15. In 2016/17, the government consolidated the broader public sector on a line-by-line basis, which increased both interest expense and revenue reported in the Province's consolidated financial statements beginning in 2015/16. By including the broader public sector, the ratio has decreased to 8.5% in 2015/16. The ratio stood at 7.9% in 2017/18 and is projected to be 8.4% in 2020/21. This means approximately 8.4 cents of every dollar in revenue that the government collects will go toward paying interest on debt by 2020/21.

The Province's debt also exposes it to further risks, the most significant being interest-rate risk. As noted above, interest rates in the past few years have been at record low levels, enabling the government to keep its annual interest expense relatively

Figure 7: Ratio of Interest Expense to Revenue, 2002/03–2020/21

Sources of data: March 31, 2018, Province of Ontario Consolidated Financial Statements; 2018 Ontario Budget; and the Office of Auditor General of Ontario



steady even as its total borrowing has increased significantly. However, interest rates began to rise in 2017/18 and there is an increasing risk that the government will have considerably less flexibility to provide public services such as health care and education, because a higher proportion of revenues will be required to pay interest on the Province’s outstanding debt.

As we noted in previous Annual Reports, the Province has mitigated its interest-rate risk to some extent by increasing the weighted average term of its annual borrowings in order to take advantage of the current low rates. However, the Bank of Canada raised its key lending rate five times between April 1, 2017, and October 24, 2018. When the Province refinances debt at a higher interest rate than that paid on maturing debt, then the average interest expense on Provincial debt will rise. This means more money will go toward interest expense, therefore increasing the annual deficit.

The ratio of interest expense to revenue is expected to continue to rise in the near future as more interest will be paid on the accumulated debt, meaning the government will have less flexibility to respond to changing economic circumstances.

Past governments’ borrowing and debt-servicing decisions mean a growing portion of revenues will not be available for other current and future government programs.

7.4 Consequences of High Indebtedness

Our commentary last year highlighted the consequences for the Province of carrying a large debt load—and the same observations remain relevant this year. They include the following:

Debt-servicing costs cut into funding for other programs: As debt grows, so do interest costs. As interest costs consume a greater proportion of government resources, there is less to spend on other things. To put this “crowding-out” effect into perspective, the government currently spends more on debt interest than on post-secondary education.

Greater vulnerability to interest-rate increases: Ontario has been able to keep its annual interest expense relatively steady, even as its total borrowing has increased significantly. For example, it was paying an average effective interest rate of about 8.4% in 1999/2000, but that dropped to 3.6% in 2017/18. However, if interest rates start to rise again, the government will have considerably less flexibility to provide public services because it will have to devote a higher proportion of its revenue to interest payments.

Potential credit-rating downgrades could lead to higher borrowing costs: Prepared by specialized agencies, credit ratings assess a government’s creditworthiness based largely on its capacity to generate revenue to service its debt. The four main credit-rating agencies are Moody’s Investors Service (Moody’s), Standard and Poor’s Global Ratings (S&P), DBRS and Fitch Ratings (Fitch). To assign a rating, agencies consider such factors as a government’s economic resources and prospects, industrial and institutional strengths, financial health, and susceptibility to major risks.

In 2018, both Moody's and Fitch revised their rating outlook for Ontario's debt from stable to negative, reflecting their assessment of the Province's increased credit risk. While Ontario's credit rating remained unchanged, the four main agencies cited several concerns regarding Ontario's credit outlook, including the Province's high and rising debt burden, the projection of ongoing deficits, and the risk of a future economic downturn.

A credit rating affects the cost of future borrowing, with a lower rating indicating that an agency believes there is a relatively higher risk that a government will default on its debt. Accordingly, investors will lend to that government only in return for a greater risk premium, in the form of higher interest rates. A rating downgrade could also shrink the potential market for a government's debt, because some investors will not hold debt below a certain rating.

7.5 Final Thoughts on Ontario's Debt Burden

We recognize that, ultimately, decisions about how much debt the Province should carry, and the strategies to pay down that debt, are questions of government policy and thus the sole prerogative of the government.

However, as we observed last year, this should not prevent the government from providing information to promote a greater understanding of the issue and clarify the choices it makes around provincial debt. We acknowledge that the new government has only recently taken office and will need some time to determine its strategy for addressing Ontario's debt burden and to set a feasible target in a reasonable time frame.

RECOMMENDATION 2

We recommend that in order to address the Province's growing total debt burden, the government work toward the development of a

long-term total-debt reduction plan, including a target for the net-debt-to-GDP ratio.

MINISTRY OF FINANCE RESPONSE

The government is taking steps to address public debt. As recommended by the Independent Financial Commission of Inquiry, the government will determine and set an appropriate target and timeline to reduce the net-debt-to-GDP ratio, as part of the development of a debt reduction strategy to improve Ontario's fiscal health.

8.0 Update on WSIB

The Workplace Safety and Insurance Board (WSIB) is a statutory corporation created by the *Workplace Safety and Insurance Act, 1997* (Act). Its primary purpose is to provide income support and medical assistance to workers injured on the job. The WSIB receives no funding from government; it is financed through premiums on employer payrolls.

Over the past decade, we raised a number of concerns about significant growth in the WSIB's unfunded liability, which is the difference between the value of the WSIB's assets and its estimated financial obligations to pay benefits to injured workers. Our *2009 Annual Report* discussed the risk that the growth and magnitude of the unfunded liability posed to the WSIB's financial viability, including the ultimate risk of the WSIB being unable to meet its existing and future commitments to provide worker benefits.

We previously recommended that the government reconsider its decision to exclude the WSIB's financial results from the Province's consolidated financial statements, particularly if there were any risks that the Province might have to provide funding to ensure the WSIB remained viable. The government previously excluded WSIB's financial results because it is classified as a "trust"; however, given the WSIB's significant unfunded liability

and various other factors, we questioned whether the WSIB operates like a true trust. Including the WSIB in the government's consolidated financial statements would have a significant impact on the government's fiscal performance.

As of June 30, 2010, the WSIB's unfunded liability had grown to almost \$13 billion. In September 2010, the WSIB announced an independent funding review to obtain advice on how to best ensure the long-term financial viability of Ontario's workplace safety and insurance system. The May 2012 report contained a number of recommendations, in particular calling for a new funding strategy for the WSIB with the following key elements:

- realistic assumptions, including a discount rate based on the best actuarial advice;
- moving the WSIB as quickly as feasible beyond a "tipping point" of a 60% funding Sufficiency Ratio (a tipping point is a crisis in which the WSIB could not generate sufficient funds to pay workers' benefits within a reasonable time and by reasonable measures); and
- putting the WSIB on course to achieve a 90%–110% funding Sufficiency Ratio within 20 years.

In response to our concerns and to the recommendations of the report, the government passed Regulation 141/12 under the Act in June 2012. Effective January 1, 2013, it required the WSIB to ensure it meets the following funding Sufficiency Ratios by specified dates:

- 60% on or before December 31, 2017;
- 80% on or before December 31, 2022; and
- 100% on or before December 31, 2027.

The government also passed Ontario Regulation 338/13 in 2013. It came into force January 1, 2014, and changed the way the WSIB calculates the funding Sufficiency Ratio by changing the method used to value its assets and liabilities. Our Office concurred with this amendment.

The WSIB issues quarterly Sufficiency Reports and an annual Economic Statement to stakeholders. As of December 31, 2017, under Regulation

141/12 as amended by Regulation 338/13, the WSIB reported a Sufficiency Ratio of 95.8% (87.4% in 2016). This means the WSIB has already achieved its December 31, 2022, funding requirement.

The WSIB now incorporates its annual update of the Sufficiency Plan within the economic statement, in which it describes the measures taken to improve its funding Sufficiency Ratio. The most recent plan is available on the WSIB website.

The WSIB's operational and financial performance was strong in 2017, as illustrated in **Figure 8**, which provides a summary of the WSIB's operating results and unfunded liability compared to 2016.

The WSIB's continued strong operating performance in 2017 resulted from improved return-to-work outcomes (91% of workers returned to work with no wage loss within 12 months, which results in fewer benefits paid out over periods longer than one year) and significant growth in investment returns (10.7% in 2017, compared to 6.3% in 2016).

The WSIB announced in its 2018 Second Quarter Results Report that it eliminated the unfunded liability and has a Sufficiency Ratio over 100%.

9.0 Ontario Place Corporation 2017 Financial Statements

This year, Ontario Place Corporation did not meet the deadline set by Treasury Board Secretariat to have its 2017 financial statements included in Public Accounts 2017/18: Volume 2 alongside the financial statements of all other significant government agencies consolidated by the Province in its annual financial statements.

The delay in finalizing Ontario Place Corporation's December 31, 2017, financial statements was due to difficulty in obtaining sufficient and appropriate audit evidence to determine the appropriate treatment of an expenditure of about \$3 million by the Ministry of Tourism, Culture and Sport (Ministry) to remediate contaminated land owned by Ontario Place into a public park and trail.

Figure 8: Workplace Safety and Insurance Board (WSIB) Operating Results and Unfunded Liability, 2017 and 2016

Source of data: WSIB Financial Statements

	2017 (\$ million)	2016 (\$ million)
Revenue		
Premiums	4,779	4,808
Net investment income	2,914	1,504
	7,693	6,312
Expenses		
Benefit costs	3,147	2,747
Loss of Retirement Income Fund contributions	56	56
Administration and other expenses	409	376
Legislated obligations and commitments	252	244
Remeasurement of employee defined benefit plans	273	35
	4,137	3,458
Total Comprehensive Income		
	3,556	2,854
Less: Non-controlling Interests	(309)	(172)
Total Comprehensive Income Attributable to WSIB Stakeholders		
	3,247	2,682
Unfunded Liability		
	710	3,925

Evidence that was ultimately obtained supported treating the expenditures as an inter-entity transfer from the Ministry to Ontario Place Corporation. This transfer was recorded by Ontario Place Corporation as revenue and a corresponding remediation expense of approximately \$3 million in accordance with Canadian public sector accounting standards. The 2017 financial statements of Ontario Place Corporation were issued an unqualified audit opinion on September 5, 2018, by the Office of the Auditor General of Ontario.

10.0 Changes to the Auditor's Report

The International Auditing and Assurance Standards Board (IAASB) implemented significant changes to the current standards for audit reports on financial statements for periods ended on or after December 15, 2016. The changes require auditors to provide more information in their report on

the organization, its financial statements, and the nature of the audit work performed. The changes have been endorsed by the Audit and Assurance Standards Board (AASB), which sets Canadian auditing standards for financial statements, and is applicable for all audits ending on or after December 15, 2018.

As shown in **Section 3** above, the current financial statement audit report is generally a short, standardized report that describes the financial statements audited, the audit work performed, and the responsibilities of both management and the auditor.

Starting with the March 31, 2019, consolidated financial statements of the Province, the auditor's report will follow a new format. The significant changes to the independent auditor's report include, but are not limited to, the following:

- The auditor's opinion will appear at the beginning of the report instead of at the end, as is currently the case.

- The report will contain an enhanced description of the auditor’s responsibilities, in particular with respect to:
 - communications with those charged with oversight;
 - concluding on the appropriateness of management’s use of the going-concern basis of accounting; and
 - audit group financial statements.
- The report will include a new explicit statement that the auditor is independent of the entity and has fulfilled the auditor’s other relevant ethical responsibilities.
- The report will identify those charged with oversight of the financial reporting process, along with a description of their responsibilities.
- A new section will be added if the entity prepares “other information” (for example, an annual report) that:
 - contains the independent auditor’s report;
 - explains the responsibilities for the other information of management and the auditor; and
 - includes the auditor’s conclusion about whether the other information is materially consistent with the financial statements or the knowledge obtained in the audit.

One of the IAASB’s key changes calls for the auditor’s report for certain organizations, to include a new section to communicate key audit matters that in the auditor’s professional judgment were of most significance to the audit of the financial statements. These could include:

- areas identified as significant risks or involving significant management or auditor judgment;
- areas in which the auditor encountered significant difficulty, for instance in obtaining sufficient and appropriate audit evidence; and
- circumstances that required a modification to the auditor’s planned audit approach, includ-

ing as a result of a significant deficiency in internal control.

The new standard on communicating key audit matters is currently discretionary, unless the auditor is required to communicate the key audit matters by law or regulation. Our Office is not required by law or regulation to communicate the key audit matters in our independent auditor’s report. However, we currently communicate key audit matters arising from our audit of the Province’s consolidated financial statements in this chapter of our *Annual Report* and to those charged with oversight during the audit process.

11.0 Use of Legislated Accounting Standards

Canadian PSAS have been widely adopted by Canadian federal, provincial, territorial and local governments as the basis for preparation of their financial statements.

Over time, standards were developed to address increasingly complex transactions and emerging financial issues. When changes to standards have a significant impact on the accounting for and measurement of transactions affecting annual deficit/surplus or net debt, governments may be reluctant to adopt them to the extent they generate potential volatility in annual reported results.

As discussed in our *2017 Annual Report*, the previous government passed legislation in 2008, 2009, 2011 and 2012 giving it the ability to make regulations for specific accounting treatments rather than the wholesale application of independently established accounting standards. Examples include:

- In 2011, a regulation under the *Financial Administration Act* directed Hydro One, at the time wholly owned by the Ontario government, to prepare its financial statements in accordance with U.S. generally accepted accounting principles (GAAP), effective January 1, 2012. Subsequently, changes were

made to the *Financial Administration Act* such that this regulation no longer applied to Hydro One following its initial public offering on the Toronto Stock Exchange in 2015. The government also required another wholly owned government business enterprise, Ontario Power Generation (OPG), to prepare its financial statements in accordance with U.S. GAAP. When the government chose to use U.S. GAAP to record the results of Hydro One and OPG in the Province's consolidated financial statements rather than International Financial Reporting Standards (IFRS), we examined the differences between IFRS and U.S. GAAP, and concluded these differences had no material effect on the Province's annual deficit. The government adopted IFRS for the purposes of recording the results of OPG and Hydro One in the Province's March 31, 2017, consolidated financial statements as required by Canadian PSAS.

- Ontario government regulations require transfers for capital acquisitions and transfers of tangible capital assets to be accounted by recipients as “deferred contributions.” The deferred amounts are to be brought into revenue by transfer recipients at the same rate as they recognize amortization expense on the related assets. This prescribed accounting treatment is in accordance with PSAS.
- The 2012 Budget further amended the *Financial Administration Act* to provide the government with full authority to make regulations regarding the accounting policies and practices used to prepare its consolidated financial statements. This legislated provision was used in connection with the preparation of the 2015/16 consolidated financial statements. A time-limited regulation was passed requiring a full valuation allowance to be recorded for jointly sponsored pension plans, which was in accordance with Canadian PSAS, while in effect.

- Most recently, as noted in our Special Report titled *The Fair Hydro Plan: Concerns about Fiscal Transparency, Accountability and Value for Money*, we expressed concerns about the government legislating a complex accounting/financing structure to improperly avoid showing an annual deficit and increases in net debt. The “legislated accounting” refers to the government creating a regulatory asset through legislation. This “asset” represents the difference between what electricity generators are owed and the lesser amount being collected from electricity ratepayers as a result of the electricity rate reduction. Without the legislated accounting, the difference would be recorded as an expense rather than as an asset in the Province's consolidated financial statements. As described in **Section 3** above, the government has adjusted the transactions to comply with PSAS.

We have raised the issue of the risk of the government's potential use of legislated accounting treatment on a number of occasions in our previous Annual Reports. It is critical that Ontario continue to prepare its financial statements in accordance with generally accepted accounting standards, specifically those of Canadian PSAS, in order to maintain its financial reporting credibility, accountability and transparency.

If the government reports a deficit or surplus under legislated accounting standards that is materially different than what it would be using Canadian PSAS, the Auditor General is compelled to include a qualification in her audit opinion.

RECOMMENDATION 3

We recommend the government revisit legislation and regulations that prescribe accounting methods to be followed by the Province, and reconsider the need for these provisions in light of the fact that the Province follows the accounting standards established by the Public Sector Accounting Board.

TREASURY BOARD SECRETARIAT RESPONSE

The Province is committed to prepare its financial statements in accordance with generally accepted accounting principles in order to provide high-quality financial reports that support transparency and accountability in reporting to the public, the Legislature and other users.

12.0 Ongoing Accounting- Standards Matters

Canadian PSAS continue to be the most appropriate standards for the Province to use in preparing its consolidated financial statements. Following PSAS ensures that information provided by the government about the annual deficit or surplus is fair, consistent and comparable to previous years, allowing legislators and the public to assess the government's management of the public purse. Ontario's provincial budget is also prepared on the same basis as its consolidated financial statements.

However, the Public Sector Accounting Board (PSAB) faces challenges in reaching a consensus among its various stakeholders, including financial-statement preparers and auditors, on what accounting standards are most appropriate for the public sector.

We discuss two significant accounting issues (use of Financial Instruments in the public sector and use of Rate-Regulated Accounting in government business enterprises) that have posed a significant challenge to PSAB over the past few years. Their final accounting-standard determination will affect the way the Province accounts for these items and would have a significant impact on the Province's reported financial results.

12.1 Financial Instruments

Financial instruments include provincial debt, and derivatives such as currency swaps and foreign-exchange forward contracts. PSAB's project to develop a new standard for reporting financial instruments began in 2005, with a key issue being whether changes in the fair value of derivative contracts held by governments should be reflected in their financial statements and, in particular, whether such changes should affect a government's annual deficit or surplus.

In March 2011, PSAB approved a new public-sector accounting standard on financial instruments that was slated to become effective for fiscal periods beginning on or after April 1, 2015. The new standard provides guidance on the treatment of government financial instruments, and is similar to comparable private-sector standards.

One of its main requirements is for certain financial instruments, including derivatives, to be recorded at fair value, with any unrealized gains or losses on these instruments recorded annually in a new financial statement of remeasurement gains and losses.

Some financial-statement preparers in Canadian jurisdictions, including Ontario, do not support the introduction of these fair-value remeasurements and the recognition of unrealized gains and losses. Ontario's view is that it uses derivatives solely to manage foreign currency and interest-rate risks related to its long-term-debt holdings, and that it has both the intention and ability to hold these derivatives until the debts associated with them mature.

Accordingly, remeasurement gains and losses on the derivatives and their underlying debt would offset each other over the total period that such derivatives are held, and therefore would have no real economic impact on the government.

Ontario preparers argue that recording paper gains and losses each year would force the Province to inappropriately report the very volatility that the derivatives were acquired to avoid. This, in their

view, would not reflect the economic substance of government financing transactions and would not provide the public with transparent information on government finances.

In response to such concerns, PSAB committed to reviewing the new financial instruments standard by December 2013. PSAB completed its review of *Section PS 2601, Foreign Currency Translation*, and *Section PS 3450, Financial Instruments*, and in February 2014 confirmed the soundness of the principles underlying the new standard.

PSAB deferred the effective date for these new standards to fiscal years beginning on or after April 1, 2016. In 2015, however, PSAB extended the effective date for the new standard to April 1, 2019, for senior governments to allow further study of reporting options for these complex financial instruments. In 2018, PSAB further extended the effective date for the new standard to April 1, 2021, and will be issuing an exposure draft to improve the transitional provisions and potentially address other non-hedge accounting issues raised during the consultation process.

Since February 2016, staff with PSAB have been consulting with the government and not-for-profit stakeholders on implementation issues of the financial instruments standard. The senior government community has communicated the need for a hedge accounting standard during these consultations. PSAB noted that its staff, in collaboration with stakeholders, has identified certain timing issues in the new financial-instruments standard that may impact a government's annual surplus or deficit in a manner that is unrepresentative of the underlying transactions. In its *Foreign Currency Translation — Basis for Conclusions* (Section PS 2601), PSAB stated that given "responses to due process documents issued during the financial instruments project, and the lack of consensus internationally on a hedge accounting model, PSAB has decided to adopt an approach that does not include hedge accounting." PSAB reconfirmed its decision to exclude a formal hedge accounting standard from

the PS 3450 suite of standards at the Board meeting in March 2018.

We continue to recommend ongoing dialogue between our Office and the Office of the Provincial Controller Division as the PSAB reassesses the standard in preparation for implementing it on April 1, 2021.

12.2 Use of Rate-Regulated Accounting in Government Business Enterprises

Rate-regulated accounting was developed to recognize the unique nature of entities such as electric utilities whose rates are regulated by an independent regulator under most regulatory frameworks. Rate-regulated accounting is a commonly accepted practice in the U.S., especially among privately owned, government-regulated utilities. Subject to many prescriptive rules, rate-regulated accounting is used by these privately owned utilities to spread out large capital expenditures—for example, construction of a new power plant—over a longer term based on the reasonable expectation that future government-approved rate increases will allow for the eventual recovery of today's capital outlays. The government regulator often allows the privately owned entity to recover certain current-year costs from the ratepayer in future years, and these deferred costs are typically set up under rate-regulated accounting as assets on the entity's statement of financial position. Under normal accounting principles, these costs would be expensed in the year incurred.

Rate-regulated accounting is used by two of the Province's government-controlled business enterprises, Ontario Power Generation Inc. (OPG) and Hydro One, whose rates to customers are approved by the Ontario Energy Board, a government regulator. Rate-regulated accounting treatment is currently allowable for government business enterprises under Canadian generally accepted accounting principles, and in turn under Canadian public sector accounting standards.

As noted above, rate-regulated accounting provisions outline the need for an independent regulatory body to set rates. We note that, since the government controls both the regulator and the regulated entities, it has significant influence on which costs Hydro One and OPG will recognize in a given year. This could ultimately affect both electricity rates and the annual deficit or surplus reported by the government.

In our previous annual reports, we outlined that the era of rate-regulated accounting appeared to be ending for jurisdictions like Canada because they were converting to International Financial Reporting Standards (IFRS), developed by the International Accounting Standards Board (IASB), in 2012. Our comments were based on the fact that, in January 2012, Canada's Accounting Standards Board (AcSB) reaffirmed that all government business enterprises should prepare their financial statements in accordance with IFRS for fiscal years beginning on or after January 1, 2012. At that time, IFRS standards did not include accounting provisions that addressed rate-regulated activities and so, by default, IFRS standards did not permit rate-regulated accounting.

However, the rate-regulated accounting landscape has continued to evolve since then. Efforts to harmonize U.S. generally accepted accounting policies (U.S. GAAP) and IFRS were in place as Canada converted to IFRS in 2012. At that time, U.S. GAAP allowed for, and continues to allow for, rate-regulated accounting. The appropriateness of rate-regulated accounting has been discussed as part of the efforts to harmonize U.S. GAAP and IFRS. As these discussions were taking place, Canada's AcSB granted a one-year extension in March 2012 to the mandatory IFRS changeover date for entities with qualifying rate-regulated activities. Multiple one-year extensions to defer adoption of IFRS by these entities followed over the next few years.

An interim IFRS standard was issued in January 2014 as an attempt to ease the adoption of IFRS for rate-regulated entities by allowing them to continue to apply existing policies for their deferred

rate-regulated balances upon adoption of IFRS starting on January 1, 2015. Essentially, the interim standard provides a first-time adopter of IFRS with relief from having to derecognize its rate-regulated assets and liabilities until the IASB completes its comprehensive review on accounting for such assets and liabilities. The result of this review and the determination of whether rate-regulated accounting will be allowed on an ongoing basis in government business enterprises, as opposed to an interim basis, is uncertain at this time.

The use of rate-regulated accounting in government business enterprises, such as Ontario Power Generation (OPG) and Hydro One, has a significant impact on the government's financial statements. For example, OPG recognized \$7.2 billion in net rate-regulated assets as of March 31, 2018. Future reporting under IFRS that does not accommodate rate-regulated accounting in a government business enterprise would increase the volatility of Hydro One and OPG's annual operating results. This in turn would lead to volatility in the Province's annual deficit or surplus and may impact the government's revenue and spending decisions.

We will continue to monitor the development of standards impacting the use of rate-regulated accounting in government business enterprises.

13.0 Public Sector Accounting Board Initiatives

This section outlines some additional items that PSAB has been studying over the past year that might affect the preparation of the Province's consolidated financial statements in the future.

13.1 Concepts Underlying Financial Performance

PSAB's existing conceptual framework is a set of interrelated objectives and fundamental principles that support the development of consistent

accounting standards. Its purpose is to instill discipline into the standard-setting process to ensure that accounting standards are developed in an objective, credible and consistent manner that serves the public interest.

In 2011, PSAB formed the Conceptual Framework Task Force in response to concerns raised by several governments regarding current and proposed standards that they contend cause volatility in reported results and distort budget-to-actual comparisons. The task force's objective was to review the appropriateness of the concepts and principles in the existing conceptual framework for the public sector.

The task force's first step was to seek input from stakeholders on the building blocks of the conceptual framework; these form the basis for evaluating the existing concepts underlying the measurement of financial performance. To this end, the task force issued three consultation papers: *Characteristics of Public Sector Entities* (2011), *Measuring Financial Performance in Public Sector Financial Statements* (2012) and *Conceptual Framework Fundamentals and the Reporting Model* (2015).

In May 2018, the task force issued a statement of concepts and a statement of principles. The statement of concepts proposes a revised conceptual framework that would replace two existing sections: *PS 1000, Financial Statement Concepts* and *PS 1100, Financial Statement Objectives*.

PSAB asked stakeholders to submit comments on the statement of concepts and statement of principles by November 28, 2018. The task force will take into account input received and has plans to issue exposure drafts for a revised conceptual framework and a revised financial statement presentation standard.

13.2 Review of International Strategy

In its most recent strategic plan, PSAB signalled its intent to review its approach to International Public Sector Accounting Standards (IPSAS) set out by the

International Public Sector Accounting Standards Board (IPSASB). In March 2018, PSAB issued a consultation paper to solicit input from stakeholders on the criteria that PSAB should apply in developing its international strategy. PSAB presented a continuum of four international strategy alternatives. At one end, PSAB maintains its current role in setting Canadian standards; at the other end, full adoption of IPSAS, with IPSASB responsible for developing and issuing standards. PSAB also proposed two intermediate approaches that would see some form of adaptation of IPSAS.

PSAB accepted feedback on these proposals until September 28, 2018. Based on the feedback received, PSAB intends to issue a second consultation paper in 2019.

13.3 Asset Retirement Obligations

In March 2018, PSAB approved a new standard that addresses the reporting of legal obligations associated with the permanent removal of tangible capital assets from service (for example, retirement). The scope includes tangible capital assets currently in productive use, such as the decommissioning of a nuclear reactor, and tangible capital assets no longer in productive use, such as solid-waste landfill sites.

The new standard is effective for fiscal periods beginning on or after April 1, 2021, although earlier adoption is permitted. The new section requires that a retirement obligation be recognized when:

- There is a legal obligation to permanently remove retirement costs in relation to a tangible capital asset from service. Legal obligations can arise from legislation, contracts and promissory estoppel.
- The past transaction giving rise to the liability, such as acquisition, construction, development or normal use, has already occurred.
- There is an expectation that future economic benefits will be given up.
- A reasonable estimate can be made. The estimate of the liability includes costs directly

attributable to the retirement activities, including post-retirement operation, maintenance and monitoring. A present-value technique is often the best method with which to estimate the liability.

Upon recognition, the entity would increase the carrying amount of the related tangible capital asset by the same amount as the liability. The cost included in the carrying amount of the tangible capital asset should be allocated to expense in a rational and systematic manner. This could include amortization over the remaining useful life of the related tangible capital asset, or a component thereof.

The carrying amount of the liability for a retirement obligation must be reviewed at each financial reporting date. Any subsequent remeasurement of the liability due to timing, amount or discount rate is recognized as an expense.

If the related asset is no longer in productive use, or if the related asset is not recognized for accounting purposes, the related retirement costs would be recorded as an expense.

13.4 Revenue

In June 2018, PSAB approved a new standard on the recognition, measurement and presentation of revenues. The new standard *PS 3400, Revenue*, addresses revenues that arise in the public sector but fall outside the scope of *PS 3410, Government Transfers* and *PS 3510, Tax Revenues*. The section is effective for fiscal periods beginning on or after April 1, 2022, although earlier adoption is permitted.

The new standard distinguishes between two main areas of revenue: exchange transactions and unilateral (non-exchange) transactions. The existence of a performance obligation distinguishes exchange and unilateral transactions. Performance obligations are enforceable promises to provide a good or service to a payor. Exchange transactions are characterized by one or more performance obligations. By contrast, unilateral transactions,

such as fines and penalties, are not associated with a performance obligation.

Revenue from an exchange transaction is recognized as or when the public-sector entity satisfies the performance obligation. Performance obligations may be satisfied at a point in time or over a period of time, depending on which method best depicts the transfer of goods or services to the payor.

Unilateral revenues are recognized when there is the authority and a past event that gives rise to a claim of economic resources.

13.5 Employment Benefits

In December 2014, PSAB approved an Employment Benefits project to improve the existing PSAS sections by taking into account changes in the related accounting concepts and new types of pension plans that were developed since the existing sections were issued decades ago. The project aims to review the existing sections, *PS 3250 Retirement Benefits* and *PS 3255 Postemployment Benefits, Compensated Absences and Termination Benefits*.

In December 2016, PSAB issued an invitation to comment on the deferral of actuarial gains and losses. Governments and other public-sector entities need to make significant assumptions when valuing pension plan obligations and plan assets. Actuarial gains and losses measure the differences between these assumptions and the plans' experience, plus any updates to the assumptions. In the past, it was common accounting practice in Canada to defer such gains and losses over an extended period. However, over the past decade, other accounting frameworks in Canada have moved toward an immediate-recognition approach. The invitation to comment sought input from stakeholders as to whether deferral is still an appropriate choice in the public sector.

In November 2017, PSAB issued an invitation to comment on discount rates. The discount rate is a key economic assumption in measuring employment benefits. A small change in the discount rate

can significantly impact the value of the benefit obligation and related expenses. The current guidance is not prescriptive and can result in a wide range of practices. The invitation to comment explored alternative approaches to determining the discount rate, including the market yield of high-quality debt instruments, an approach used by many other standard-setters. Other alternatives discussed include the entity's cost of borrowing, the expected return on plan assets and the effective settlement rate at the reporting date.

PSAB accepted feedback from stakeholders until March 9, 2018. PSAB plans to publish a third invitation to comment that will focus on non-traditional pension plans such as shared-risk plans.

14.0 Statutory Matters

Under section 12 of the *Auditor General Act*, the Auditor General is required to report on any Special Warrants and Treasury Board Orders issued during the year. In addition, section 91 of the *Legislative Assembly Act* requires that the Auditor General report on any transfers of money between items within the same vote in the Estimates of the Office of the Assembly.

14.1 Legislative Approval of Expenditures

Shortly after presenting its budget, the government tabled detailed Expenditure Estimates in the Legislative Assembly outlining, on a program-by-program basis, each ministry's planned spending. The Standing Committee on Estimates (Committee) reviews selected ministry estimates and presents a report on this review to the Legislature. Orders for Concurrence for each of the estimates selected by the Committee, following a report by the Committee, are debated in the Legislature for a maximum of two hours before being voted on. The estimates of those ministries that are

not selected are deemed to be passed by the Committee, reported to the Legislature, and approved by the Legislature.

After the Orders for Concurrence are approved, the Legislature still needs to provide its final approval for legal spending authority by approving a Supply Act, which stipulates the amounts that can be spent by ministries and legislative offices, as detailed in the estimates. Once the Supply Act is approved, the expenditures it authorizes are considered to be Voted Appropriations. The *Supply Act, 2018*, which pertained to the fiscal year ended March 31, 2018, received Royal Assent on March 7, 2018.

The *Supply Act* does not receive Royal Assent until after the start of the fiscal year—and sometimes even after the related fiscal year is over—so the government usually requires interim spending authority prior to its passage. For the 2017/18 fiscal year, the Legislature passed two acts allowing interim appropriations—the *Interim Appropriation for 2017–2018 Act, 2016* (Interim Act) and the *Supplementary Interim Appropriation for 2017–2018 Act, 2017* (Supplementary Act). These two acts received Royal Assent on December 8, 2016, and December 14, 2017, respectively, and authorized the government to incur up to \$133.6 billion in public-service expenditures, \$4.6 billion in investments, and \$219.5 million in legislative office expenditures. Both acts were made effective as of April 1, 2017, and provided the government with sufficient authority to allow it to incur expenditures from April 1, 2017, to when the *Supply Act, 2018* received Royal Assent on March 7, 2018.

Because the legal spending authority under the Interim Act and the Supplementary Act was intended to be temporary, both were repealed when the *Supply Act, 2018* received Royal Assent. The *Supply Act, 2018* also increased total authorized expenditures in investments from \$4.6 billion to \$5.3 billion, and increased total authorized expenditures of the legislative offices from \$219.5 million to \$251.8 million.

14.2 Special Warrants

If the Legislature is not in session, section 1.0.7 of the *Financial Administration Act* allows for the issuance of Special Warrants authorizing the incurring of expenditures for which there is no appropriation by the Legislature or for which the appropriation is insufficient. Special Warrants are authorized by Orders-in-Council and approved by the Lieutenant Governor on the recommendation of the government.

No Special Warrants were issued for the fiscal year ended March 31, 2018.

14.3 Treasury Board Orders

Section 1.0.8 of the *Financial Administration Act* allows the Treasury Board to make an order authorizing expenditures to supplement the amount of any voted appropriation that is expected to be insufficient to carry out the purpose for which it was made. The order may be made only if the amount of the increase is offset by a corresponding reduction of expenditures to be incurred from other voted appropriations not fully spent in the fiscal year. The order may be made at any time before the government closes the books for the fiscal year. The government considers the books to be closed when any final adjustments arising from our audit have been made and the Public Accounts have been published and tabled in the Legislature.

Even though the *Treasury Board Act, 1991* was repealed and re-enacted within the *Financial Administration Act* in December 2009, subsection 5(4) of the repealed act was retained. This provision allows the Treasury Board to delegate any of its duties or functions to any member of the Executive Council or to any public servant employed under the *Public Service of Ontario Act, 2006*. Such delegations continue to be in effect until replaced by a new delegation. Since 2006, the Treasury Board has delegated its authority for issuing Treasury Board Orders to ministers to make transfers between programs within their ministries,

and to the Chair of the Treasury Board for making program transfers between ministries and making supplementary appropriations from contingency funds. Supplementary appropriations are Treasury Board Orders in which the amount of an appropriation is offset by a reduction to the amount available under the government's centrally controlled contingency fund.

Figure 9 summarizes the total value of Treasury Board Orders issued for the past five fiscal years, and **Figure 10** summarizes Treasury Board Orders for the fiscal year ended March 31, 2018, by month of issue.

Figure 9: Total Value of Treasury Board Orders, 2013/14–2017/18 (\$ million)

Source of data: Treasury Board

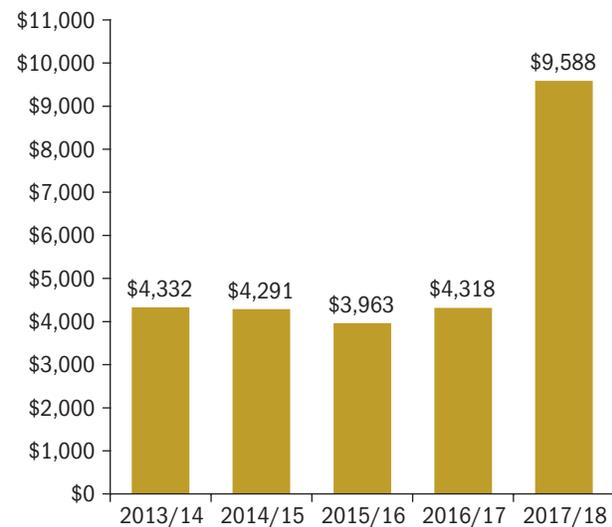


Figure 10: Total Value of Treasury Board Orders by Month Relating to the 2017/18 Fiscal Year

Source of data: Treasury Board

Month of Issue	#	Authorized (\$ million)
April 2017–February 2018	118	1,921
March 2018	33	1,007
April 2018	8	131
May 2018–June 2018	0	–
July 2018–August 2018	5	1,251
September 2018	4	5,278
Total	168	9,588

According to the Standing Orders of the Legislative Assembly, Treasury Board Orders are to be printed in *The Ontario Gazette*, together with explanatory information. Orders issued for the 2017/18 fiscal year are expected to be published in *The Ontario Gazette* in December 2018. A detailed listing of 2017/18 Treasury Board Orders, showing the amounts authorized and expended, is included in **Exhibit 4** of this report.

14.4 Transfers Authorized by the Board of Internal Economy

When the Board of Internal Economy authorizes the transfer of money from one item of the Estimates of the Office of the Assembly to another item within the same vote, section 91 of the *Legislative Assembly Act* requires that we make special mention of the transfer(s) in our *Annual Report*.

Accordingly, **Figure 11** shows the transfers made within Vote 201 with respect to the 2017/18 Estimates.

14.5 Uncollectible Accounts

Under section 5 of the *Financial Administration Act*, the Lieutenant Governor in Council, on the recommendation of the Minister of Finance, may authorize an Order-in-Council to delete from the accounts any amounts due to the Crown that are the subject of a settlement or deemed uncollectible. The amounts deleted from the accounts during any fiscal year are to be reported in the Public Accounts.

In the 2017/18 fiscal year, receivables of \$353 million (\$267 million in 2016/17) due to the Crown from individuals and non-government organizations were written off. The write-offs in the 2017/18 fiscal year related to the following:

Figure 11: Authorized Transfers Relating to the Office of the Assembly, 2017/18 Fiscal Year

Source of data: Board of Internal Economy

From:		\$
Item 3	Legislative Services	(227,900)
Item 4	Information and Technology Services	(274,800)
To:		
Item 5	Administrative Services	189,900
Item 6	Sergeant at Arms and Precinct Properties	284,800
Item 11	Ontario Legislative Internship Program	28,000

- \$150 million for extinguishing a loan to U.S. Steel Canada (Stelco) to comply with a court decision;
- \$45.8 million for uncollectible receivables under the Student Support Program (\$49.9 million in 2016/17);
- \$42.3 million for uncollectible corporate tax (\$64.4 million in 2016/17);
- \$34.4 million for uncollectible receivables under the Ontario Disability Support Program (\$45.9 million in 2016/17);
- \$25.4 million for uncollectible retail sales tax (\$40.3 million in 2016/17);
- \$17.1 million for uncollectible employer health tax (\$27.3 million in 2016/17); and
- \$38.0 million for other tax and non-tax receivables (\$39.2 million in 2016/17).

Volume 2 of the 2017/18 Public Accounts summarizes the write-offs by ministry. Under the accounting policies followed in the preparation of the Province's consolidated financial statements, a provision for doubtful accounts is recorded against accounts receivable balances. Most of the write-offs had already been expensed in the Province's consolidated financial statements. However, the actual write-off in the accounts required Order-in-Council approval.

Reports on Value-for-Money Audits

Our value-for-money (VFM) audits examine how well government ministries, organizations in the broader public sector, agencies of the Crown and Crown-controlled corporations manage their programs and activities. These audits are conducted under subsection 12(2) of the *Auditor General Act*, which requires that the Auditor General, an independent officer of the Legislative Assembly of Ontario, report on any cases where we have found money spent without due regard for economy and efficiency, or where appropriate procedures were not in place to measure and report on the effectiveness of service delivery. Where relevant, such audits also include compliance issues. In essence, VFM audits delve into the underlying operations of the ministry program or organization being audited to assess both their cost effectiveness and the level of service they deliver to the public. This chapter contains the conclusions, observations and recommendations for the VFM audits conducted in the past audit year.

The ministry programs and activities and the organizations in the broader public sector audited this year were selected by the Office's senior management on the basis of selection criteria including the financial impact of a program or organization, its significance to the Legislative Assembly, related issues of public sensitivity and safety, and the results of past audits and related follow-up work.

We conducted our work in accordance with the Canadian Standard on Assurance Engagements—Direct Engagements issued by the

Auditing and Assurance Standards Board of the Chartered Professional Accountants of Canada. These standards involve conducting the tests and other procedures that we consider necessary, including obtaining advice from external experts when appropriate to obtain a reasonable level of assurance. Our Office applies Canadian Standards on Quality Control and, as a result, maintains a comprehensive quality control system that includes documented policies and procedures with respect to compliance with the code of professional conduct, professional standards and applicable legal and regulatory requirements. We have complied with the independence and other ethical requirements of the Code of Professional Conduct issued by the Chartered Professional Accountants of Ontario, which are founded on fundamental principles of integrity, objectivity, professional competence and due care, confidentiality and professional behaviour.

Before beginning an audit, our staff conduct in-depth research into the area to be audited, and meet with representatives of the auditee to discuss the focus of the audit, including our audit objectives and criteria. During the audit, staff maintain an ongoing dialogue with the auditee to review the progress of the audit and ensure open communications. At the conclusion of the audit fieldwork, significant issues are discussed with the auditee and a draft audit report is prepared. Senior audit staff then meet with senior management from the auditee to discuss the draft report and the management

responses to our recommendations. In the case of organizations in the broader public sector, discussions are also held with senior management of the funding ministry.

Once the content and responses for each VFM audit report are finalized, the VFM audit reports are incorporated as sections of this chapter of the Annual Report.

Subsequent Event

The Government of Ontario's Fall Economic Statement (Statement) was released on November 15, 2018. It announced certain changes that may have some impact on some topics covered in the VFM audit reports in this chapter. These changes and their impacts are not reflected in the VFM audit reports because the Statement's release occurred subsequent to the finalization of our VFM audit reports.

Chapter 3

Section 3.01

Ministry of Health and Long-Term Care

Assistive Devices Program

1.0 Summary

The Assistive Devices Program (Program) under the Ministry of Health and Long-Term Care (Ministry) provides financial assistance for Ontario residents with long-term physical disabilities to purchase basic assistive devices. (Long-term is defined as six months or longer, with the exception of the need for home oxygen, which is 90 days or longer.) The Program funds approximately 8,000 assistive devices within 19 device categories, such as mobility devices, hearing aids, home oxygen, respiratory devices, insulin pumps and supplies, prostheses, orthotics and visual and communication aids.

Initial access to the Program is often made through a medical specialist or general practitioner who confirms a diagnosis of a client's long-term disability. A qualified healthcare professional (registered with the Ministry as an authorizer) then performs an assessment and prescribes a device that is appropriate for the client's needs. A person or business (registered with the Ministry as a vendor) then sells the appropriate device to the client. In some cases, the Ministry pays the full amount of the device; in other cases, the client must pay a portion of the purchase price.

Any Ontario resident with a valid Ontario health card and long-term physical disability is eligible to apply for funding assistance through the Program,

which is not based on the applicant's income or financial situation. In 2017/18, the Ministry provided approximately \$514 million through the Program to help purchase devices for over 400,000 Ontario residents. This represents an increase of about 48% in the number of Program clients and expenditures over the last 10 years. Since the Program is discretionary (meaning that Program expenditure is based on usage and not subject to a budget limit), it is expected to continue growing given the aging population, with approximately 60% of Program clients in 2017/18 being over the age of 65.

Subsequent to our last audit of the Program in 2009, the Ministry has enhanced its service delivery, mainly by improving claim processing times after implementing a new information system in 2011. However, several areas relating to oversight and device pricing need improvement. The Ministry is not doing enough to ensure that it is only paying for eligible claims: its oversight of vendors and authorizers is not adequate to ensure that vendors are only being paid for devices actually appropriate to the clients' needs and charged at prices allowed under Program policies.

Some of our significant findings include:

- **Ministry consistently and significantly overpaid vendors for ineligible claims, yet it reduced its oversight staff.** Our 2009 audit recommended the Ministry increase its oversight efforts and resources to monitor

vendors' and authorizers' compliance with Program policies. However, the Ministry reduced the number of compliance staff from three to two, who are responsible for conducting sample-based reviews on over 400,000 claims a year that could come from any of the approximately 1,200 vendors and 5,700 authorizers registered with the Ministry. In 2017/18, the Ministry conducted a review of 32 vendors, representing only about 2% of all vendors that received payments from the Ministry in the year. This reduction in oversight staff was done despite the fact that, between 2010/11 and 2017/18, the Ministry conducted reviews on 235 vendors and found that almost 99% of them had submitted ineligible claims, resulting in the Ministry recovering over \$10 million in overpayments.

- **No regular follow-up reviews of vendors known to have submitted ineligible claims.** While the Ministry has made significant recoveries from its reviews of this sample of 235 vendors, it has rarely performed follow-up reviews in subsequent years to ensure that vendors have corrected issues identified in the review. For example, a vendor of mobility devices was found to have submitted ineligible claims and repaid the Ministry approximately \$250,000 in 2015/16, but since then, the Ministry has not followed up on this vendor, which continued to submit claims and received a total of approximately \$5.8 million in 2016/17 and 2017/18.
- **Limited staff training to detect possible misconduct or fraud.** Our review of training for Program staff over the last three years found that the Ministry has not provided sufficient fraud and risk-management training, a concern that had also been raised in our 2009 audit. During our 2011 follow-up, the Ministry informed us that it had provided risk management and fraud awareness training sessions in September 2010, and that it would offer ongoing training opportunities. How-

ever, we only identified one fraud training session in the last three years: a November 2015 session that was limited to discussion about one specific fraud case.

- **Ministry recovered almost nothing from vendors involved in suspected abuse of the Program.** Over the eight years following our 2009 audit, the Ministry referred 13 vendors suspected of abusing the Program to the Ontario Provincial Police. These cases involved suspected collusion and conflict of interest between vendors and authorizers, and vendors selling clients devices they were not eligible for or did not need. Nine of these cases were withdrawn, meaning that no convictions were made, mainly due to a low prospect of conviction. While the Ministry terminated these vendors' registration in most cases, it was only able to recover \$1,000 (or 0.02%) out of the almost \$5.5 million it estimated it had paid these vendors for ineligible claims.
- **Home oxygen clients may be referred to specific vendors due to contractual relationship between vendor and hospitals.** There are 13 joint ventures in the home oxygen device category. Each joint venture includes a hospital and a home oxygen vendor (which is the same for all 13 joint ventures), with each party sharing the profits. Due to the profit-sharing structure, there appears to be a conflict of interest as each hospital has an incentive to refer its clients to the single home oxygen vendor. Our analysis showed that Program payments to the joint ventures has increased from \$15 million in 2012/13 to over \$26 million in 2017/18, representing a 70% increase even though the total number of home oxygen clients only increased by about 30%. While the Ministry no longer permits new joint ventures to be set up, it continues to allow the existing 13 to operate. It also allows vendors to enter into preferred vendor agreements with hospitals

and long-term-care homes, as long as there is no financial relationship between the two parties. There are currently over 600 preferred vendor agreements in the home oxygen device category.

- **Device pricing reviews not conducted consistently and effectively.** The Ministry aims to conduct pricing reviews of all device categories within a three-year cycle. However, we found that supporting documents related to the cost of devices (such as proof of retail prices) were missing for some pricing reviews. Also, while the Ministry identified variations in retail prices charged for similar device models, it did not adjust Program-approved prices to reflect such differences. For example, the Ministry identified one continuous positive airway pressure (CPAP) device with a retail price below \$400 but kept the Program-approved price for all CPAP devices at \$860. This results in the Ministry paying more than it needs to for certain device models.
- **No monitoring of reasonableness of mark-ups and fees charged by vendors.** Our review of a sample of manufacturer and vendor invoices found varying mark-ups from vendor to vendor, with some vendors having mark-ups that exceeded 200%. One of the main reasons for this was that some vendors were able to benefit from lower manufacturer costs as a result of obtaining volume discounts from the manufacturers, but these discounts were not subsequently passed on to the Ministry and clients. For hearing aids, we found instances where vendors were charging clients up to \$1,000 (or about 60%) more per hearing aid than the manufacturer cost even though Program policy requires hearing aids to be sold by vendors at the manufacturer cost. This results in clients paying more for devices than what Program policy allows.
- **No changes to pricing and funding criteria despite significant increase in continuous**

positive airway pressure (CPAP) devices funded by the Program and concerns about compliance with CPAP therapy.

CPAP devices are worn at night by individuals who have obstructive sleep apnea syndrome, which is a sleep disorder. In the last five years (from 2013/14 to 2017/18), the number of CPAP devices funded by the Program has increased by about 50% (from about 43,000 to 64,000). Due to this significant growth, in 2016 the Ministry reviewed funding criteria for CPAP devices to ensure that funding was provided to those who needed it most. The review noted that, overall, CPAP clients are better off financially than other Program clients and do not always use their devices as required. Despite these concerns, the Ministry has not changed its funding criteria. We also found that eligibility for government financial assistance for CPAP devices varies by province and Ontario is one of only three provinces that provide co-payment coverage for CPAP devices. The other two are Manitoba and Saskatchewan, both of which have changed their funding approaches in 2018 and 2017 respectively and require individuals to pay more out of pocket for CPAP devices than Ontario does.

- **Ministry paying for resale of used devices for which it already paid.** The Ministry requires vendors of certain devices to include serial numbers of devices on invoices to ensure it is not paying for used or returned devices, which is against Program policies. Although the Ministry's information system has a data field for serial numbers, it is not set up to check, before paying a claim, whether a required serial number has been entered, or whether a serial number has already been used in another claim. Our review of claim data for 2017/18 identified a number of cases where serial numbers were either missing or duplicated. For example, almost 2,300 claims with a total value of about \$1.5 million were

approved and paid for by the Ministry despite having duplicate serial numbers. As well, over 7,500 claims did not have serial numbers as required by the Program; in particular, approximately 80% of communication and visual aid claims that required a serial number did not have one entered into the system. The Ministry does not regularly review claim data to identify and follow up on all instances of missing or duplicate serial numbers.

- **Overpayments for deceased clients identified by system but not always reviewed.** While the Ministry's information system allowed Program staff to run a report that identifies all instances where a payment was made after a client died, Program staff did not regularly run this report and follow up on all instances to identify and recover overpayments. Doing so could result in significant recoveries; for example, between 2012/13 and 2017/18, the Ministry recovered about \$500,000 from one home oxygen vendor that had been paid for clients after they had died. If the Ministry had not conducted a sample-based review of this vendor, this \$500,000 overpayment might never have been refunded.
- **Ministry still only accepts hardcopy claims from vendors, resulting in unnecessary delays for clients and potential errors.** The Ministry's information system, implemented almost eight years ago at a cost of about \$7 million, can be updated to allow Program staff to accept claim submissions electronically. However, at the time of our audit, the Ministry still only accepted claims through the mail. While the Ministry began work in 2018 on changes to its computer system to allow vendors to submit claims electronically, this work—which requires system updates and testing, stakeholder engagement and training—is not scheduled to be fully completed until mid-2020, about nine years after the system was put in place.

- **Clients wait for devices while the Ministry takes more than eight weeks to process almost half of all claims.** The Ministry has set an eight-week target for processing claims, meaning that within eight weeks of receiving a claim from a vendor, it will mail notification to the vendor whether it accepts the claim. While the average processing time for claims has improved over the last five years, our review of 2017/18 claim data found that approximately 46% of claims took longer than eight weeks to process. We also found that the average claim processing time varied significantly by device category, with the ventilator equipment category being the shortest at about five days and mobility devices being the longest at almost nine weeks.
- **Ministry measures client satisfaction but survey methodology needs improvement.** The Ministry engaged a third party in 2018 at a cost of approximately \$50,000 to conduct a client satisfaction survey. While the results showed that 94% of clients were satisfied with their devices, the results may not be representative due to shortcomings in the survey method. We noted that the number of surveys sent did not reflect the claim volume or value of each device category. Even though mobility devices accounted for almost 12 times more clients and 40 times higher claim payments than those in visual aids, the same number of surveys (about 150) was sent to clients in each of these categories. We also noted that the survey was sent to approximately 2,500 clients (out of over 400,000 clients in 2017/18), with 850 clients responding, representing only about 0.2% of all clients in the year.

Overall Conclusion

Overall, the Program under the Ministry does not have fully effective systems and procedures in place to meet the needs of Ontarians with long-term physical disabilities in an efficient and cost-effective

manner, and in compliance with applicable Program policies. Specifically, prices charged by vendors were not fully monitored to ensure their reasonableness and compliance with Program policies, resulting in significantly high mark-ups and a wide variation of mark-ups from vendor to vendor. As well, not all device pricing reviews were conducted consistently and appropriately. In addition, oversight efforts and activities were not sufficient to identify non-compliance, and often not completed on a timely basis and not documented adequately. Proactive and rigorous actions were also not always undertaken to detect and deter potential misuses and abuses of the Program.

While the Ministry implemented a new information system in 2011 to improve claim processing time and claim data reporting, it has not fully addressed some of the Program's needs effectively. For example, important features (such as electronic claim submission to replace paper-based claim processing) are still missing, not fully utilized or not yet functional even though the system has been in place for almost eight years.

Further, the Ministry has measured the effectiveness of the Program in meeting its objectives through tracking claim processing times and conducting client satisfaction surveys, but it has not publicly reported the results.

This report contains 10 recommendations, consisting of 18 actions, to address our audit findings.

OVERALL RESPONSE FROM MINISTRY

The Ministry of Health and Long-Term Care (Ministry) appreciates the work of the Auditor General and welcomes the advice on how to improve the Assistive Devices Program (Program). We acknowledge the recommendations and are committed to ensuring they are reflected in our actions to strengthen accountability, oversight, value for money and operational excellence and to leverage information technology in our Program delivery. The recommendations within this report, in a

number of instances, build upon the continuous improvements of the Program, including enhancing our audit and verification ability to address inappropriate or potentially fraudulent claims and moving to more electronic streamlined approval processes.

The Ministry recognizes there are further opportunities to increase value for the Program by building on current efforts to review, monitor and update pricing; detect and deter potential misuses and abuses of Program funding; and leverage technology to ensure the Program is meeting its objectives.

2.0 Background

The Assistive Devices Program (Program) under the Ministry of Health and Long-Term Care (Ministry) provides financial assistance for Ontario residents with long-term physical disabilities to purchase basic assistive devices. The intention of the Program is to enable Ontarians with physical disabilities to increase their independence through access to assistive devices responsive to their individual needs.

Eligibility for funding assistance through the Program is not linked to income. To be eligible, an individual must, at a minimum:

- be a permanent resident of Ontario;
- have a valid Ontario health number;
- have a long-term physical disability requiring the use of a device for a minimum of six months, except home oxygen which must be required for a minimum of 90 days; and
- not require a device exclusively for education, employment or recreational purposes.

In 2017/18, the Program provided approximately \$514 million in financial assistance for over 400,000 Ontario residents to acquire the devices they needed. As a discretionary program, Program expenditure is based on usage and not subject to a budget limit. This means that as the number of

clients and devices being claimed increases, so do Program expenditures.

The three key parties involved in the delivery of the Program include the Ministry, the authorizer (a healthcare professional who assesses a client's need for an assistive device) and the vendor (an individual or business that sells assistive devices to clients).

Figure 1 describes each of these key parties.

2.1 Device Categories Covered under the Program

The Program provides financial assistance for about 8,000 assistive devices that fall within 19 device categories, which include mobility (such as wheelchairs), home oxygen, respiratory (such as continuous positive airway pressure or CPAP devices), hearing, communication and visual aids. **Appendix 1** provides a summary of device categories, examples of devices in each category, and possible reasons or medical conditions for clients requiring such devices.

2.2 Steps to Access the Program

There are nine steps involved in a client obtaining an assistive device under the Program:

1. **Client is diagnosed:** The client obtains a diagnosis or confirmation of long-term physical disability from a medical specialist or general practitioner.
2. **Authorizer confirms client's eligibility:** The client connects with an authorizer registered with the Ministry for the device(s) required. The authorizer assesses the client for eligibility and specific device needs, and completes the authorizer section of the Program application form, which is a paper document. The authorizer then provides the client with the application form and, according to Program policy, a list of Ministry-registered vendors that sell the required device(s).
3. **Client selects a device(s) with a vendor:** The client visits a vendor registered with the Ministry to select a device(s) that meets his or her needs as noted by the authorizer. The client gives the vendor the application form on which the authorizer has completed the authorization section.
4. **Vendor submits the application form to the Ministry:** The vendor completes the application form and mails or courier it to the Ministry. The application form does not contain specific information (such as make, model or serial number) about the actual device the vendor is proposing to provide the client.
5. **Ministry staff enter data into the computer system:** Data entry staff enter the information from the hardcopy form received from the vendor by mail into the Program's computer system.
6. **Ministry staff assess the application and notify the vendor:** If the application form is complete, the Ministry notifies the vendor by mail, and requests the vendor to provide specific information on the device(s), such as the price, quantity, make and model. If the form is missing required information, the Ministry notifies the vendor by mail that more information is needed. The Program's target is to process all applications (specifically, to send notification to the vendor whether the claim has been approved) within eight weeks.
7. **Vendor submits device-specific information:** The vendor provides specific information on the device(s) being sold on its invoice submitted electronically to the Ministry's finance department.
8. **Ministry pays the vendor:** The Ministry's finance department issues payment to the vendor, usually electronically but sometimes, in the case of small vendors, by cheque sent in the mail.
9. **Client pays his or her portion of the device price, if applicable, and receives the device:** In many cases, the client is responsible for paying 25% of the Program-approved price of the device (see **Figure 2**). Upon paying this,

Figure 1: Key Parties Involved in the Assistive Devices Program

Prepared by the Office of the Auditor General of Ontario

Ministry of Health and Long-Term Care (Ministry)

- processes claims received and conducts compliance and verification work on claims that it has approved
- registers authorizers who are healthcare professionals performing assessments on clients
- registers vendors that sell devices to clients whose claims are approved
- reviews the pricing of all device categories within a three-year cycle to determine and update Program-approved prices
- has approximately 49 full-time-equivalent direct operational staff working on the Program¹

Authorizer	Vendor	Client
<ul style="list-style-type: none"> • is a healthcare professional registered with the Ministry to perform assessments on clients who apply for funding assistance from the Program. Examples of authorizers include: <ul style="list-style-type: none"> • audiologist • occupational therapist • optometrist • orthotist/prosthetist • physiotherapist • registered nurse • speech-language pathologist • specialist teacher of the blind • works in hospitals, home-care agencies, clinics and private practices. • is not paid by the Program, but may receive payment from sources such as OHIP, the client's private insurance or the client directly. • In 2017/18, there were approximately 5,700 authorizers registered with the Ministry. 	<ul style="list-style-type: none"> • is a person or organization registered with the Ministry to sell devices to clients for claims approved by the Ministry. • receives payment from the Program for devices sold to clients. In many cases, the client also pays a portion of the purchase price. • In 2017/18, there were approximately 1,200 vendors registered with the Ministry that were operating in 1,900 locations. 	<ul style="list-style-type: none"> • must meet the following eligibility criteria, at a minimum: <ul style="list-style-type: none"> • be a permanent resident of Ontario; • have a valid Ontario health number; • have a long-term physical disability requiring the use of a device for a minimum of six months, except home oxygen which must be required for a minimum of 90 days; and • not require a device exclusively for education, employment or recreational purposes. • is eligible to receive 75% coverage of the Program-approved price and responsible for paying the remaining 25% for most device categories.²

1. See Figure 5 for organization chart of the Program.

2. See Figure 2 for details on different funding methods for assistive devices.

the vendor provides the device to the client.

Note: In some cases, vendors, judging that the Ministry will approve the claim, agree to provide the client with the device before approval or payment has been made by the Ministry. In other cases, they may provide the client with a loaner device until approval is received. This is entirely at the vendor's discretion.

2.3 Program Funding and Expenditures

The Ministry funds different types of devices in various ways. **Figure 2** provides a general overview of how funding works for different device categories.

Figure 3 shows that Program expenditures and the number of clients receiving devices have been growing over the last 10 years. From 2008/09 to 2017/18, Program expenditures have increased by

approximately 48% (from about \$347 million to about \$514 million). During the same period, the number of Program clients has increased by over 47% (from about 275,000 to about 405,000) while the Ontario population has only increased by about 10% (from about 12.9 million in 2008 to 14.2 million in 2017). With approximately 60% of Program clients in 2017/18 over the age of 65, the Program is expected to continue growing as a result of the aging population.

Figure 4 provides a breakdown of Program expenditures (about \$514 million in 2017/18) by device category. Approximately 75% of Program expenditures were in the mobility, home oxygen, hearing and respiratory device categories in 2017/18, about the same at the time of our last audit in 2009.

Figure 2: Funding Methods for Assistive Devices

Prepared by the Office of the Auditor General of Ontario

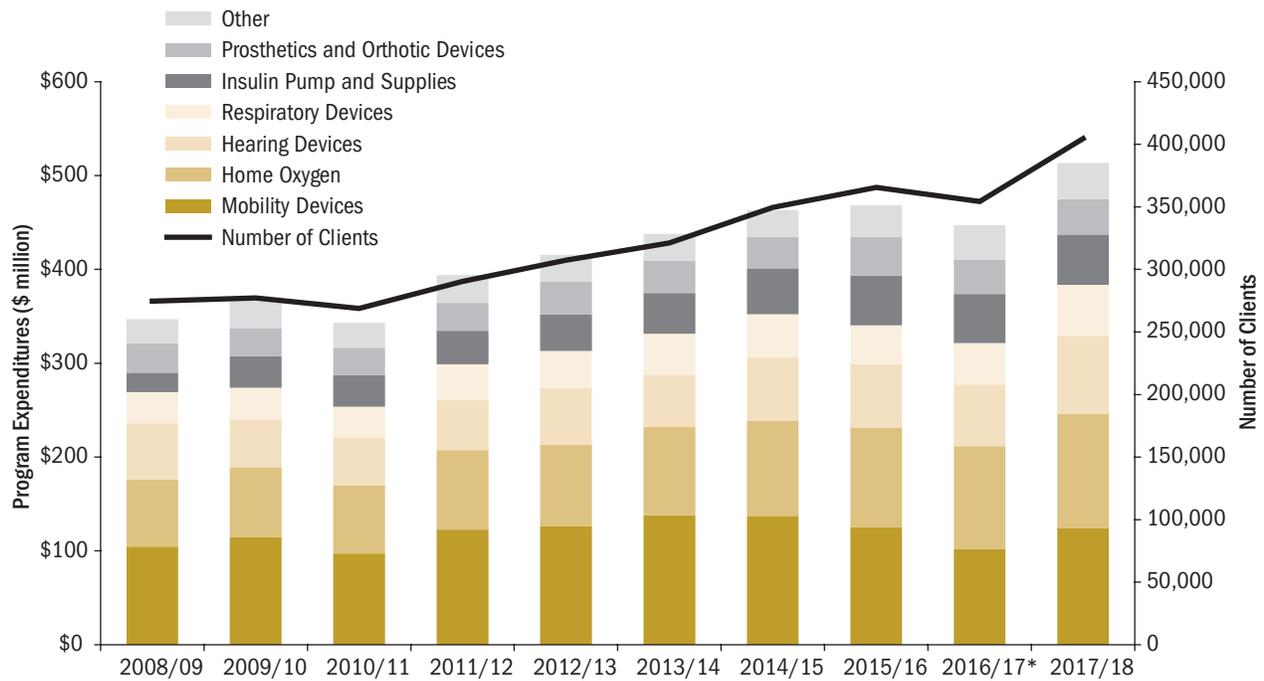
Funding Method	Description	Examples of Devices*
Fixed Price Limit	<ul style="list-style-type: none"> The Ministry sets a price limit that the vendor can charge for each device. The vendor is not allowed to sell a device for more than the price limit. The Ministry pays 75% of the price limit to the vendor directly, with the client responsible for paying the remaining 25%. 	<ul style="list-style-type: none"> Mobility devices Respiratory devices Communication aids
Maximum Contribution	<ul style="list-style-type: none"> The Ministry sets a maximum price up to which a device will be funded. The vendor is allowed to charge more. The Ministry pays 75% of the maximum price to the vendor directly, with the client responsible for paying the difference between the price charged by the vendor and the Ministry's maximum contribution. 	<ul style="list-style-type: none"> Hearing aids Visual aids
Monthly Flat Rate	<ul style="list-style-type: none"> The Ministry sets a monthly flat rate for devices and related supplies. The Ministry pays 100% of the rate to the vendor directly for seniors 65 years of age or older and for individuals who are on social assistance, residing in a long-term-care facility or receiving home-care services; and 75% for all others. 	<ul style="list-style-type: none"> Home oxygen
Fixed Financial Assistance	<ul style="list-style-type: none"> The Ministry sets a fixed amount for devices and related supplies. The Ministry pays the amount directly to the client for purchasing the devices and related supplies. 	<ul style="list-style-type: none"> Ostomy supplies Enteral feeding pump and supplies

Note: For clients on social assistance, the Ministry pays 100% of the Program-approved amount for the device, and recovers 25% from the Ministry of Community and Social Services, which administers social assistance programs.

* Some devices within a device category may be subject to a different funding method.

Figure 3: Ten-Year Trend of Program Expenditures and Clients, 2008/09–2017/18

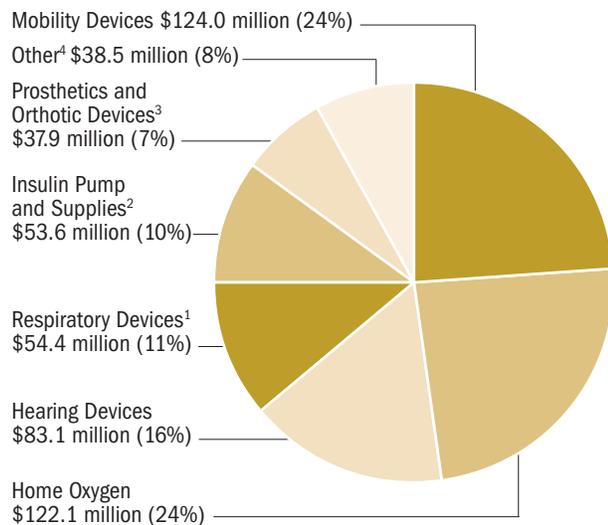
Source of data: Ministry of Health and Long-Term Care



* Program expenditures dropped in 2016/17 mainly due to a pricing review that reduced Program-approved prices in the mobility device category, which is one of the largest device categories.

Figure 4: Program Expenditures by Device Category, 2017/18

Source of data: Ministry of Health and Long-Term Care



1. Respiratory devices includes ventilator equipment and supplies.
2. Insulin pump and supplies includes insulin syringes for seniors.
3. Prosthetics and orthotic devices includes limb, ocular, breast and maxillofacial prostheses and orthotic devices.
4. Other includes visual and communication aids, pressure modification devices, enteral feeding and ostomy.

3.0 Audit Objectives and Scope

To assess whether the Assistive Devices Program (Program) under the Ministry of Health and Long-Term Care (Ministry) has effective systems and procedures in place to:

- meet the needs of Ontarians with long-term physical disabilities in an efficient and cost-effective manner, and in compliance with applicable legislation and policies; and
- measure and publicly report on the effectiveness of the Program in meeting its objectives.

Before starting our work, we identified the audit criteria we would use to address our audit objective. We based these criteria on a review of applicable legislation, policies and procedures, and internal and external studies. Senior management at the Ministry reviewed and agreed with our objective and associated criteria as listed in **Appendix 2**.

Our audit work was conducted at the Ministry's Direct Services Division in Toronto from December 2017 to June 2018. We obtained written representation from the Ministry that, effective November 1, 2018, it has provided our Office with all the information it is aware of that could significantly affect the findings of this report. We met with key personnel at the Ministry involved in processing, approving and monitoring claims. We obtained and reviewed applicable Program policies, procedures and manuals, as well as collected and analyzed claim data. We also selected and reviewed a sample of claims, and requested supporting documentation from vendors and authorizers to assess adherence to Program policies, completeness of supporting documentation, and reasonableness of device pricing.

As well, we met with and obtained information from staff at the Health Fraud Investigation Unit of the Ontario Provincial Police, which accepts referrals from the Program when there is suspected fraud.

In addition, we contacted and obtained feedback from various stakeholders, including:

- ALS Canada
- Balance for Blind Adults
- Canadian Assistive Devices Association
- Canadian Council of the Blind
- Canadian Hard of Hearing Association
- Canadian National Institute for the Blind
- Citizens with Disabilities Ontario
- Diabetes Canada (formerly Canadian Diabetes Association)
- March of Dimes
- Ontario Association of Optometrists
- Ontario Association of Prosthetists and Orthotists
- Ontario Home Respiratory Services Association
- The War Amps

We also reviewed recommendations from our last audit of the Program in 2009 and recommendations made by the Standing Committee on Public Accounts in its 2011 report on the Program, as well as their implementation status from our 2011

follow-up report. We identified past recommendations that are applicable and relevant to our current audit and obtained updates on them from the Ministry. **Appendix 3** provides a summary of these recommendations and relevant findings.

Further, we contacted other jurisdictions in Canada and reviewed publicly available information of their assistive device programs. **Appendix 4** provides a summary of assistive devices programs in Canadian provinces.

We conducted our work and reported on the results of our examination in accordance with the applicable Canadian Standards on Assurance Engagements—Direct Engagements issued by the Auditing and Assurance Standards Board of the Chartered Professional Accountants of Canada. This included obtaining a reasonable level of assurance.

The Office of the Auditor General of Ontario applies the Canadian Standards of Quality Control and, as a result, maintains a comprehensive quality control system that includes documented policies and procedures with respect to compliance with rules of professional conduct, professional standards and applicable legal and regulatory requirements.

We have complied with the independence and other ethical requirements of the Code of Professional Conduct of the Canadian Professional Accountants of Ontario, which are founded on fundamental principles of integrity, objectivity, professional competence and due care, confidentiality and professional behaviour.

4.0 Detailed Audit Observations

4.1 Insufficient Oversight of Vendors Results in Ministry Paying for Ineligible Claims—and Clients Overpaying or Receiving Devices They Don't Need

We found that the Ministry's oversight efforts to identify ineligible claims and to ensure that vendors and authorizers adhere to Program policies remain inadequate. This results in the Ministry and, in some cases, clients overpaying vendors, sometimes for devices clients do not even need.

It is the Ministry's responsibility to perform effective oversight of the Program to confirm that authorizers and vendors are operating in compliance with Program policies. This is to ensure that authorizers and vendors are serving the best interests of clients and that clients are not being sold devices they do not need or that are unnecessarily expensive. As well, the Ministry needs to ensure that vendors are only being paid for eligible claims at costs allowed under the Program. Thorough oversight also requires that vendors retain the necessary documentation to prove that devices included in claims to the Program actually existed and were sold at the prices indicated. Without effective oversight, the Ministry cannot be sure that the Program is only paying vendors what Program policy allows. Moreover, without such oversight, there is an increased risk that vendors' errors and potential misconduct will adversely affect clients, who are often in vulnerable situations.

The majority of the Ministry's oversight related to the Program focuses on two verification activities: vendor reviews and verification letters. These are performed after claims have been approved and paid to ensure they were in compliance with Program policies and procedures.

Vendor Reviews: These reviews involve Ministry staff requesting and reviewing supporting

documentation from vendors and authorizers, including assessment notes, invoices and proof of device delivery. We noted that common findings from these reviews include:

- missing or inadequate assessment notes to prove client eligibility;
- missing manufacturer or client invoices to prove the existence and sale of devices;
- returned and/or used devices being sold, which is against Program policies; and
- payments made after a client has passed away, primarily related to home oxygen (see **Section 4.3.2**).

Verification Letters: These letters containing claim details are sent to clients, who are required to respond and notify the Ministry if such details are incorrect.

If the Ministry found vendors that did not comply with Program policies, the Ministry could take actions against those vendors, including recovering payments for ineligible claims, suspending further payments, and/or terminating vendor registration with the Ministry.

While the Ministry has processes in place to review claims and take corrective actions, we found that its oversight efforts have remained inadequate in identifying ineligible claims and non-compliance issues as well as deterring reoccurrence of such issues.

4.1.1 Despite Identifying Significant Overpayments to Vendors for Ineligible Claims, Ministry Reduced Oversight Staff

The Ministry has reduced its staffing resources on oversight activities, even though 99% of all reviews of vendors in the last eight years found instances of vendors not complying with Program policies. In almost all cases, vendors were found to owe the Ministry money because, for instance, they had charged more than the permitted amount for devices, had charged for used devices, or could not provide documentation proving the existence of the devices they had charged for. These vendor reviews

resulted in the Ministry recovering more than \$10 million from vendors over the past eight years. Yet despite this, the Ministry reduced the number of Program staff responsible for oversight activities from three to two since our 2009 audit.

Specifically, in the eight years since our last audit (2010/11 to 2017/18), the Ministry conducted reviews of an average of 29 vendors per year—out of a total of 1,200 vendors submitting over 400,000 claims per year—for a total of 235 reviews. Of these, 232 found instances of non-compliance.

Moreover, Program expenditures and the number of clients served have increased almost 50% over the last 10 years (see **Section 2.3**), yet staffing resources for oversight have decreased. This decrease is in spite of the fact that our 2009 audit recommended that the Ministry expand its efforts to monitor vendors' compliance with Program policies, as did the Standing Committee on Public Accounts (Committee) in its May 2011 report on the Program (see **Appendix 3**):

- Our 2009 audit of the Program found that the Ministry had completed 23 vendor reviews and identified ineligible claims resulting in overpayments of approximately \$600,000 in 2008/09. At that time, the Program had three staff members responsible for performing oversight activities, and indicated that inadequate staffing resources had limited the number and extent of vendor reviews that could have been completed. As a result, we recommended that the Ministry expand its efforts and resources to better monitor vendors' and authorizers' compliance with Program policies.
- In March 2010, the Committee held hearings on our 2009 audit. As a result of this hearing, the Committee issued a report in May 2011 that also expressed concern about the Ministry's need for appropriate staffing levels to minimize the potential for Program abuse and achieve savings. In response to the Committee's concern, the Ministry indicated

that it was determined to improve its oversight capacity.

However, we found in our current audit that instead of expanding its oversight efforts as recommended, the number of Program staff responsible for oversight activities since the time of our 2009 audit was actually reduced from three to two.

Figure 5 provides the organizational chart of the Program, indicating that of the 49 full-time-equivalent Program staff, only two are verification staff. The rest are mainly co-ordinators and claim assessors who are responsible for processing hard-copy (paper) claims, which could have been done more efficiently if the Ministry had implemented electronic claim submission (see **Section 4.3.3**).

Moreover, we reviewed the roles and responsibilities of the existing two oversight staff and noted that only one of them (who is a verification analyst) is responsible for selecting vendors and claims for oversight work. The other (who is a verification associate) is primarily responsible for assisting with tasks such as sending out verification letters and contacting clients, vendors and/or authorizers to obtain and review documentation and providing administrative support.

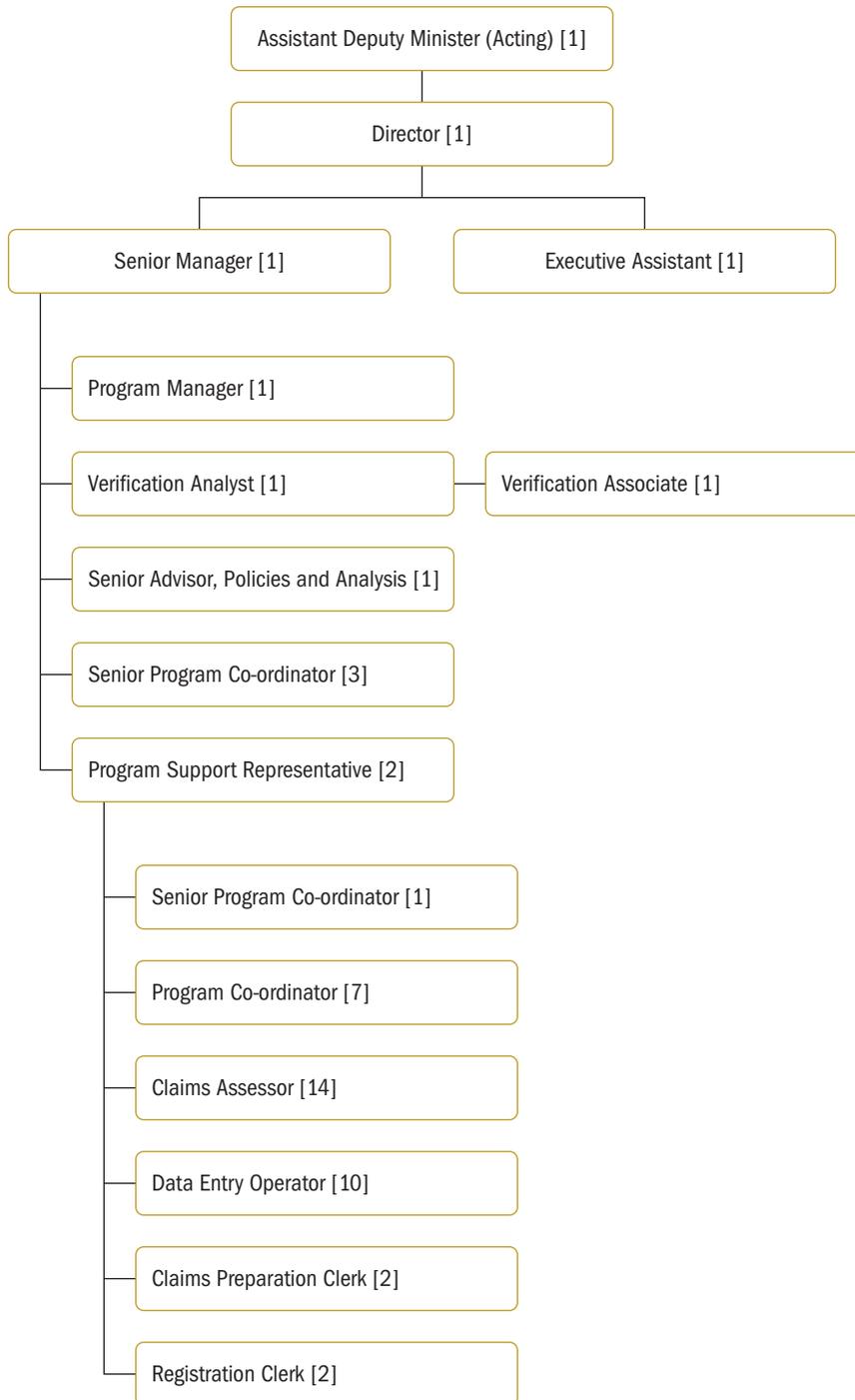
4.1.2 Ministry Does Not Regularly Follow Up on Vendors Previously Found to Have Submitted Ineligible Claims

While the Ministry has found instances of vendors submitting ineligible claims in almost all vendor reviews completed over the last eight years, it has not regularly performed follow-up reviews on these vendors to ensure that they have corrected their issues and are now complying with Program policies. In most cases, these vendors have continued to operate as registered vendors with the Ministry and submit claims with high values. For example:

- A vendor of mobility devices was found to have submitted ineligible claims and repaid the Ministry approximately \$250,000 in 2015/16. At the time of our audit, the Ministry had not performed any follow-up review

Figure 5: Organizational Chart of Direct Services Division, Assistive Devices Program, as of June 30, 2018

Prepared by the Office of the Auditor General of Ontario



Note: Number in brackets [#] represents the number of full-time-equivalent staff in the specific position. In total, the Ministry has approximately 49 full-time-equivalent direct operational staff working on the Program.

on this vendor, which continued to submit claims and received a total of approximately \$5.8 million from the Ministry in the 2016/17 and 2017/18 fiscal years.

- Another vendor of mobility devices was found to have submitted non-compliant claims and repaid the Ministry approximately \$100,000 in 2015/16. Again, the Ministry has not conducted any follow-up review on this vendor, which continued to submit claims and received a total of almost \$4.3 million from the Ministry in 2016/17 and 2017/18.
- A vendor of hearing devices repaid the Ministry \$50,000 in 2015/16, but has not been reviewed since then despite the Ministry's estimate that a complete review of the vendor's claims, if conducted, could show a total overpayment of \$500,000. This vendor continued to submit claims and received a total of approximately \$4.8 million from the Ministry in 2016/17 and 2017/18.

The Ministry acknowledged to us that it has not regularly conducted follow-up reviews, citing limited staffing resources (see **Section 4.1.1**) and the need to prioritize reviews. It told us that it considers vendors that have been reviewed recently as low risk compared to other vendors. It only performs trend analysis on recently reviewed vendors to determine if the volume or dollar value of their claims have increased significantly enough to warrant follow-up reviews. However, we noted that trend analysis alone does not provide the Ministry with enough evidence to prove that issues of recently reviewed vendors have been corrected. The fact that the number of claims or dollar value of claims submitted by a vendor since its review have not increased significantly does not necessarily mean that it is not continuing to submit ineligible claims.

4.1.3 Reviews of Possible Overpayments to Vendors Slow, During Which Time Vendors Could Continue Submitting Ineligible Claims

Based on our examination of a sample of the files on vendor reviews conducted by the Ministry over the last five years, we found that the Ministry often took a long time to complete the review process—sometimes up to three years. Vendors were usually able to continue submitting claims while the reviews were under way. The longer the vendor reviews take, the higher the risk that the Ministry is continuing to approve and pay ineligible claims while the vendor is under review. For instance, a vendor selling used devices and charging the Program as if they were new could continue to do so during the period of the vendor review. The benefit of completing vendor reviews more quickly is that this will sooner prevent further ineligible claims from being submitted.

The Ministry informed us that the lengthy vendor review process was due to the time spent waiting for and reviewing supporting documentation, as well as resolving disagreements between the Ministry and vendors when overpayments were identified. In some cases where there were disagreements, the Ministry selected and reviewed an additional sample of claims, which lengthened the review process.

Some examples we found of vendor reviews that took more than a year to complete include:

- The Ministry began a review of a vendor of mobility devices in 2012/13, but due to disagreements with the vendor on the overpayments identified, an additional sample of claims was reviewed. This review was completed in January 2017, at which point the vendor had to return overpayments of \$60,000 to the Ministry. When the review was under way, this vendor continued to submit claims and received approximately \$4.6 million from the Ministry.

- The Ministry began a review of another vendor of mobility devices in March 2014, but the review was not completed until December 2015 due to time spent on reviewing additional documentation as a result of disagreements with the vendor on the overpayments identified by the Ministry. This vendor eventually repaid over \$235,000 as a result of the review. During the review, this vendor continued to submit claims and received approximately \$5.4 million from the Ministry.
- The Ministry began a review of a vendor of visual aids in July 2015, but the review was not completed until January 2017 due to disagreements between the Ministry and the vendor, which resulted in additional review work. The Ministry recovered approximately \$93,000 from this vendor by March 2018. While the review was under way, this vendor continued to submit claims and received approximately \$133,000 from the Ministry.

4.1.4 Ministry Does Not Retain Key Documentation Related to Vendor Reviews and Client Verification Letters

We noted cases where correspondence and details in the files related to the vendor reviews were missing. For example, documents showing how the Ministry calculated the amounts vendors owed, and correspondence showing whether the vendor agreed with the Ministry's findings, were sometimes missing. Therefore, we were unable to trace all of the steps that were performed and determine when the Ministry made recoveries identified in these reviews.

Apart from performing vendor reviews as part of its oversight work, the Ministry also sends out verification letters to a sample of clients each year. The Ministry includes claim details in the letters and requests clients to respond to the Ministry if such details are incorrect. The purpose of this work is to identify whether incorrect or false claims were being submitted by authorizers and vendors on

behalf of their clients. In 2017/18, the Ministry sent out over 5,600 verification letters but was unable to confirm how many clients responded and what percentage of letters indicated incorrect or false claims because these details were not being tracked.

The Ministry told us that when clients return verification letters indicating that they did not receive the device as described, this information may be used as one factor in determining which vendors should be reviewed. However, we could not confirm this is the case because the Ministry did not regularly retain and track client responses and related supporting documentation.

Inadequate documentation of oversight activities performed has a negative impact on future oversight work, because the Ministry will be unable to make reference to earlier information. For instance, if in the current year Program oversight staff note a significant number of verification letters pointing to issues with a particular vendor, they will not be able to refer back to verification letters related to that vendor in previous years to see if there is a continuing pattern.

4.1.5 Staff Not Sufficiently Trained to Detect Possible Misconduct or Fraud

Front-line Program staff have not received adequate training in detecting possible misconduct or fraud, even though the Ministry informed us it would provide such training following our 2009 audit. Along with their primary duties of processing claims, front-line Program staff such as claim assessors are responsible for informing senior management and verification staff if they observe irregularities in claims that may warrant further reviews. Therefore, it is important that they have the training and skills to do so.

At the time of our 2009 audit, we noted that Program staff had not received any formal training on risk-assessment techniques to identify "red flags" that indicated potential misconduct or fraudulent claims. At that time, the Ministry informed us that it would improve the awareness of fraud risks in

staff's day-to-day roles by developing a comprehensive training program on the risk-assessment process in 2009/10. At the time of our follow-up in 2011, the Ministry indicated that it had provided risk-management and fraud-awareness training sessions in September 2010, and that it would offer ongoing training opportunities to staff to improve the verification and claims review work being done (see **Appendix 3**).

However, at the time of our current audit, we reviewed a list of training made available to Program staff over the last three years and found that the Ministry provided Program staff with only one risk-management or fraud-related training course, in November 2015, where the Ministry had the Ontario Provincial Police lead a presentation related to one vendor that had committed fraud. Our review of the presentation found that it only covered how that specific fraud was perpetrated; it did not provide Program staff with the information and tools necessary to prevent and detect fraudulent claims and activities as part of their ongoing work.

Given the consistent findings by the Ministry's verification staff of vendors submitting and getting paid for ineligible claims (see **Section 4.1.1**), it is critical that the Ministry provide Program staff with formal and regular training on identifying and addressing Program-specific risks.

RECOMMENDATION 1

To identify ineligible claims and non-compliance issues and prevent their reoccurrence, we recommend that the Ministry of Health and Long-Term Care:

- increase its work to monitor vendors' and authorizers' compliance with the policies and procedures of the Assistive Devices Program (Program);
- conduct follow-up reviews of vendors with a history of non-compliance with the policies and submitting ineligible claims until issues have been addressed and corrected;

- document and track work performed on and the results of oversight activities (including vendor reviews and client verification letters sent and responded to); and
- provide mandatory relevant and comprehensive risk-management and fraud-related training to all Program staff on a regular basis.

MINISTRY RESPONSE

The Ministry strives to ensure that all payments to vendors in regard to assistive devices are appropriate and conform to the policies and procedures of the Assistive Devices Program. Improved system controls will assist in the prevention of some non-compliance, but the Ministry also relies on the professional standards and ethics of health care professionals such as physicians, audiologists, occupational therapists, and physical therapists, which are regulated health-care professions in Ontario.

The Ministry agrees that once the project enabling electronic submission of claims and invoices is completed, Program verification resources could be allocated more effectively with tools that identify high-risk claims and inform detailed annual claims review plans and follow-up reviews.

The Ministry will review its reporting capabilities to identify high-risk vendors for review, develop a framework for detailed annual verification plans, and review and allocate resources accordingly to implement. In addition, the Ministry will work with partners to ensure that appropriate fraud and risk-management training modules are developed and delivered to the Program staff in different roles.

4.1.6 Limited Proactive and Rigorous Review of Unusual Claim Patterns and Trends

While the Ministry has taken action when conflicts of interest were identified as part of its sample-based

vendor reviews, we found a number of unusual claim patterns and trends that indicated potential misuses or abuses of the Program. These unusual claim patterns suggest an increased risk of conflict of interest between vendors and authorizers; vendors charging for devices not actually sold or upselling clients on devices they do not really need; or authorizers not personally assessing clients, which is a requirement of the Program. However, we noted that the Ministry has not looked into these claim patterns even though we raised a similar concern in our 2009 audit.

Pattern Suggesting Potential Conflict of Interest between Authorizers and Vendors

We analyzed 2017/18 claim data and found a number of instances where vendors, specifically in the respiratory and mobility device categories, had a significant number of claims signed by a single authorizer. There may be valid reasons for this, such as there being a limited number of authorizers in the geographic location of the vendor. However, there is risk that if the authorizer and vendor are too closely aligned, the authorizer could be prescribing devices that the client does not actually need (or that are more sophisticated and expensive than the client needs) in order to increase the vendor's sales. The Ministry has not looked into many of these instances that indicated the risk of conflict of interest.

The Program's policies and procedures manual states that authorizers and vendors are prohibited from carrying out their responsibilities in connection with the Program while in a conflict of interest, which can be actual, potential or perceived. The intent of this policy is to ensure that authorizers' and vendors' self-interests do not influence their objectivity in authorizing or recommending devices for clients and do not interfere with a client's entitlement to receive the best possible service in connection with the Program.

Many of the instances we found were related to claims in urban or suburban areas where there were other vendors located near the clients and

authorizers; therefore, we questioned whether the authorizers had provided a list of vendors to clients in these instances. For example:

- In the **respiratory device category** (primarily related to CPAP devices), we identified 25 vendors each of which had over 70% of their claims (at least 100 claims) in 2017/18 authorized by the same physician. (Note: In the respiratory device category, a physician associated with a sleep clinic is equivalent to an authorizer for other device categories.) The Ministry did not conduct vendor reviews on 12 of these 25 vendors identified over the last five years. In particular, we noted:
 - One vendor had over 1,300 claims with a total value of over \$900,000 (representing about 94% of its total claim value) authorized by the same physician in 2017/18.
 - Another vendor had over 430 claims with a total value of about \$330,000 (representing about 97% of its total claim value) authorized by the same physician in 2017/18.
 - Another vendor had 520 claims with a total value of about \$350,000 (representing about 84% of its total claim value) authorized by the same physician in 2017/18.
- In the **mobility device category** (which includes wheeled walkers and manual and power wheelchairs), we identified 12 vendors each of which had over \$250,000 of its claims authorized by the same authorizer in 2017/18. The Ministry did not conduct vendor reviews on eight of these 12 vendors over the last five years. Specifically, we noted:
 - One vendor had about 360 claims with a total value of about \$860,000 (representing about 39% of its total claim value) authorized by the same individual in 2017/18.
 - Another vendor had over 130 claims with a total value of about \$630,000 (representing about 33% of its total claim value)

authorized by the same individual in 2017/18.

- Another vendor had about 230 claims with a total value of over \$570,000 (representing about 26% of its total claim value) authorized by the same individual in 2017/18.

Pattern of Significant Increases in Vendor Claims

We analyzed claim data by vendors over the last five years (from 2013/14 to 2017/18) and found a number of vendors with significant increases in the value of claims paid by the Ministry, especially in the mobility and respiratory device categories. In some cases, vendors' sales more than doubled in one year. While it is possible for a vendor's sales to increase this much in a short period of time, it is uncommon enough to warrant investigation. Rapid increases in billings could point to a vendor making claims for devices not actually sold, or selling devices clients do not actually require. However, the Ministry did not conduct verification work on most of these vendors over the last five years and did not include these vendors as part of its upcoming verification work plan for 2018/19. Specifically:

- In the **mobility device category**, we identified 21 vendors each of which had a total claim value of at least \$100,000 in 2017/18 which had increased by more than 100% over the last five years. The combined value of claims by these vendors was approximately \$23 million in 2017/18. Of these 21 vendors, the Ministry only conducted verification work on seven over the last five years. For example:
 - One vendor received approximately \$1.4 million from the Ministry in 2017/18, representing a 600% increase over 2016/17.
 - Another vendor received over \$3.2 million from the Ministry in 2017/18, representing an almost 30% increase over 2016/17.

- In the **respiratory device category**, we found 15 vendors each of which had a total claim value of at least \$100,000 in 2017/18 which had increased by more than 100% over the last five years. These 15 vendors received a total of \$2.9 million from the Ministry in 2017/18. Of these 15 vendors, the Ministry only conducted verification work on four over the last five years. Specifically:
 - One vendor received almost \$130,000 from the Ministry in 2017/18, which was approximately 800% higher than five years earlier.
 - Another vendor received over \$230,000 from the Ministry in 2017/18, representing an almost 500% increase over five years.

Pattern of Authorizers with Significantly High Volume of Authorization

We analyzed claim data by authorizers over the last five years (from 2013/14 to 2017/18) and found numerous examples where authorizers had unusual claim patterns, especially in the mobility and respiratory device categories. While the Ministry does not pay authorizers, it still requires authorizers to sign off on claim forms, indicating that they have performed the assessments on clients directly. If an authorizer has an unusually high number of authorizations, or a significant increase in authorizations, there is an increased risk that the authorizer might be recommending devices the client does not actually need, or might not actually be personally assessing the client. However, we found that the Ministry does not usually conduct detailed authorizer reviews; instead, it relies on client verification letters to identify issues related to authorizers. Due to the lack of documentation for client verification letters, as noted in **Section 4.1.4**, we were unable to confirm whether these authorizers had been reviewed. Specifically:

- In the **respiratory devices category**, we identified 10 physicians associated with

sleep clinics each of whom authorized over 1,000 claims in 2017/18. The total value of these claims was \$10.5 million. One of these physicians authorized over 2,900 claims in 2017/18, for which the Ministry paid over \$1.9 million. This physician also authorized over 2,500 claims each year in 2015/16 and 2016/17, with the Ministry paying a total of approximately \$5.5 million over three years for these claims. Four of these 10 physicians had consistently high claim volumes, with each authorizing over 1,000 claims in each of the last three years, and the Ministry paying approximately \$14.8 million for these claims.

- In the **mobility devices category**, we identified 11 authorizers each of which authorized over 300 claims in 2017/18. The total value of claims authorized by these authorizers was over \$6 million. One of these authorizers authorized over 700 claims in 2017/18, an increase of over 300% since 2015/16. The Ministry paid more than \$900,000 for claims signed by this authorizer in 2017/18.

4.1.7 Expenditures for the Central Equipment Pool for High Technology Wheelchairs Increase 33% in Two Years, but the Ministry Does Not Investigate

The Ministry has not reviewed the current vendor (Motion Specialties) contracted to operate the Central Equipment Pool for High Technology Wheelchairs (CEP), even though expenditures have increased significantly since this vendor took over from the previous one (Shoppers Home Health Care), and authorizers have expressed concerns about the quality of services provided.

The Ministry contracts with a vendor to run the CEP, which provides new and recycled high-technology power wheelchairs at discounted prices to individuals with complex/higher needs, such as individuals with ALS, a disease that gradually paralyzes people. (Unlike vendors of most other device categories, as mentioned in **Section 4.3.1**, the CEP

is allowed to sell previously used devices as part of the Program. This is because of the high cost of the devices and the savings that could be achieved from refurbishing and selling a used device as some individuals may only use their devices for a short period of time before their needs change.)

In 2016/17, the original vendor contracted by the Ministry to run the CEP left the mobility aid business. The Ministry then entered into a contract with a new vendor. While the Ministry selected the previous vendor through a competitive process, it assigned the contract to the new vendor without going through the same process. The Ministry has not yet reviewed the new vendor despite significant increases in Program payments to this vendor and concerns expressed by authorizers referring clients to this vendor about the quality of services provided. Specifically:

- Our analysis of claim data related to the CEP found that the previous vendor received approximately \$15 million from the Ministry in 2015/16 (which was the last full fiscal year it ran the CEP) and the new vendor received about \$20 million in 2017/18 (which was the first full fiscal year it ran the CEP), representing an increase of about 33% over two years. We also noted that the number of wheelchairs funded through CEP increased by approximately 30% over the same period.
- While the Ministry's contract with the CEP stipulates that the Ministry is required to conduct an annual review of the CEP (which involves meeting with the vendor to discuss the overall service delivery and any concerns or constraints encountered), we noted that the Ministry has not conducted such an annual review of the CEP since the new vendor took over the contract in December 2016. The Ministry and vendor indicated that while an annual review has not taken place, the two parties have met periodically throughout the year to discuss relevant matters. In our discussions with authorizers who frequently prescribed mobility devices from the CEP for their

clients, some authorizers indicated concerns with the quality of services provided by the new vendor. Their concerns included a lack of responsiveness to client inquiries, an inability to obtain equipment for assessment purposes on a timely basis, and difficulty in obtaining maintenance and repair services required by the CEP contract.

- Authorizers also informed us that although the CEP is supposed to offer clients the choice of purchasing a recycled high-technology wheelchair (where appropriate) for a lower cost than a new wheelchair, this rarely occurs. We noted that for 2017/18, only about 4% of the Ministry's funding provided to the CEP related to recycled devices; in 2015/16, which was the last full fiscal year in which the previous vendor operated the CEP, approximately 10% of the Ministry's funding provided to the CEP related to recycled devices. In cases where clients are required to pay 25% of the device cost, paying unnecessarily for a new wheelchair rather than a recycled one results in higher costs for both clients and the Ministry.

4.1.8 Ministry Recovered Almost Nothing from Vendors Suspected of Abusing the Program

The Ministry has not recovered a significant amount in overpayments made to vendors that it suspected of abusing the Program and terminated as registered vendors.

If the Ministry identifies through verification work vendors suspected of abusing the Program, it can refer these cases to the Health Fraud Investigation Unit of the Ontario Provincial Police (OPP). In the eight years (from 2010/11 to 2017/18) following our last audit, the Ministry referred 13 cases of suspected abuse of the Program to the OPP. Based on our review of information available, we noted that most of these 13 cases involved suspected collusion and conflict of interest between vendors and authorizers, or involved vendors that sold clients

devices they were not eligible for or did not need.

Of these 13 referred cases:

- Two resulted in convictions. Vendors involved in these cases are no longer registered with the Ministry.
- Nine cases were withdrawn, meaning that no convictions were made, mainly due to a low prospect of conviction. Two of the vendors involved in these cases are still registered with the Ministry and submitting claims.
 - One of these vendors has not been reviewed by the Ministry since 2015/16 when the OPP stopped investigating. In 2017/18, this vendor received approximately \$1.3 million from the Ministry.
 - Another vendor also has not been reviewed by the Ministry since 2014/15 when the OPP stopped investigating, but the Ministry informed us that it plans to review this vendor in 2018/19. In 2017/18, this vendor received over \$650,000 from the Ministry.
- Two cases are still under investigation by the OPP. One of these vendors is still registered with the Ministry and submitting claims. In 2017/18, it received over \$1 million from the Ministry.

While the Ministry has taken action in most cases to terminate its registration with vendors suspected of abusing the Program, we found that it was not always able to make recoveries from these vendors for past non-compliant claims. At the time it terminated their registrations, seven vendors owed the Ministry an estimated total of almost \$5.5 million according to the Ministry's vendor review work. **Figure 6** shows that the Ministry was only able to recover \$1,000 (or 0.02%) of this total estimated recovery of almost \$5.5 million.

Figure 6: Amounts Recovered from Vendors Suspected of Abuse of the Program Whose Registrations Were Terminated, 2010/11–2017/18

Source of data: Ministry of Health and Long-Term Care

Vendor ¹	Estimated Recovery Owing (\$)	Actual Recovery (\$)	Vendor Review Start Date	Vendor Termination Date
1	2,100,000	0	May 2013	April 2015
2	1,047,000	0	July 2016	May 2018
3	830,000	0	May 2014	April 2017
4	687,000	0	March 2016	March 2018
5	416,000	0	December 2013	October 2015
6	227,000	1,000 ²	June 2014	August 2016
7	170,000	0	September 2013	November 2015
Total	5,477,000	1,000		

1. Of the 13 vendors suspected of abuse of the Program, the Ministry terminated the registration of nine. Seven of these nine vendors had outstanding recoveries owing to the Ministry at the time of their registration being terminated.

2. This recovery was made as a result of a court-ordered restitution in the amount of \$1,000.

RECOMMENDATION 2

To detect and deter potential misuses or abuses of funding from the Assistive Devices Program (Program), we recommend that the Ministry of Health and Long-Term Care:

- closely monitor patterns and trends of claims to identify misconduct, including conflict of interest in the relationships between authorizers and vendors;
- take appropriate and timely action against vendors and authorizers who breach Program policies (such as recovering overpayments from vendors and terminating vendors' and authorizers' registration status with the Ministry); and
- conduct an annual review of the Central Equipment Pool for High Technology Wheelchairs (CEP) to examine claims submitted and services delivered by the vendor that operates the CEP, and identify and address any concerns.

MINISTRY RESPONSE

The Ministry supports this recommendation and strives to ensure that all payments to vend-

ors in regard to assistive devices are appropriate and conform to the policies and procedures of the Program.

The Ministry is continually working to strengthen compliance with program policies and procedures. In addition to implementing electronic submission to improve the reliability and validity of the system information, the Ministry will review and enhance its reporting capabilities. This will help to identify and monitor claims patterns and trends that may illustrate conflict-of-interest relationships between stakeholders and ensure appropriate, timely action is taken against authorizers and vendors who are found to have breached Program policies, including recovery of overpayments, referral to regulatory colleges or the OPP or termination of the agreement with the Program. The Ministry will continue to liaise with the appropriate regulatory colleges to clarify appropriate contacts, protocols and follow-up mechanisms for continued success in this area.

In addition to the overall review for compliance, the Ministry will meet with the service provider for the CEP to review services delivered to identify and address concerns with an opportunity for continuous quality improvement.

4.1.9 Home Oxygen Clients May Be Referred to Certain Vendors due to Contractual Relationship between Vendor and Hospitals that the Ministry Continues to Allow

In the home oxygen device category, the Ministry allows joint ventures and preferred vendor agreements between hospitals or long-term care homes and home oxygen vendors that result in the inequitable treatment of home oxygen vendors, and could result in clients receiving a different quality or level of service than they might otherwise have received.

Within the home oxygen device category, there are 13 joint ventures delivering services to clients. Each of these joint ventures involves two parties: a hospital and a home oxygen vendor (ProResp Inc.), which is the same for all 13 joint ventures. (In other words, there are 13 hospitals and only one home oxygen vendor involved in the joint ventures.)

Figure 7 provides a list of the 13 joint ventures and the amount they received for claims paid by the Ministry in 2017/18. The first joint venture was established in 1990, and the most recent one in 2015. The vendor informed us that the nine most recent joint ventures established were the result of a request for proposals by the relevant hospitals while the initial four were not.

According to Program policies related to joint ventures, each hospital is:

- required to provide its home oxygen clients with a list of vendors to choose from within their community; and
- allowed to share the profits earned by the joint venture.

While the home oxygen vendor involved in the joint ventures indicated that clients are advised that they have a choice of home oxygen providers and are given a list of vendors to choose from, as a result of the profit-sharing structure of the joint ventures, each hospital has an incentive to refer its clients to the single home oxygen vendor that is part of its joint venture because it obtains a share of the profits earned. This could result in clients being referred to a specific vendor without being given the opportunity to determine which vendor would best meet their needs.

Our analysis of claim data over the last six years (from 2012/13 to 2017/18) found that home oxygen claims paid by the Ministry to these joint ventures increased significantly, by about 70% (from about \$15 million to over \$26 million) while the overall number of home oxygen clients the Program funded only increased by about 30%.

Figure 7: Thirteen Home Oxygen Joint Ventures and Amounts of Their Home Oxygen Claims in 2017/18

Prepared by the Office of the Auditor General of Ontario

Vendor	13 Hospitals	13 Joint Ventures	Claims Paid (\$)
ProResp Inc.	Bluewater Health	Lambton ProResp Inc.	1,769,774
	Huron Perth Healthcare Alliance	Horizon ProResp Inc.	1,728,800
	London Health Sciences Centre	Western ProResp Inc.	3,360,816
	Markham Stouffville Hospital	Markham Stouffville ProResp Inc.	942,134
	North York General Hospital	North York ProResp Inc.	1,517,259
	Royal Victoria Regional Health Centre	Royal ProResp Inc.	5,070,920
	Southlake Regional Health Centre	Southlake ProResp Inc.	1,371,279
	St. Joseph's Healthcare Hamilton	St. Joseph's ProResp Inc.	1,457,201
	The Credit Valley Hospital/Trillium Health Partners	Trillium Health Partners ProResp Inc.	2,825,774
	The Scarborough Hospital	Scarborough ProResp Inc.	1,385,252
	William Osler Health System	William Osler ProResp Inc.	2,214,150
	Windsor Regional Hospital	Windsor Regional ProResp Inc.	1,497,064
	Woodstock General Hospital	Oxford ProResp Inc.	1,081,585
Total			26,222,005

The existence of these 13 joint ventures has become a contentious issue in recent years among the other home oxygen vendors. As a result, as of April 2017, the Ministry stopped permitting new joint ventures to be set up—but it allows the existing 13 joint ventures to continue operating. However, since the Ministry does not have data on which vendors these hospital clients are choosing or evidence that clients are being offered a choice of vendors, it has not fully addressed and resolved the issue.

We spoke with representatives of the single home oxygen vendor involved in all 13 joint ventures. They informed us that there are benefits to the joint venture model. For example, joint ventures allow a seamless transition for clients who are discharged from a hospital connected to a joint venture if the client chooses to receive ongoing home oxygen therapy from the joint venture vendor. As well, hospital involvement in the joint ventures can help assure clients that they will receive similar care to what they had been receiving while in hospital.

Apart from the existing joint ventures, the Ministry also allows home oxygen vendors to enter into preferred vendor agreements with hospitals or long-term-care homes. Unlike joint ventures, the Ministry does not allow profit-sharing or the payment of fees between the parties involved in a preferred vendor agreement. However, our review of a sample of preferred vendor agreements found an instance where a vendor was paying a management fee to the hospital with which it had entered into a preferred vendor agreement, appearing to indicate non-compliance with Program policies. There are currently over 600 preferred vendor agreements in the home oxygen device category. Two large vendors (Medigas and VitalAire), which are different from the vendor (ProResp) involved in the joint ventures, account for almost 500 or 80% of these agreements. As with the joint ventures, these preferred vendor arrangements result in the inequitable treatment of home oxygen vendors, and could result in clients receiving a different quality

or level of service than they might have if they had been made aware of a choice of vendors.

A 2015 home oxygen program evaluation conducted by the Ministry and the Ontario Home Respiratory Services Association noted that only one-third of clients surveyed were given a choice of home oxygen vendors to select from. In addition, the evaluation found 70% of clients surveyed indicated they were referred directly to a home oxygen vendor by their health-care provider. One stakeholder group we contacted also indicated that joint ventures and preferred vendor agreements limit competition and can put smaller vendors at a disadvantage.

RECOMMENDATION 3

To better ensure clients receive access to a choice of vendors, and to better ensure equity and fairness for home oxygen vendors, we recommend that the Ministry of Health and Long-Term Care conduct a review of its decision to allow joint ventures and preferred-vendor agreements to exist and determine whether any change is needed to protect the interests of both clients and vendors of the Assistive Devices Program.

MINISTRY RESPONSE

The Ministry supports this recommendation and will review the Assistive Devices Program's (Program) policy that:

- permits current Program-registered vendors to enter into preferred vendor agreements with hospitals, long-term-care facilities, and other health-care organizations as required; and
- the decision that allows joint ventures, registered with the Program prior to April 1, 2017, to retain their registration status.

4.2 Device Prices Not Appropriately Monitored and Updated

We found that the Ministry's reviews of device prices were deficient and reviews were not consistently done according to guidelines. As well, Program-approved prices did not reflect current market prices, and mark-ups and fees were not being monitored to ensure reasonableness and compliance with Program policies. Some of these deficiencies had also been noted in our 2009 audit and still have not been addressed by the Ministry.

According to the Program's policies and procedures manual, the Ministry will "review and update approved prices from time to time to ensure they are fair, consistent and equitable for all device types." The Ministry aims to review the pricing of all device categories within a three-year cycle in order to determine and update Program-approved prices. These prices are based on a number of factors, including the price manufacturers charge vendors, information obtained in market analysis and in other jurisdictions, and factoring in a fair rate of return for vendors. However, the Ministry has not been effectively monitoring and updating prices.

4.2.1 Device Pricing Reviews Not Conducted Consistently and Effectively

The Ministry has a guideline that identifies steps for conducting a pricing review. These steps include the following:

- interviewing Program staff and experts to identify device challenges and device history;
- reviewing what devices other provinces fund and at what prices;
- interviewing external stakeholders to obtain feedback on device pricing; and
- providing recommendations on the appropriate device prices.

Our review of supporting documentation for pricing reviews completed within the last five years found that not all pricing reviews were conducted consistently according to the guideline. Specifically:

- Supporting documents on the cost of some devices were missing for some pricing reviews. For example, we found a pricing review on orthotics that made reference to retail costs but provided no supporting documents. As a result, we were unable to verify whether the Ministry had determined and updated device prices appropriately.
- Most pricing reviews did not consider manufacturer costs, which would have provided the Ministry with better insight into the actual costs of the devices and the appropriate mark-ups to be factored into the Program-approved prices (see **Section 4.2.2**).
- While the Ministry identified price differences between different models of the same device as part of its pricing reviews, it did not adjust the Program-approved prices to reflect such differences and instead opted to set a common price for all models. For example, a 2013 pricing review noted that some models of the CPAP device had retail prices below \$400 each. Despite price variations among different models, the Ministry set the same Program-approved price for all CPAP devices at \$860. Setting the Program-approved price higher than might be necessary can not only result in the Ministry paying more than it needs to but also in the client paying more than necessary in instances where the client is responsible for paying 25% of the device price.
- The Ministry did not conduct a pricing review of all devices within its three-year review cycle, as its guideline requires. Instead, the Ministry told us it mainly focused on commonly claimed devices because its list of Program-approved devices is long—over 8,000 specific devices, many of which are older models. The Ministry informed us that it did not remove older models from its device list so as to provide more choices for clients, specifically those clients who may be comfortable with older models they have been using for a long time. However, since older models

are more likely to have come down in price, the Ministry may have been paying significantly more than market prices for some older models that were not subject to regular pricing reviews.

Stakeholder groups we contacted (including the Canadian National Institute for the Blind, Ontario Association of Optometrists, Ontario Association of Prosthetists and Orthotists, and The War Amps) also expressed concerns on device pricing. Some specific concerns include the following:

- Device pricing of some visual aids has not kept pace with advancements in assistive technology (such as electronic devices, including computerized equipment). Therefore, the Ministry should review device pricing regularly.
- There has been no significant pricing update for some prosthetic and orthotic devices over the last 10 years to reflect current technology and costs of such devices. As such, the Ministry should review and update device pricing regularly to account for changes in costs and technology.

4.2.2 No Monitoring of Reasonableness of Mark-Ups and Fees Charged by Vendors

At the time of our 2009 audit, Program policies for most device categories indicated that “the price for a product should be the manufacturer’s unit cost to the vendor for that product plus a reasonable return (up to 33.3%),” thereby providing a reasonable return for the vendor and cost-containment for the Program. However, our 2009 audit found that vendors in some device categories had significantly high mark-ups, such as an 84% mark-up for mobility devices.

In 2016, the Ministry changed Program policies to clarify that it does not provide a specific mark-up or profit margin for vendors. Instead, it factors in various mark-up percentages for different devices when determining and updating the Program-approved prices as part of its device pricing review.

For example, in its most recent pricing review of mobility devices, it factored in mark-ups ranging from 5% for power scooters to 15% for wheelchairs. However, since the Ministry has not always conducted its pricing reviews consistently and effectively, as previously mentioned in **Section 4.2.1**, we question the reasonableness of the mark-ups being factored into the Program-approved prices.

Mobility, Respiratory and Communication Devices: Significant Mark-ups and Wide Variations of Mark-ups

We obtained and reviewed a sample of manufacturer costs and vendor selling prices and found numerous cases where vendors had significantly high mark-ups and where there were wide variations in mark-ups by vendors for the same or similar devices. These cases indicated that the Program was not monitoring mark-ups for reasonableness when determining and updating the Program-approved prices. **Figure 8** provides examples of mark-ups by vendors. Specifically, our sample testing of manufacturer costs and vendor selling prices found that:

- Mark-ups were significantly high in the mobility, respiratory and communication device categories. For example, mark-ups for two models of CPAP devices exceeded 200%, and mark-ups for power and manual wheelchairs were over 120%.
- Mark-ups for the same or similar device varied significantly from one vendor to another. For example, mark-ups for one model of a CPAP device ranged from 95% to 223%, and mark-ups for speech recognition software ranged from 45% to 147%.

We noted that in most cases, high mark-ups are due to the following reasons:

- Some vendors are able to benefit significantly from lower manufacturer costs, likely because the high volume of their purchases lead to volume discounts from the manufacturers. These benefits are not subsequently passed on to the Ministry and clients.

Figure 8: Examples of Mark-Ups by Vendors Based on Sample Testing of Manufacturer Costs and Vendor Selling Prices

Prepared by the Office of the Auditor General of Ontario

Device	Vendor*	Manufacturer Cost (\$)	Selling Price (\$)	Mark-Up (%)
Mobility Devices				
Adult wheeled walker—Type 3	1	245	417	70
	2	289	417	44
Adult power base—Type 3	1	2,717	6,125	125
	2	3,305	6,125	85
Power scooter	1	1,360	2,395	76
	2	1,385	2,395	73
Adult lightweight performance manual wheelchair	1	1,043	2,290	120
	2	1,074	2,290	113
Respiratory Devices				
Continuous positive airway pressure (CPAP)—Model 1	1	335	860	157
	2	395	860	118
Continuous positive airway pressure (CPAP)—Model 2	1	275	860	213
	2	352	860	144
Continuous positive airway pressure (CPAP)—Model 3	1	226	860	223
	2	440	860	95
Communication Aids				
Desktop computer including monitor and printer	1	700	1,500	114
	2	1,135	1,300	15
iPad communication package with specialized software	1	700	1,200	70
	2	930	1,120	20
Speech recognition software	1	420	1,036	147
	2	345	500	45

* The terms 'Vendor 1' and 'Vendor 2' indicate two different vendors selling the specific device, but these vendors are not necessarily the same across all devices within a device category.

- In some device categories (such as visual optical aids), the Ministry pays up to the maximum Program-approved price but vendors are allowed to charge more than those prices with the clients responsible for paying the difference. In other categories (such as mobility devices), the Ministry sets a price limit on a device which the vendor is not allowed to charge more than. However, vendors tend to charge the maximum allowable price even when they pay manufacturers significantly less.

Hearing Aids: Non-Compliance with Mark-Ups Policy and Wide Variations of Dispensing Fees

Unlike other device categories, the Ministry requires vendors of hearing aids to sell devices at manufacturer costs. In other words, hearing aid vendors cannot mark up the cost of hearing aids. (They can, however, charge dispensing and related fees, as discussed later in this section.) We obtained and reviewed a sample of manufacturing costs and vendor invoices for hearing aid vendors and found instances where vendors did not follow this Program policy and included mark-ups in their selling prices, resulting in clients having to pay more out of

pocket than what the Program allows. For example, our sample testing found the following instances of non-compliance with Program policy:

- One vendor purchased canal hearing aids from a manufacturer for approximately \$1,600 per device but sold them to clients for almost \$2,600 per device, resulting in clients paying \$1,000 (or almost 63%) more per hearing aid than what the Program covers. (The Program pays a maximum of \$500 per device, so if the vendor in this case had complied with the Program policy, the client would have paid only \$1,100 per hearing aid instead of \$2,100 per hearing aid.)
- Another vendor sold behind-the-ear hearing aids for \$875 each. Our review of the manufacturer invoices found that while the manufacturer's list cost was \$875, this vendor received a volume discount on its purchases, effectively lowering the cost of each hearing aid to \$525. Program staff informed us that in cases such as this, the after-discount cost becomes the maximum amount the vendor can charge its clients. Therefore, this vendor did not comply with the Program's policy by charging \$350 (or about 67%) more than what the Program allows.

Although vendors cannot mark up the cost of hearing aids, they are able to charge dispensing and related fees for services such as fitting and adjusting devices, and instructing clients how to use and care for their hearing aids. However, Program policies state that these fees cannot be for more than the amounts stipulated by the Association of Hearing Instrument Practitioners of Ontario and the Ontario Association of Speech-Language Pathologists and Audiologists. While we did not find any instances of non-compliance in this area, we did note wide variations in the dispensing fees being charged by vendors, ranging from \$500 to \$1,200 per hearing aid. In most cases, clients had to pay these fees themselves because the Program only pays up to a maximum of \$500 per hearing aid. Therefore, clients would have to shop around in order to find the best price.

RECOMMENDATION 4

To better ensure that prices for the devices funded by the Assistive Devices Program (Program) are reasonable and keep pace with changes in the market, we recommend that the Ministry of Health and Long-Term Care:

- establish a consistent pricing review model by taking current market prices, manufacturer costs and other factors (such as volume discounts and technological advances) into consideration when updating Program-approved prices;
- collect and retain all documentation to support decisions made relating to device pricing; and
- regularly monitor prices and fees (such as dispensing fees) charged by vendors to ensure compliance with Program policies, protect the interests of the Ministry and clients of the Program, and ensure that clients are treated consistently.

MINISTRY RESPONSE

The Ministry supports this recommendation as it is important to regularly review pricing to ensure Program prices are reasonable. The Ministry will review its pricing review model to ensure it meets this goal.

The Ministry is committed to ensuring that its clients pay fair and competitive prices for the assistive devices they require to lead independent lives. At the same time, the Ministry sets prices that allow appropriate compensation for all approved vendors regardless of size, buying power or geographical locations.

4.2.3 No Changes to Pricing and Funding Criteria despite Significant Increase in Continuous Positive Airway Pressure (CPAP) Devices Funded by the Program and Concerns about Compliance with CPAP Therapy

Approximately 85% of Program funding for the respiratory devices category is for the continuous positive airway pressure (CPAP) device, which is worn at night by an individual with obstructive sleep apnea syndrome, a sleep disorder where an individual repeatedly stops and starts breathing while sleeping. Despite the significant growth in claims for CPAP devices and concerns about compliance issues related to these devices, the Ministry has not made any changes to the funding criteria for CPAP devices.

Based on our review of Program data over the last five years (from 2013/14 to 2017/18), we found a significant growth of claims related to CPAP devices. For example:

- The number of CPAP devices funded by the Program has increased significantly by almost 50% (from about 43,000 devices to over 64,000 devices).
- Program funding has increased by about 22% (from about \$35 million to over \$42 million) even though in 2014 the Ministry reduced the Program-approved price for a CPAP device.
- The OHIP fees paid to sleep clinics and physicians (who work at sleep clinics and are responsible for testing and determining whether individuals require CPAP devices) have increased by approximately 13% (from \$75 million to \$85 million). As discussed in **Section 4.1.6**, we also noted a number of instances where physicians prescribed a significant number of CPAP devices annually and where vendors had the majority of their claims of CPAP devices authorized by the same physician.

We also researched how other jurisdictions in Canada and the United States fund CPAP devices.

We found that eligibility for government financial assistance for CPAP devices varies by province, and Ontario is one of only three provinces that provide co-payment coverage for all eligible individuals regardless of their income level. The other two are Manitoba and Saskatchewan, both of which recently began requiring clients to make a co-payment toward the cost of a CPAP device. The amount of co-payment in these two provinces, \$500 and \$275 respectively, is higher than the \$215 co-payment required from clients in Ontario (which is 25% of the \$860 Program-approved price of a CPAP). While all jurisdictions we researched require that certain medical eligibility be met, such as having moderate to severe sleep apnea that is diagnosed by a physician following a sleep study, we noted the following differences:

- In Alberta, coverage for CPAP devices is only provided for individuals who require social assistance, are severely handicapped, and/or are low-income seniors.
- In British Columbia, coverage for CPAP devices is only provided if an individual can demonstrate financial need and medical necessity.
- In Manitoba, coverage for CPAP devices is available to all individuals who meet medical eligibility criteria. An individual must also meet usage criteria by undergoing a trial period lasting up to 90 days during which the individual has to use the device at least four hours each night 70% of the time. Effective April 23, 2018, the government began requiring individuals to pay a co-payment of \$500 (previously no co-payment was required) to cover the purchase of the device.
- In Ontario, coverage for CPAP devices is available to all individuals who meet medical eligibility criteria. The Ministry covers 75% of the Program-approved price of a CPAP device (\$860) with the individual paying the remaining 25% (except for individuals who are on social assistance, in which case the Ministry pays 100% of the Program-approved price).

- In Saskatchewan, coverage is available to all individuals who meet medical eligibility criteria. Effective October 1, 2017, the government began requiring individuals to pay a fee of \$275 (previously no fee was required) for the loan of a CPAP device (while Saskatchewan uses the term “loan”, this is similar to the purchase of the device given the loan is for the life of the CPAP device). The fee is waived for eligible low-income individuals.
- Under the Medicare/Medicaid program in the United States, funding for CPAP devices is provided to individuals for an initial three-month trial period. In order to obtain further funding, individuals are required to be re-evaluated by a physician to confirm that they are using their devices (which can track usage data) and that their conditions are improving as a result of using the devices.

In the 2016 Ontario Budget, the government announced that the Province would examine funding criteria for CPAP devices to ensure that Program funding is provided for individuals who need it. The Ministry then conducted a review of its funding criteria for CPAP devices. The review found that:

- CPAP clients have less-complex disabilities, are working age, and are better off financially than other Program clients.
- Clinical evidence showed that compliance with CPAP therapy was low (meaning that some clients were not using their devices).

Despite the issues noted by the Ministry, it has not made any changes to the funding criteria for CPAP devices. In fact, it expanded Program funding for CPAP devices to the residents of long-term-care homes in April 2018. The Ministry estimated that this would increase Program expenditure by approximately \$1.3 million per year. Previously, residents of long-term-care homes were not eligible for funding for CPAP devices.

RECOMMENDATION 5

To help ensure that funding for continuous positive airway pressure (CPAP) devices is provided to those individuals who need it the most, we recommend that the Ministry of Health and Long-Term Care analyze how other jurisdictions fund CPAP devices and assess the cost and benefit of providing full funding for the device only after a client has demonstrated compliance with CPAP therapy over a trial period.

MINISTRY RESPONSE

The Ministry supports this recommendation and will undertake a review of funding assistance toward positive airway pressure systems, including considerations around eligibility criteria, use compliance and pricing.

4.3 New Information System Not Fully Utilized

Our review of the Ministry’s information system found that although the system has been in place for almost eight years, it still has not fully addressed some of the Program’s needs effectively because specific important features are either missing, not fully utilized or not yet functional.

When a claim form is received from a vendor through the mail, Ministry staff manually enter into the information system details from it, such as client name, authorizer and vendor numbers, and device(s) being claimed. This information is then used by claims assessors to determine if the claim meets Program criteria for approval. The information system stores these claim details and assessment results, and allows the Ministry to report on Program statistics.

In 2011, the Ministry implemented a new information system to replace its legacy system that was in place at the time of our 2009 audit. This information system was developed internally at a cost of \$7 million and has resulted in a number of improvements, which include:

- improving claim processing times using the system's capability to automatically approve claims when specific criteria are met;
- providing real-time connection with the Ministry's Registered Persons Database to verify if clients are alive and have valid Ontario Health Insurance Plan (OHIP) coverage as required by the Program;
- flagging specific vendors, authorizers and devices so that claims related to them must be manually reviewed and processed even when the criteria for automatic approval are met; and
- running instant reports on claim data (such as the number of devices authorized by a single authorizer and the dollar value of claims made by a vendor) to identify unusual patterns and trends for further analysis and oversight work.

However, the system is still not fully utilized. For instance, it is not being fully used to detect claims made for used devices or payments made to vendors for home oxygen services after a client has died. As well, it is not used to receive claims electronically from vendors, thereby adding to processing times and costs.

4.3.1 Ministry Paying for Resale of Used Devices for Which It Already Paid

The Ministry's information system is not identifying all instances where a claim is being made for a used device (which is generally against Program policy), even though it has the capacity to do this. Program policies require vendors within seven of the 19 device categories to include serial numbers of specific devices on invoices. The primary purpose of this requirement is to ensure that the same device is not funded more than once. Since each specific device has a unique serial number, a serial number being used more than once for the same device typically indicates that a vendor is selling a used or returned device, which is not allowed under Program policies (with the exception of the Central Equipment Pool for High Technology Wheelchairs,

where the Ministry allows the vendor to sell used devices, as discussed in **Section 4.1.7**).

Although the Ministry's information system has a data field for serial numbers, we found that the system is not programmed to conduct an automated check in order to ensure that:

- a serial number has been entered for devices where a serial number is mandatory; and
- a serial number entered has not already been used in a different claim.

We conducted an analysis of all claims paid by the Ministry in 2017/18 and found a number of cases where serial numbers were either missing or were duplicated, as shown in **Figure 9**. For example:

- Almost 2,300 claims (mainly in the mobility, hearing and respiratory device categories) with a total cost of about \$1.5 million were approved and paid for by the Ministry despite having duplicate serial numbers recorded in the system.
- Over 7,500 claims did not have serial numbers (mainly in the visual, mobility, respiratory, communication and hearing aid categories) as required by the Program. In particular, approximately 80% of all claims in the visual and communication aid device categories were without the required serial numbers.

Since the Ministry does not require vendors to submit invoices together with their claims, it is only able to identify vendors that fail to comply with Program policies on not selling used or returned devices through its sample-based vendor review process (see **Section 4.1**). Our review of the vendor reviews found cases where the Ministry approved and paid claims for devices that were subsequently found to have identical serial numbers, which indicated that vendors sold used devices to clients. While the Ministry has recovered from vendors some of the money owing from these cases, it has only conducted vendor reviews on a sample of vendors (on average, 235 out of about 1,200 vendors in the last eight years—see **Section 4.1.1**). Therefore, the Ministry likely has not recovered payments for many of the duplicate claims we identified in **Figure 9**.

Figure 9: Summary of Claims without Serial Numbers and with Duplicate Serial Numbers by Device Category, 2017/18

Source of data: Ministry of Health and Long-Term Care

Device Category	Total # of Claims for Devices Requiring a Serial Number	Claims Without a Serial Number		Claims with Duplicate Serial Number	
		#	%	#	\$
Mobility Devices	62,666	2,348	4	768	531,000
Hearing Devices	77,454	577	1	1,060	564,000
Respiratory Devices	66,195	1,030	2	421	278,000
Visual Aids	3,464	2,784	80	17	4,000
Insulin Pumps and Supplies*	2,538	2	0	14	85,000
Communication Aids	972	772	79	0	–
Total	213,289	7,513	3	2,280	1,462,000

* Insulin pumps and supplies for adults and children are two separate device categories (see Section 2.2 and Appendix 1) but the Ministry combines them when tracking serial numbers.

RECOMMENDATION 6

To better ensure that no duplicate payments are made by the Assistive Devices Program to vendors for used or returned devices, we recommend that the Ministry of Health and Long-Term Care implement controls or automatic checks in its information system to prevent claims from being paid unless a unique serial number has been provided (where required) and entered into the system, and to flag instances where a serial number has already been used.

MINISTRY RESPONSE

The Ministry agrees with this recommendation and has initiated work to update the information system controls and rules required, where applicable, for input of the serial number of a device and to flag for further review instances that may indicate a duplicated serial number. These changes are expected to be implemented by the end of the fourth quarter of 2018/19 and will help with strengthening existing controls.

4.3.2 Ministry Does Not Always Recover Payments Made to Vendors after a Client Has Died

Our 2009 audit noted instances of unreasonably long delays between the date a home oxygen client passed away and the date the Program's record was updated. Our current audit found that this issue has not been fully addressed.

The Ministry's information system is connected with the Registered Persons Database which, among other things, provides proof that a client is still alive. The Ministry informed us that the system conducts a check to ensure a client is alive before a payment is made. However, due to delays between the date of a client's death and the date the Registered Persons Database is updated with this information, some vendors continue to receive payments after a client has passed away until the Registered Persons Database is updated.

The issue of overpayments for deceased clients has been particularly pervasive in the home oxygen device category, as clients often require home oxygen therapy until the end of their lives, and the Ministry pays home oxygen vendors on an ongoing monthly basis.

While some vendors voluntarily notified the Ministry and returned overpayments related to

deceased clients, others did not and only returned overpayments when required to do so as the result of a vendor review process. However, since the Ministry only conducts vendor reviews on a sample of vendors, it likely has not captured all instances of overpayments for deceased clients. We found examples where the Ministry made overpayments to home oxygen vendors and subsequently made recoveries, mainly related to cases where clients had passed away. For example, between 2012/13 and 2017/18, the Ministry recovered approximately \$500,000 from one home oxygen vendor and about \$275,000 from another vendor. Had the Ministry not conducted random reviews of these vendors, it would never have identified these overpayments and the vendors would never have repaid them.

Based on our review of the Ministry's information system and claim data, we found that the system does have a data field that enables Program staff to run a report that identifies all instances of possible overpayments to vendors for deceased clients. In 2017/18, we noted that there were 857 such instances identified in this report generated by the system, representing approximately \$144,000. However, we found that Program staff did not review and follow up on all such instances. We also found that the Ministry still has not fully utilized this feature of the system to identify all overpayments for deceased clients. Instead, it mainly relied on its vendor review process to identify overpayments on a sample basis.

RECOMMENDATION 7

To better ensure that the Assistive Devices Program (Program) identifies and recovers overpayments, we recommend that the Ministry of Health and Long-Term Care require Program staff to regularly run reports that identify all instances of potential overpayments related to clients who have passed away, and follow up with all vendors related to these instances in order to collect overpayments.

MINISTRY RESPONSE

The Ministry agrees that funding related to invalid claims for deceased persons should be actively recovered where appropriate.

The Ministry is enhancing its capacity for generating and reviewing this system data through the involvement of both the verification unit and other program staff and is exploring opportunities for improved reporting.

4.3.3 Ministry Still Only Accepts Hardcopy Claims from Vendors, Resulting in Unnecessary Delays and Potential Errors

The Ministry's information system, which was implemented almost eight years ago, can be upgraded to allow Program staff to accept claims electronically. However, at the time of our audit, the Ministry still only accepted hardcopy (paper) claims delivered by mail or courier (see **Section 2.2**). The Ministry informed us that, in 2018, it started working on changes to its computer system to allow vendors to submit claims electronically. However, we noted that, if this is achieved on schedule, it will not be fully operational until mid-2020, some nine years after the information system was put in place.

Figure 10 provides an illustration of the current paper-based process and how the streamlined electronic process could work. We noted that if the Ministry had implemented the electronic claim submission function earlier, it could have improved the efficiency of the Program's operation sooner because this feature is expected to provide the following benefits:

- allowing Program staff to spend more time on verification work by reducing the amount of time they spend on manually entering claim data into the system (10 out of 49 full-time equivalent Program staff currently enter data from hardcopy claims into the system as their primary role, as shown in **Figure 5**);

Figure 10: Comparison of Steps to Access Assistive Devices Program—Current Paper-Based Process vs Streamlined Electronic Process

Prepared by the Office of the Auditor General of Ontario

Current Paper-based Process ¹	
1.	Client is diagnosed with an illness or condition, and is referred to an authorizer
2.	Authorizer confirms client's eligibility for a device(s) and completes hardcopy application for client to take to a vendor
3.	Client brings application form from authorizer to the vendor. Client and vendor select device(s) suitable for client's needs
4.	Vendor completes hardcopy application and mails it to the Ministry
5.	Ministry's data entry staff enter information from hardcopy application into computer system
6.	Ministry staff adjudicate application, and notify vendor by mail if application approved
7.	Vendor submits specific information on the device(s) to the Ministry's finance department
8.	Ministry pays the vendor
9.	Client pays 25% portion of the device cost (if applicable) to the vendor and receives the device ²
Possible Streamlined Electronic Process	
1.	Client is diagnosed with an illness or condition, and is referred to an authorizer
2.	Authorizer confirms client's eligibility for a device(s) and sends relevant information electronically to the Ministry
3.	Client and vendor select device(s) suitable for client's needs
4.	Vendor submits application, including device-specific information, electronically to the Ministry
5.	Ministry receives, processes and adjudicates application electronically
6.	Ministry pays the vendor
7.	Client pays 25% portion of the device cost (if applicable) to the vendor and receives the device ²

1. See Section 2.2 for detailed steps to access the Program under the current paper-based process.

2. In some cases, vendors choose to provide the device, or a loaner device, to the client in advance of receiving payment from the Ministry. However, they are not required to do so.

- providing automated system checks to ensure all mandatory claim information is entered before a claim submission is accepted; and
- improving data accuracy and reliability by requiring vendors to enter information directly and reducing manual data-entry errors.

In addition to the above benefits, we noted that there are further areas of possible improvement the Ministry did not include in its implementation plan. For example:

- The Ministry currently requires a vendor to submit a claim form on behalf of a client and an authorizer. Electronic claim submission will provide an opportunity for the Ministry to collect more reliable claim details by requiring authorizers and vendors to independently submit their respective claim details to the Ministry electronically.

- The Ministry currently does not collect any supporting documents (such as assessment notes, invoices and proof of payment) along with the claim form. Electronic claim submission will provide the Ministry with an opportunity to prevent ineligible claims from being approved and paid by requesting authorizers and vendors to submit pertinent supporting documentation electronically.

RECOMMENDATION 8

To improve the operational efficiency of the Assistive Devices Program (Program), we recommend that the Ministry of Health and Long-Term Care:

- assess the feasibility of requiring vendors and authorizers to separately submit claims and supporting documentation electronically to

enhance compliance with Program policies and procedures; and

- monitor the status of its project to implement electronic claim submissions to ensure implementation meets the schedule without delay.

MINISTRY RESPONSE

The Ministry agrees with the recommendation to closely monitor the status of the current project to implement electronic claim and invoice submission by mid-2020 in order to improve Program efficiency. As a second phase, once the electronic claim submission project is implemented, the Ministry will review the impact to stakeholders and the feasibility of implementing a system open to all users to submit the required information independently, thereby increasing and enhancing rigor and compliance.

4.4 Measurement and Reporting of Program Performance Needs Improvement

The Ministry measures the performance of the Program according to two criteria:

- whether claims processing times meet an eight-week target; and
- the results of client satisfaction surveys.

Our review of these measures found that the target time for processing claims was not consistently met across all device categories, and there was not sufficient feedback from client satisfaction surveys to conclude on Program performance. The Ministry has not publicly reported on its claim processing times against the eight-week target and the client satisfaction survey results.

4.4.1 Clients Wait for Devices While Ministry Takes More than Eight Weeks to Process Almost Half of All Claims

Over the last five years, the average claim processing time in a number of device categories has

improved. (Processing time covers the period from the Ministry receiving the claim to when it mails the vendor a notice saying whether the claim has been approved. It does not include the time the Ministry takes to process payment to the vendor.) However, the eight-week claim processing target set by the Ministry has not been met consistently in all device categories, as seen in **Figure 11**. We found that in 2017/18:

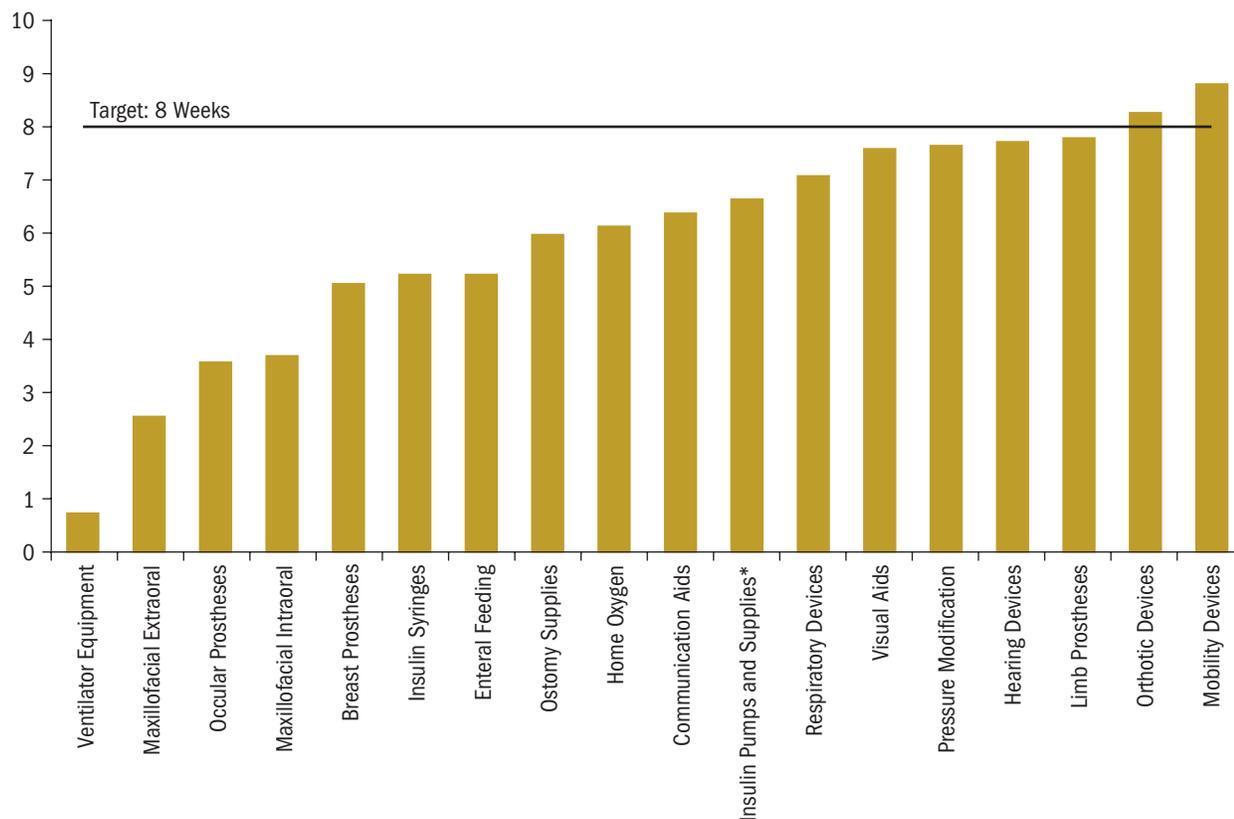
- Overall, 46% of claims took over eight weeks to process.
- Of the 18 device categories, the average claim processing time for 16 categories was within the eight-week target while the remaining two (mobility and orthotic devices, which account for approximately 30% of all paid claims) were between eight and nine weeks.
- Claim processing times varied significantly by device category, with ventilator equipment having the shortest claim processing time of about five days, and mobility devices having the longest claim processing time at almost nine weeks.

The Ministry informed us that most claims that took longer than eight weeks to process required further review by Program staff, or were incomplete, resulting in additional time spent on correspondence between the Ministry and vendors to obtain additional claim details. As well, we noted that the Ministry's continuing use of hardcopy documents sent via the mail rather than electronic communication adds time to the process (see **Section 4.3.3**). During this time, clients are waiting for the assistive device they need, unless the device vendor agrees to provide the device before receiving Ministry approval, or lends a device temporarily. (We also note that the eight-week processing time begins when the Ministry receives the claim from the vendor. From the client's perspective, the wait time is longer: there is also the additional time it takes the hardcopy claim to be delivered from the vendor to the Ministry via mail or courier.)

Stakeholder groups we contacted (including the Canadian National Institute for the Blind, Ontario

Figure 11: Average Claim Processing Time by Device Category in Weeks, 2017/18

Source of data: Ministry of Health and Long-Term Care



* The Program funds 19 device categories (see Section 2.1 and Appendix 1), but this figure only shows 18 categories because insulin pumps and supplies for adults and children are treated as two separate device categories but the Ministry combines them for the purpose of measuring claim processing times.

Association of Prosthetists and Orthotists, Diabetes Canada, and Canadian Assistive Devices Association) also expressed concerns about lengthy claim processing times and recommend that the Ministry implement an electronic application process to save time and costs associated with submitting paper claims forms.

RECOMMENDATION 9

To improve claim processing times of the Assistive Devices Program (Program), we recommend that the Ministry of Health and Long-Term Care review the Program's claim approval, invoicing and payment processes to identify ways of simplifying and modernizing its current manual process (such as introducing an electronic online claim application and invoicing system).

MINISTRY RESPONSE

The Ministry reviewed the current processes for claims and invoices when it was scoping the electronic submissions project. It was determined that the long wait time for an approval was mainly due to the mailing and manual data entry function required with paper claims. Once the claim was entered into the system, the approval in the majority of cases was automatic and immediate. As noted in this audit, by ensuring the implementation schedule is met for electronic submission of claims, the Ministry will be able to substantially improve the claims processing timelines.

4.4.2 Ministry Conducts Client Satisfaction Survey but Methodology Needs Improvement

The Ministry conducts client satisfaction surveys every two to three years. It chooses a random selection of clients across all device categories to whom it sends a survey. However, we noted that the survey methodology could be improved to better measure client satisfaction.

Based on our review of the two most recent surveys, conducted in 2016 and 2018, we noted that the Ministry has made improvements to its surveys since our 2009 audit. For example, it began tracking satisfaction according to device category, and it included demographic questions related to the client's employment status and income, thereby gaining a better profile of the people making claims, which can help in future decision-making. The results of the 2018 survey also showed clients were satisfied with the Program. For example:

- When asked about overall satisfaction with their device, 94% of clients surveyed indicated they were satisfied.
- When asked how their device has impacted their daily living activities, 82% of clients surveyed indicated their device improved their ability to perform these activities.
- When asked how clients felt about the length of time they had to wait to get their device, 91% of clients surveyed indicated it was about right or shorter than expected.

However, we noted a number of shortcomings in the survey methodology where improvements could be made to better measure client satisfaction. For example:

- The number of surveys sent was not in proportion to the number of clients in each device category, meaning that it did not reflect the claim volume or value of each device category. For example, in 2017/18, there were approximately 6,000 visual aid clients (who accounted for \$3 million in claims) and 70,000 mobility device clients

(who accounted for \$124 million in claims). However, approximately 150 surveys were sent to clients in each of these categories even though mobility devices accounted for almost 12 times more clients and 40 times greater claim payments than did visual aid devices.

- As part of the 2018 survey, the Ministry only sent surveys to approximately 2,500 clients out of about 405,000 clients (representing only about 0.2% of clients in 2017/18), with only about 850 clients responding. We noted a similar shortcoming with the previous survey, which was sent to 2,200 clients out of about 366,000 clients (representing only about 0.2% of clients in 2015/16), with just under 800 clients responding. The results of the 2018 survey showed that 94% of clients were satisfied with their devices. However, the survey results may not be representative given the small sample of clients surveyed and responding.
- The Ministry engaged a third party at a cost of approximately \$50,000 to conduct the 2018 client satisfaction survey, whereas Program staff conducted previous surveys. Although a third party may have more experience and be better equipped to conduct a survey, we question whether the Ministry has achieved value for money given the limited sample of clients surveyed.

RECOMMENDATION 10

To better ensure that the results of client satisfaction surveys accurately measure the performance of the Assistive Devices Program (Program) and provide value to the Program, we recommend that the Ministry of Health and Long-Term Care review the survey methodology used and make necessary changes to improve the representativeness of survey results (such as by increasing the sample size of clients being surveyed and selecting a representative number of

clients to participate in the survey based on the volume and value of claims by device category).

MINISTRY RESPONSE

The Ministry supports this recommendation and will work with partners to ensure that survey methodology, sampling and reporting are reviewed and updated to ensure that meaningful data are available to assist in the support of operational program improvements and updates.

Appendix 1: Device Categories and Expenditures under the Assistive Devices Program, 2017/18

Prepared by the Office of the Auditor General of Ontario

Device Category	Example(s) of Devices	Main Reason(s) for Need	Program Expenditures (\$ million)
Breast Prostheses	External silicone breast prosthesis (artificial breast)	Loss of a breast(s), such as from cancer	1.4
Communication Aids	Voice prostheses (speech generating device); computers with adaptive software, such as word prediction and voice dictation	Individuals who are unable to speak or write, such as those with cerebral palsy, amyotrophic lateral sclerosis (ALS) or traumatic brain injury	1.6
Enteral Feeding Pump and Supplies	Electronic medical device that controls the timing and amount of nutrition delivered to an individual	Patients who cannot attain an adequate oral intake from food and/or oral nutritional supplements, or who cannot eat/drink safely	8.6
Hearing Devices	Hearing aids, cochlear implant replacement speech processors	Hearing loss	83.1
Home Oxygen	Oxygen delivery system (e.g., oxygen concentrator and cylinders)	Chronic obstructive pulmonary disease (COPD), which is a lung disease primarily caused by smoking	122.1
Insulin Pumps and Supplies for Adults	Insulin pump and supplies	Type 1 diabetes	46.7
Insulin Pump and Supplies for Children	Insulin pump and supplies	Type 1 diabetes	
Insulin Syringes for Seniors	Insulin syringes and needles used to inject insulin	Seniors who need to inject insulin every day to help manage their diabetes	6.9
Limb Prostheses – Conventional and Externally Powered	Conventional upper and lower artificial limb, and externally powered upper artificial limb	Loss of limb	15.0
Maxillofacial Prostheses – Extraoral	A device that is required as an external substitute for a partially or totally absent facial part. Examples of devices are auricular (ear) prostheses and nasal (nose) prostheses	Individuals with conditions such as skin cancer and head and neck cancer	0.3
Maxillofacial Prostheses – Intraoral	A removable device placed in the mouth to substitute for partially or totally absent tissues or for impaired function of the oral region. Examples of devices are obturators and mandibular extensions	Individuals with conditions such as oral cancer, cleft palate and sleep apnea	0.6
Mobility	Manual and power wheelchairs, power scooters, wheeled walkers	Inability or difficulty to walk/ambulate	124.0

Device Category	Example(s) of Devices	Main Reason(s) for Need	Program Expenditures (\$ million)
Ocular Prostheses	Custom-fabricated ocular prostheses (artificial eye) and scleral lens prostheses	Loss of an eye	7.6
Orthotic Devices	Cranial orthoses (helmet), spinal orthoses (back brace), lower extremity orthoses (knee brace)	Weak muscles and/or joints	18.0
Ostomy Supplies	Any supply that aids in the collection of fecal or urinary waste that usually empties into a pouch attached to the abdomen. Examples of supplies include ostomy pouches and flanges	Bowel or bladder cancer, inflammatory bowel disease	21.9
Pressure Modification Devices	Lymphedema management devices, such as compression garments and sequential extremity pumps Hypertrophic scar garments/orthoses	To reduce the symptoms of lymphedema, which is a condition of localized fluid retention and tissue swelling caused by a compromised lymphatic system To prevent the formation of excessive hypertrophic scarring on individuals who have sustained a burn to their body	3.2
Respiratory Devices	Continuous positive airway pressure system (CPAP)	Obstructive sleep apnea syndrome, which is a sleep disorder when a person's breathing is interrupted	52.7
Ventilator Equipment and Supplies	Mechanical ventilators, cough assist devices (for airway clearance) and oxygen saturation monitors (used to monitor blood oxygen levels in infants and children)	Individuals who require mechanical assistance to breathe, such as those with amyotrophic lateral sclerosis (ALS), muscular dystrophy, or chronic obstructive pulmonary disease (COPD)	1.7
Visual Aids	Specialized glasses or magnifiers, Braille devices, white canes	Blindness or low vision	3.2
Total			513.6

Appendix 2: Audit Criteria

Prepared by the Office of the Auditor General of Ontario

1. Claims should be processed on a timely basis and should only be approved for authorized devices and supplies to eligible individuals. Claim payments should be calculated accurately and supported by appropriate documentation.
2. Claim verification and review activities should be risk-based, regularly conducted, and clearly documented to ensure legitimacy and accuracy of claims. Any concerns arising from these activities should be followed up on in a timely fashion and appropriate corrective action should be taken when needed.
3. Authorizers and vendors registered with the Program should be reviewed regularly to ensure that they are in compliance with applicable policies and are eligible to receive funding from the Program in providing efficient and cost-effective services. Any concerns arising from the review should be followed up on in a timely fashion and appropriate corrective action should be taken when needed.
4. Pricing of devices and supplies should be supported by research and should be regularly reviewed and updated to ensure that the prices are reasonable and economical.
5. Performance measures and targets should be established and monitored against actual results to ensure that the intended outcomes are achieved and that corrective actions are taken on a timely basis when issues are identified.

Appendix 3: Summary of Previous Relevant Recommendations and Implementation Status

Prepared by the Office of the Auditor General of Ontario

Our 2011 Follow-Up on Implementation Status of 2009 Audit Recommendation ²	Relevant Findings from 2018 Audit
<p>Our 2009 Audit Recommendations¹</p> <p>To ensure that the cost of equipment paid for by the Ministry and its clients is competitively priced, the Ministry of Health and Long-Term Care should:</p> <ul style="list-style-type: none"> • conduct regular pricing reviews for each device category and update Program-approved prices accordingly; and • take volume discounts and technological advances into consideration when updating Program-approved prices. 	<ul style="list-style-type: none"> • Device pricing reviews not conducted consistently and effectively according to guidelines (see Section 4.2.1) • No monitoring of reasonableness of mark-ups and fees charged by vendors (see Section 4.2.2)
<p>To ensure that funding for home oxygen is provided only to individuals who require it for medical reasons, the Ministry of Health and Long-Term Care should:</p> <ul style="list-style-type: none"> • assess whether more stringent vendor oversight is required to ensure that the required periodic assessment tests are being appropriately conducted and reported, or, alternatively, consider the practicality of having independent respiratory therapists perform eligibility assessments, rather than vendors' staff; and • establish procedures and assign clear responsibility for discontinuing home oxygen supply to clients who no longer meet the medical eligibility criteria. 	<ul style="list-style-type: none"> • Home oxygen pricing not reflective of actual cost of serving clients (see Section 4.2.2) • Ministry does not always recover payments made to vendors after a client has died (see Section 4.3.2)
<p>To ensure that Assistive Devices Program funding for devices and supplies is provided only to individuals who are eligible for it, the Ministry of Health and Long-Term Care should:</p> <ul style="list-style-type: none"> • identify and investigate abnormal claim patterns through regular reviews; and • take action to deter authorizers or vendors that are suspected of abusing or misusing program funding, including suspending their registration with the Program and bringing the matter to the attention of the appropriate regulatory college or professional association where professional misconduct is suspected. 	<ul style="list-style-type: none"> • Limited proactive and rigorous review of unusual claim patterns and trends (see Section 4.1.6) • Ministry paying for resale of used devices for which it already paid (see Section 4.3.1)

Our 2009 Audit Recommendations ¹	Our 2011 Follow-Up on Implementation Status of 2009 Audit Recommendation ²	Relevant Findings from 2018 Audit
<p>To more effectively identify abuses, recover overpayments, and deter misconduct, the Ministry of Health and Long-Term Care should:</p> <ul style="list-style-type: none"> expand its efforts and resources to better monitor vendors' and authorizers' compliance with program policies and procedures; take timely corrective action to terminate agreements with vendors and authorizers who have clearly violated program policies; work with the Ministry's Accounting Policy and Financial Reporting Branch to elevate staff risk-awareness and risk-assessment skills; and where there is clear evidence of potential misconduct, report its concerns to the appropriate regulatory associations or colleges, which are responsible for ensuring the public is protected. 	<ul style="list-style-type: none"> The Ministry provided risk management and fraud awareness training sessions in September 2010 to Program staff, and additional risk management training for new staff was scheduled in July 2011. The Ministry will offer other training in future on an ongoing basis to provide Program staff with specific learning and training opportunities to improve verification and claims review. 	<ul style="list-style-type: none"> Despite significant overpayments to vendors for ineligible claims, Ministry reduced oversight staff (see Section 4.1.1) Ministry does not regularly follow up on vendors previously found to have submitted ineligible claims (see Section 4.1.2) Staff not adequately trained to detect possible misconduct or fraud (see Section 4.1.5)
<p>To deter potential conflict of interest as well as the misuse and abuse of program funding, the Ministry of Health and Long-Term Care should:</p> <ul style="list-style-type: none"> more closely monitor vendor billing patterns and, particularly when claims have increased dramatically, consider investigating the various parties for evidence of inappropriate authorizing or billing practices; terminate agreements with vendors and authorizers who breach the Program's conflict of interest policies; and inform the appropriate regulatory college or professional association of any health-care professionals whose behaviour or practices put the public at risk of harm. 	<ul style="list-style-type: none"> The Ministry strengthened its conflict of interest policy, which specified the process leading up to suspension and/or termination of contracts with vendors and authorizers after the Program identified a breach of contract. The Ministry launched a new information system in June 2011 to detect abnormal claim patterns by generating regular reports on claim patterns, authorizer-vendor links, and patterns within device categories. The Ministry indicated that matters related to fraudulent billings by vendors had been referred to the Ontario Provincial Police. 	<ul style="list-style-type: none"> Limited proactive and rigorous review of unusual claim patterns and trends (see Section 4.1.6) Ministry recovered almost nothing from vendors suspected of abusing the Program (see Section 4.1.8) Home oxygen clients may not be offered a choice of vendors due to profit-sharing arrangement between vendor and hospitals that the Ministry continues to allow (see Section 4.1.9)

2011 Recommendations of Standing Committee on Public Accounts (Committee)	Our 2011 Follow-Up on Implementation Status of 2011 Committee's Recommendation ³	Relevant Findings from 2018 Audit
<p>To examine what progress the Ministry has made in capturing volume discounts while still addressing issues related to providing equitable access to the Program across Ontario. If the Ministry is not yet capturing these discounts, it should explain to the Auditor its plan for doing so, including a timeline.</p>	<ul style="list-style-type: none"> The Ministry reviewed and updated Program-approved prices in several categories (including computer systems, mobility devices, orthotics, and ocular prostheses) and conducted similar reviews of other high-volume, high-cost devices. The Ministry expected to complete a review of all device categories by summer 2012 in order to identify ways to capture volume discounts. The Ministry indicated that it would in future conduct ongoing pricing reviews. 	<ul style="list-style-type: none"> Device pricing reviews not conducted consistently and effectively according to guidelines (see Section 4.2.1) No monitoring of reasonableness of mark-ups and fees charged by vendors (see Section 4.2.2)
<p>To assess whether the Ministry is conducting inter-jurisdictional price comparisons in major device categories besides home oxygen pricing. The Ministry should, for example, provide documentation of price comparisons made for various device groups.</p>	<ul style="list-style-type: none"> The Ministry reviewed and updated Program-approved prices in several categories (including computer systems, mobility devices, orthotics, and ocular prostheses) and conducted similar reviews of other high-volume, high-cost devices. The Ministry expected to complete a review of all device categories by summer 2012 in order to identify ways to capture volume discounts. The Ministry indicated that it would in future conduct ongoing pricing reviews. 	<ul style="list-style-type: none"> Device pricing reviews not conducted consistently and effectively according to guidelines (see Section 4.2.1) No monitoring of reasonableness of mark-ups and fees charged by vendors (see Section 4.2.2)
<p>To determine whether the Ministry is meeting its deadlines for implementation of its new IT system and whether the new system is helping to reduce the amount of time required to process applications.</p>	<ul style="list-style-type: none"> The Ministry continued to recover overpayments from home oxygen vendors that continued to bill the Ministry after a client had died. The Ministry indicated that discontinuation of oxygen therapy is the responsibility of the client's physician and is based on the physician's assessment of a client's medical needs. The Ministry developed a policy that required regular reviews of claims and claim patterns for all device types. The Ministry launched a new information system in June 2011 to detect abnormal claim patterns by generating regular reports on claim patterns, authorizer-vendor links, and patterns within device categories. The Ministry identified and investigated unusual claim patterns, and tested claims samples from all device categories. The Ministry strengthened its conflict-of-interest policy, which specified the process leading up to suspension and/or termination of contracts with vendors and authorizers after the Program identified a breach of contract. The Ministry indicated that matters related to fraudulent billings by vendors had been referred to the Ontario Provincial Police. 	<ul style="list-style-type: none"> Ministry still only accepts hardcopy claims from vendors, resulting in unnecessary delays and potential errors (see Section 4.3.3)

2011 Recommendations of Standing Committee on Public Accounts (Committee)	Our 2011 Follow-Up on Implementation Status of 2011 Committee's Recommendation ³	Relevant Findings from 2018 Audit
<p>To determine whether the Program met its January 2011 deadline to begin making progress on eliminating its claims backlog and also determine the Program's progress in achieving its targeted six to eight week processing timeframe.</p>	<ul style="list-style-type: none"> The Ministry began to track claim processing times in September 2010 and found that since March 2011 claims for major device categories were processed within the approved service standard of six to eight weeks. 	<ul style="list-style-type: none"> Clients wait for devices while Ministry takes more than eight weeks to process almost half of all claims (see Section 4.4.1)
<p>To assess whether the Ministry has implemented strengthened procedures to prevent and detect potential program abuses through increased auditing and monitoring of vendors and vendor billing patterns.</p>	<ul style="list-style-type: none"> The Ministry developed a policy that required regular reviews of claims and claim patterns for all device types. The Ministry launched a new information system in June 2011 to detect abnormal claim patterns by generating regular reports on claim patterns, authorizer-vendor links, and patterns within device categories. The Ministry identified and investigated unusual claim patterns, and tested claims samples from all device categories. The Ministry provided risk management and fraud awareness training sessions in September 2010 to Program staff, and additional risk management training for new staff was scheduled in July 2011. The Ministry will offer other training in future on an ongoing basis to provide Program staff with specific learning and training opportunities to improve verification and claims review. The Ministry strengthened its conflict-of-interest policy, which specified the process leading up to suspension and/or termination of contracts with vendors and authorizers after the Program identified a breach of contract. The Ministry indicated that matters related to fraudulent billings by vendors had been referred to the Ontario Provincial Police. 	<ul style="list-style-type: none"> Despite significant overpayments to vendors for ineligible claims, Ministry reduced oversight staff (see Section 4.1.1) Ministry does not regularly follow up on vendors previously found to have submitted ineligible claims (see Section 4.1.2) Staff not adequately trained to detect possible misconduct or fraud (see Section 4.1.5) Limited proactive and rigorous review of unusual claim patterns and trends (see Section 4.1.6) Ministry recovered almost nothing from vendors suspected of abusing the Program (see Section 4.1.8) Home oxygen clients may not be offered a choice of vendors due to profit-sharing arrangement between vendor and hospitals that the Ministry continues to allow (see Section 4.1.9) Ministry paying for resale of used devices for which it already paid (see Section 4.3.1) Ministry does not always recover payments made to vendors after a client has died (see Section 4.3.2)

1. We selected and focused on our 2009 audit recommendations that are applicable and relevant to our 2018 audit.

2. We summarized key Ministry responses to our 2011 follow-up on the implementation status of our 2009 audit recommendations.

3. In March 2010, the Standing Committee on Public Accounts (Committee) held hearings on our 2009 audit and expressed similar issues we had identified. In August 2010, the Chair of the Committee wrote to the Deputy Minister, listing the Committee's specific concerns. In November 2010, the Ministry was called back for a follow-up hearing, and the Committee issued a report in May 2011. One of the Committee's recommendations asked our Office to follow up on its five areas of concern as noted above. Accordingly, as part of our follow-up work in 2011, we also reviewed the status of Ministry actions to address the Committee's concerns.

Appendix 4: Summary of Assistive Devices Programs in Canadian Provinces

Prepared by the Office of the Auditor General of Ontario

Province	Programs	Funding for Devices	Examples of Covered Devices	Main Eligibility Criteria
Alberta	Alberta Aids to Daily Living (AADL)	<ul style="list-style-type: none"> Funded, cost shared, some equipment is from pool (not new) Clients pay 25% of cost to maximum of \$500 per year Cost share may be exempt for those with low incomes, are temporarily in extraordinary circumstances or for those requiring hearing aid Seniors who receive prosthetic, orthotic, mastectomy prosthesis and eye prosthesis benefits through AADL program receive these at no cost Not eligible if receiving benefits from another government, or insurance program (if not available from other program AADL may pay) 	<ul style="list-style-type: none"> Back and abdominal supports Bathing and toileting equipment Custom-made footwear Hearing aids and FM systems Homecare beds and accessories Patient lifters Prosthetic devices Shoe elevations Specialized seating devices Speech generating communication devices Walkers and walking aids Wheelchairs – manual and power 	<ul style="list-style-type: none"> Resident with Alberta Health Care Insurance Plan card Require assistance because of a long-term disability, chronic illness or terminal illness Not eligible if receiving benefits from another government, or insurance program
British Columbia	Employment and Assistance (BCEA) Program: Medical Equipment and Devices	<ul style="list-style-type: none"> Either fully funded or co-pay Ministry is payer of last resort For income assistance and disability assistance clients, other resources may include other government programs or funding sources (for example, WorkSafeBC, Veterans Affairs Canada), private insurance, publicly subsidized residential care facilities (when it is the client's place of residence) Co-funding may be considered when other resources, such as insurance, cannot pay the entire cost Must have no resources available from the family unit for equipment 	<ul style="list-style-type: none"> Canes, crutches, walkers Manual and power wheelchairs, wheelchair seating systems, scooters Toileting, transfers, and positioning aids Hospital beds and related items, pressure relief mattresses Floor or ceiling lift devices Hearing instruments 	<ul style="list-style-type: none"> Must be eligible for general health supplements Financial eligibility to receive assistance (some assets are exempt) <ul style="list-style-type: none"> 18+ years old Have severe physical or mental impairment expected to continue for more than two years Must be eligible for general health supplements Recipient involved in ministry-approved training or who, in opinion of Supervisor, requires instrument to obtain employment and where failure to provide represents a direct barrier to employment
	Employment and Assistance (BCEA) Program: Medical Equipment – Hearing Instruments			

Province	Programs	Funding for Devices	Examples of Covered Devices	Main Eligibility Criteria
Manitoba	Employment and Assistance (BCEA) Program: Medical Equipment – Orthoses		<ul style="list-style-type: none"> Ankle brace Cranial helmet Footwear – various Hip brace Knee brace Torso or spine brace Upper extremity brace 	<ul style="list-style-type: none"> Must be eligible for general health supplements Item is required for one or more of following purposes: <ul style="list-style-type: none"> to prevent surgery for post-surgical care to assist in physical healing from surgery, injury or disease
	Employment and Income Assistance (EIA) for Persons with Disabilities	<p>Supplied from pool, if device unavailable, can be purchased</p> <ul style="list-style-type: none"> Devices are funded, but up to guideline amounts Devices not being paid by other programs (for example, Home Care or other plans) 	<ul style="list-style-type: none"> Hearing aids Medical equipment and supplies Mobility equipment (devices) not covered by other programs Phones for health or safety reasons Prosthetic and orthotic devices 	<ul style="list-style-type: none"> Must be 18+ Live in Manitoba Have a mental or physical disability that is likely to last more than 90 days and keeps person from earning enough money to pay for basic needs In financial need – total cost of monthly needs and shelter cost more than financial resources
	Manitoba Community Wheelchair Program	<p>Provided on a long-term loan from a pool</p> <ul style="list-style-type: none"> May order new chair if unavailable from pool for Employment and Income Assistance program Option to self-purchase limited selection of additional parts 	<ul style="list-style-type: none"> Manual and motorized wheelchairs 	<ul style="list-style-type: none"> Must be a resident of Manitoba with Manitoba Personal Health Identification Number Have physical disability affecting mobility Requires a wheelchair for a minimum of 6 months
	Insured Benefits Ancillary Programs – Prosthetic and Orthotic Program	<p>Funded</p> <ul style="list-style-type: none"> Costs not being paid through other provincial or federal programs 	<ul style="list-style-type: none"> Limb and spinal orthotic devices Limb prosthetic devices 	<ul style="list-style-type: none"> Must be Canadian citizen or have immigration status (as outlined in the <i>Health Services Insurance Act</i>) Resident of Manitoba and resides in Manitoba for six months a year
	Insured Benefits Ancillary Programs – Telecommunications Program	<p>Funded, partially</p> <ul style="list-style-type: none"> 80% of cost covered to maximum of \$428 \$75 deductible Costs not being paid through other provincial or federal programs 	<ul style="list-style-type: none"> Telecommunications equipment that allows telephone conversation via keyboard and terminal displa 	<ul style="list-style-type: none"> Must be Canadian citizen or have immigration status (as outlined in the <i>Health Services Insurance Act</i>) Resident in Manitoba and resides in Manitoba for six months a year Profoundly deaf or speech impaired

Province	Programs	Funding for Devices	Examples of Covered Devices	Main Eligibility Criteria
New Brunswick	Convalescent/ Rehabilitation Program	Loaned from a pool for as long as needed, or funded fully/purchased if unavailable from pool <ul style="list-style-type: none"> Devices are owned by government and recycled and provided by Easter Seals Devices and services must not be covered by other agencies or private health insurance plans 	<ul style="list-style-type: none"> Canes, crutches, walkers, gait trainers Raised toilet seats, commodes Tub transfer bench, bath benches and chairs, hand held showers, bath lifts, shower commodes Hospital beds Manual wheelchairs Power wheelchairs Four-wheeled scooters 	<ul style="list-style-type: none"> Individuals who have special health needs and qualify for assisted health care (Section 4.4 of the <i>Family Income Security Act</i> and Regulations) Clients must have a valid white or yellow Health Services Card
	Wheelchair/Seating Program		<ul style="list-style-type: none"> Hearing aids - various Specific custom fitted braces and supports Custom made braces Therapeutic and orthopedic footwear 	
	Hearing Aid Program	Funded, fully	<ul style="list-style-type: none"> Limb prostheses (arm, leg, foot) Ocular prostheses (artificial eye) Breast prostheses and one bra 	
	Orthopedic Program	Devices and services must not be covered by other agencies or private health insurance plans		
	Prosthetic Program			
Newfoundland and Labrador	Special Assistance Program – Medical Equipment and Supplies	Funded, fully or cost shared <ul style="list-style-type: none"> Fully funded on home support or income support, otherwise contribution is based on financial needs 	<ul style="list-style-type: none"> Basic medical supplies and equipment for activities of daily living in the community Orthotics such as braces Wheelchairs, commodes or walkers, bathroom aids, prosthetics and orthotics 	<ul style="list-style-type: none"> There is a financial needs requirement Devices must be needed for a minimum of three months
	Income Support – Hearing Aid program	Devices are supplied	<ul style="list-style-type: none"> Hearing Aids 	<ul style="list-style-type: none"> Students over age 17 attending secondary or postsecondary schools full time Adults certified by the Department of Advanced Education and Skills as unable to pay

Province	Programs	Funding for Devices	Examples of Covered Devices	Main Eligibility Criteria
Nova Scotia	Disability Support Program	Funded	<ul style="list-style-type: none"> Special request devices (for example, special clothing for mobility needs, orthotics, hearing aids and batteries) 	<ul style="list-style-type: none"> Applicants must have a valid Nova Scotia health card 19 years or older (with exceptions) Demonstrated financial need Must also have an intellectual disability, an acquired brain injury, a long-term mental illness or a significant long-term physical disability
Ontario	Assistive Devices Program	Cost shared <ul style="list-style-type: none"> Pay up to 75% of cost of equipment such as artificial limbs, orthopaedic braces, wheelchairs Cover fixed amount for hearing aids 	<ul style="list-style-type: none"> Program covers over 8,000 pieces of equipment or supplies such as mobility aids, hearing aids and other devices 	<ul style="list-style-type: none"> Ontario resident with valid Ontario health card Have physical disability of six months or longer (income is not considered) There are specific eligibility criteria that apply to each device category
Prince Edward Island	Disability Support Program	Funded, cost shared <ul style="list-style-type: none"> Recycled devices considered before new devices are funded. If a recycled device is not available then two quotes are needed. There are limits to the frequency of purchases of the devices The program is co-paid by the client based on level of income and level of functioning. There is also a funding limit which is based on level of functioning 	<ul style="list-style-type: none"> Mobility aids Bathroom aids Communication devices Hearing aids Prosthetics and orthotics Visual aids 	<ul style="list-style-type: none"> A resident of PEI, under age 65, and disabled

Province	Programs	Funding for Devices	Examples of Covered Devices	Main Eligibility Criteria
Quebec	<p>Aides Techniques: Program for the Attribution of Walkers</p>	<p>Lent to the individual</p> <ul style="list-style-type: none"> No rental costs, is a 'no fee to the user' system 	<ul style="list-style-type: none"> The program covers walkers with a list of mandatory characteristics 	<ul style="list-style-type: none"> 18+, have a disability in any organic system that will result in a significant and persistent impairment, have a locomotion impairment, have sufficient strength in the upper limb to use the brakes effectively, and be autonomous to safely use the walker
	<p>Aides Techniques: Program for the Attribution of Orthotic Footwear and Footwear Gear</p>	<p>Depending on the needs, some fees may apply</p> <ul style="list-style-type: none"> Orthotic shoe: \$75 deductible Commercial shoe adaptation/modification: Shoe fees to be covered by the user Adapted footwear cover: No deductible 	<ul style="list-style-type: none"> The program covers some footwear and feet orthotics 	<ul style="list-style-type: none"> Must have a disability and have congenital or growth abnormalities or secondary deformities as the result of an organic or neurological disease Disabilities must result in a walking impairment that can only be accommodated with the daily use of an orthotic shoe
	<p>Aides Techniques: Program for Aids of Daily Living</p>	<p>Lent to the users</p> <ul style="list-style-type: none"> No rental costs, is a 'no fee to the user' system 	<ul style="list-style-type: none"> The program covers various devices listed under different categories, such as devices used in the bedroom, washroom, and kitchen 	<ul style="list-style-type: none"> Must have motor, organic, intellectual or significant and persisting disabilities Individuals are not admissible if they are covered by other programs; live in publicly funded residences; or are palliative-care patients
	<p>Aides Techniques: Program for the Attribution of Three- and Four-wheeled Scooters</p>	<p>Funded</p>	<ul style="list-style-type: none"> Since there is a wide range of equipment offered on the market, there are no lists of the covered devices 	<ul style="list-style-type: none"> Must be 18+ and have a significant and persistent disability that impairs walking and getting around in a manual wheelchair Must live at home or in a group home with fewer than nine residents Must not be able to walk more than 30 metres, be able to transfer independently, and have the visual, perceptual, cognitive and physical capacity to drive the scooter Must not require a specialized cushion and the condition must be permanent.

Province	Programs	Funding for Devices	Examples of Covered Devices	Main Eligibility Criteria
Saskatchewan	Saskatchewan Aids to Independent Living (SAIL): Prosthetics and orthotics program	Funded, cost shared or supplied <ul style="list-style-type: none"> Must not be eligible to receive service from any other government agency. 	<ul style="list-style-type: none"> Orthotics Prosthetics Adaptive and specialized seating 	<ul style="list-style-type: none"> Be a resident of Saskatchewan with Saskatchewan Health Services Number Specific criteria for types of devices; for example, orthotics/prosthetics must be prescribed by appropriate specialist; requires device for daily activities or prevention
	Saskatchewan Aids to Independent Living (SAIL): Mobility and Assistive Devices (Special Needs Equipment) Program	Loaned from a pool <ul style="list-style-type: none"> Must not be eligible to receive service from any other government agency 	<ul style="list-style-type: none"> Wheelchairs and accessories Walkers Canes and crutches Bathroom accessories Transfer assists Hospital beds and accessories 	<ul style="list-style-type: none"> Be a resident of Saskatchewan with Saskatchewan Health Services Number People residing in a Personal Care Home (privately run) or a long-term care facility are not eligible Patients in acute care facility are not eligible, except as part of a definitive discharge plan
	Saskatchewan Aids to Independent Living (SAIL): Aids to the Blind Program	Funded, cost shared or loaned <ul style="list-style-type: none"> Must not be eligible to receive service from any other government service 	<ul style="list-style-type: none"> Low vision eyewear Loan of white canes (identification, mobility and/or support), magnifiers and book playback machines 	<ul style="list-style-type: none"> Be a resident of Saskatchewan with Saskatchewan Health Services Number Be referred by an optometrist, a physician specializing in ophthalmology or by a Low Vision Clinic Require low vision aids or devices that are not exclusively for educational and/or employment purposes
	Saskatchewan Aids to Independent Living (SAIL): Paraplegia Program	Funded, cost shared or supplied <ul style="list-style-type: none"> Must not be eligible to receive service from any other government service 	<ul style="list-style-type: none"> Specialized rehabilitation equipment (with prior approval) 	<ul style="list-style-type: none"> Be a resident of Saskatchewan with Saskatchewan Health Services Number Have paralysis of all or most of lower limbs and trunk due to lesion or disease affecting spinal cord Be referred by physiatrist (or other specialist physician) associated rehab centre.

Province	Programs	Funding for Devices	Examples of Covered Devices	Main Eligibility Criteria
	Supplementary Health Benefits: Hearing Services	Partially covered, but coverage is very limited	<ul style="list-style-type: none"> Hearing devices 	<ul style="list-style-type: none"> Government wards Inmates of provincial correctional institutions Residents of special-care facilities who are eligible for Senior's Income Plan Those enrolled in some income support programs

Note: Information on assistive devices programs is based on a 2017 study ("Access to Assistive Technology In Canada: A Jurisdictional Scan of Programs"), published by AGE-WELL NCE (Aging Gracefully across Environments using Technology to Support Wellness, Engagement and Long Life Network of Centres of Excellence, Incorporated), which is a Canadian government-funded network, with authors from the University of Toronto and McMaster University. This study focused on device categories, including mobility, hearing, communication and visual aids as well as prosthetics and orthotics.

Darlington Nuclear Generating Station Refurbishment Project

1.0 Summary

Ontario Power Generation (OPG) is a corporation wholly owned by the Province. OPG generates more than half of the province's electricity primarily through more than 60 hydroelectric stations and two nuclear generating stations: Darlington Nuclear Generating Station (Darlington Station) located in the Durham region, and Pickering Nuclear Generating Station, located in Pickering.

Darlington Station began operating in 1990 and has four nuclear reactor units. It has generally produced over 15% of the electricity used in Ontario.

In 2006, at the direction of the Ontario government, OPG began assessing the feasibility of refurbishing Darlington Station's four nuclear reactor units, as these units' useful life was expected to end in the early 2020s.

In January 2016, about five months after appointing a new President and CEO, OPG publicly announced that it was ready to execute the Darlington Nuclear Generating Station Refurbishment Project (Project), which it estimated would:

- cost \$12.8 billion (\$10.8 billion of estimated Project costs and \$2 billion in contingency to cover the cost of potential additional risks that might occur during the Project);
- take 10 years (from October 2016 to February 2026) to complete the main refurbishment work; and

- extend the useful life of Darlington Station's four nuclear reactor units to around 2055.

OPG has contracted the majority of Project work to external contractors, including a joint venture between SNC-Lavalin Nuclear Inc. and AECON Construction Group Inc. to complete the main nuclear reactor refurbishment work. As of June 30, 2018, OPG had about 980 of its own full-time-equivalent staff and about 1,500 contractor staff working on the Project.

Our audit focused on OPG's planning and execution of the Project and was conducted while OPG was executing the refurbishment work on the first of the four nuclear reactor units at Darlington Station. As of June 30, 2018, OPG had spent about \$5 billion on the Project. About half of this amount relates to planning the Project and performing work that needed to be completed prior to actually refurbishing the nuclear reactors (such as building an additional emergency backup generator). The remaining half primarily relates to actual refurbishment work done on the first of the four nuclear reactor units. OPG plans to spend almost \$8 billion more on the Project, mostly on the actual refurbishment work of its three other nuclear reactor units.

Overall, OPG forecasts the Project will meet the cost and time estimates it publicly announced in January 2016. These estimates factored in improvements OPG made to its processes based on lessons learned from its early Project work (such as on 18 prerequisite projects that OPG planned to start

before the actual refurbishment of Darlington Station's nuclear reactors) and from refurbishments of other nuclear generating stations. While OPG has applied lessons learned to the remaining Project work, several significant risks remain that could result in the Project going over its cost and time estimates, because the complexity of the Project will increase. For instance, OPG has only performed refurbishment work on one nuclear reactor unit to-date. It may face more challenges than it currently expects when, in 2021, it starts working on the refurbishment of more than one nuclear reactor unit at the same time. Therefore, it is incumbent on OPG to continue to remain vigilant in order to avoid or mitigate risks.

The following are some of our additional significant observations.

- **The pending shortage of skilled trades and the potential retirement of experienced executive and management staff put the Project at risk of not finishing on time and on budget.** OPG will be in competition for skilled trades (hired by contractors) during several years when the Project will overlap with another refurbishment project at the Bruce Nuclear Generating Station. OPG identified the potential shortage of boilermakers (who remove and install nuclear reactor unit components) as posing the biggest risk. OPG is still in the process of determining if the potential future supply of boilermakers will meet its demand. At the same time, OPG estimates that over 30% of its management staff and nearly all of its executives from its Darlington Refurbishment group working on the Project are eligible to retire by 2025 (before the Project's expected completion). While OPG has identified internal candidates who can take over most of these positions, it has not yet done this for 13 positions, including six management staff eligible to retire by the end of 2018.
- **OPG's costs have increased as a result of providing more assistance than expected**

to contractors not performing up to its expectations, but it is not considering the increased costs when paying profit to these contractors. OPG estimated that it will pay contractors about \$6.1 billion to complete Project work. This currently includes over \$800 million related to contractors' overhead costs (to cover costs related to their senior management and support staff who do not directly perform Project work) and profit (which is generally tied to the contractors' performance compared to cost and time targets agreed upon with OPG). OPG has had to provide more assistance (mainly supervisory or management assistance) to contractors than it initially estimated to keep the Project on time and on budget. While OPG estimated that it will spend overall almost \$50 million more on Project oversight and support than it initially estimated (including costs associated with providing additional support to contractors), it has not considered these additional incurred costs when determining the amount of profit to pay the contractors.

- **There have been no serious injuries to Project staff. However, OPG has not met its safety targets and could be more proactive to try to reduce recurring preventable safety incidents.** While the severity of safety incidents on the Project has been low (meaning that there have been no staff injured on the Project who had to miss work for more than one day), the frequency of safety incidents has remained mostly unchanged. Project staff's rate of safety incidents has remained about the same since 2016 (when actual refurbishment work started) at about 0.5 safety incidents for every 200,000 hours worked between 2016 and the first half of 2018. This is higher than OPG's targets of 0.24 in 2016 and 0.37 in 2017 and 2018. OPG investigated individual incidents but could do more to prevent recurring incidents (such as staff dropping tools from above ground that

nearly hit others). At one point, an incident occurred when a worker dropped a bag containing pieces of metal from over 35 feet above ground, almost hitting a worker. As there had already been eight incidents that year with a common cause (where workers had dropped tools and parts when working at heights above ground) and this incident could have resulted in a serious injury or the death of a worker, the contractor stopped its 800 staff from working on the Project for two days to develop improved safety procedures, costing OPG over \$700,000 as it still had to pay the contractor's staff.

- **Prerequisite Project work is expected to cost over \$725 million more than initially estimated and be completed later than planned.** Prior to starting the main refurbishment work on its four nuclear reactor units, OPG had to perform work on 18 prerequisite projects. The total cost of these 18 projects is expected to be over \$725 million (or over 75%) more than OPG initially estimated. About \$345 million of this significant cost overrun was already included as estimated spending in the Project's total cost estimate of \$12.8 billion, which OPG publicly released in January 2016 (with the majority of the remaining cost overrun covered by the Project's contingency). The main causes for the cost overrun were:
 - OPG relied on initial prerequisite Project work cost and time estimates that were not based on a detailed understanding of the Project's complexity and technical requirements;
 - OPG did not accurately consider known risks when developing contingency amounts for prerequisite Project work;
 - some contractors were selected to perform prerequisite Project work largely based on their low bid prices even though competing contractors scored higher on technical criteria;

- prerequisite Project work was assigned to OPG staff with limited relevant experience; and
- project management and oversight of contractors performing prerequisite Project work were inadequate.

Also, 14 of the 18 prerequisite projects were completed later than OPG initially estimated. In some cases, OPG required staff to work overtime in order to prevent delays in prerequisite work from disrupting other Project work. As a result, OPG spent almost \$32 million to get project work completed faster, which could have been avoided or reduced if OPG had better planned its prerequisite work.

Overall Conclusion

While OPG faced significant challenges and experienced cost overruns and delays in Project work that was started prior to January 2016, it has applied lessons learned from that work to the remaining Project work and in the development of its cost and time estimates. OPG subsequently established time and cost estimates for the Project based on reliable information and reasonable assumptions. A fair and transparent procurement process was followed in the selection of the majority of contractors for the Project. A clear accountability structure is in place to ensure that staff and contractors working on the Project deliver services in adherence to contract terms and legislated safety and environmental standards and that their performance is monitored and appropriately addressed in a timely manner. Project timelines and costs are being managed, monitored and publicly reported on a regular basis and corrective actions are being taken when issues arise.

However, given the complexity of the Project and risks associated with work not yet done, uncertainty still remains as to whether the Project will be completed on time and on budget. Therefore, OPG must remain diligent until the completion of the Project to properly avoid or mitigate risks.

This report contains seven recommendations, consisting of 18 actions, to address our audit findings.

OVERALL RESPONSE FROM ONTARIO POWER GENERATION

Two years ago, Ontario Power Generation (OPG) began one of the largest and most complex infrastructure projects in Canada. The Darlington Refurbishment Project, Canada's largest clean energy project, will generate 30 more years of low-cost, emission-free and reliable energy for Ontario. With just over one year to go on the refurbishment of the first unit, this \$12.8 billion project remains on time and on budget.

Safety remains the overriding priority for OPG. The safety incident rate for the Project itself is about 10 times better than the construction industry average overall. The Project has executed more than 9 million hours of work and it has not had any lost-time injuries (an injury leading to staff missing work for more than one day).

OPG's planning, preparation and oversight for the Project have been subject to much public and independent expert scrutiny. In December 2017, after a rigorous review of the Project costs, the Ontario Energy Board (OEB) stated that "experts agreed that the planning for the [Project] had been conducted according to industry standards." The OEB concluded that "OPG [had] developed reasonable project control systems to manage the cost and schedule of the [Project]. OPG also performed adequate risk assessment for the [Project] and put in place processes to address risks as they arise."

Since the beginning of the Project, OPG has:

- incorporated lessons learned from early challenges and established cost and schedule estimates based on reliable information and reasonable assumptions;
- used a fair and transparent procurement process in selecting contractors;
- implemented a clear accountability structure to ensure staff and contractors deliver services safely and with quality; and

- effectively monitored and managed the Project's cost and schedule, and transparently reported to the public on a quarterly basis.

OPG values the efforts and feedback of the Auditor General. With a large portion of the work on the first unit already completed, OPG remains committed to continuous improvement and will continue to pursue all opportunities, including those recommended by the Auditor General, to ensure that the Project is delivered on time, on budget, safely and with quality.

2.0 Background

2.1 Nuclear Energy

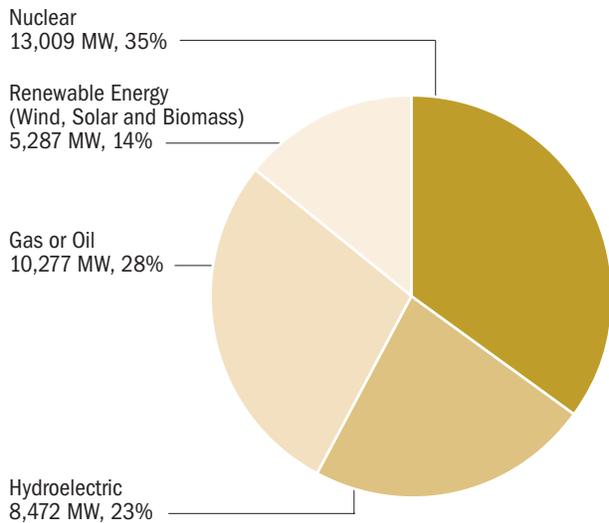
About 15% of Canada's electricity comes from nuclear energy, which is generated from four nuclear generating stations (containing 19 operating nuclear reactors). Three of these nuclear generating stations (containing 18 operating nuclear reactors) are located in Ontario: Bruce Nuclear Generating Station, Darlington Nuclear Generating Station and Pickering Nuclear Generating Station. Both the Darlington and Pickering Nuclear Generating Stations are operated by Ontario Power Generation (OPG), which is wholly owned by the Province. **Appendix 1** contains a glossary of terms used throughout the report. **Appendix 2** provides details on Ontario's three nuclear generating stations.

Currently, nuclear energy accounts for over one-third of the total maximum capacity of Ontario's energy supply. **Figure 1** shows Ontario's current maximum capacity by energy source.

Nuclear reactors generate electricity by using a fission process (whereby neutrons strike and split uranium atoms) to generate heat, which converts water into steam that rotates a turbine to generate electricity. **Figure 2** shows how a nuclear generating station works. (For ease of understanding, we have added a legend defining key terms to the illustration prepared by the Canadian Nuclear Association.)

Figure 1: Maximum Capacity of Electricity Supply in Ontario by Different Energy Sources, Megawatts (MW)

Source of data: Independent Electricity System Operator (IESO)



Note: Information as of June 2018.

2.2 Darlington Nuclear Generating Station

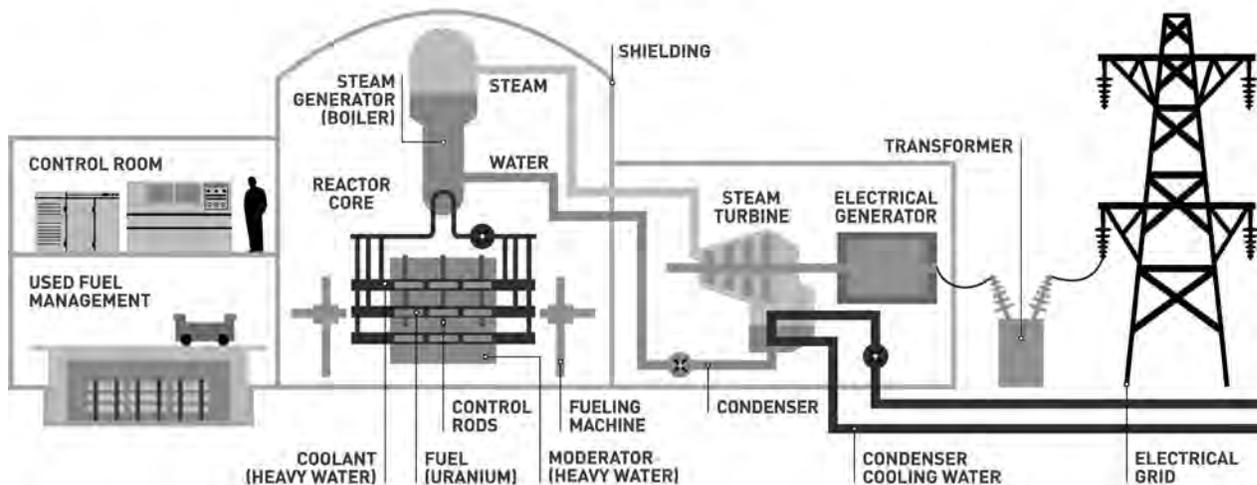
Darlington Nuclear Generating Station (Darlington Station) is located in the Municipality of Clarington, Ontario (in Durham Region). Each of Darlington Station's four nuclear reactor units was put into service to start generating electricity between 1990 and 1993. The nuclear reactor units collectively can generate about 3,500 megawatts of electricity, generally representing over 15% of Ontario's electricity demand over the past 10 years. Darlington Station is the second largest nuclear generating station in Canada (second to Bruce Nuclear Generating Station in Kincardine, Ontario).

Darlington Station uses Canada Deuterium Uranium (CANDU) nuclear reactor units. CANDU nuclear reactors utilize heavy water (or, more specifically, deuterium oxide or D_2O) instead of normal water (H_2O) as a moderator. This allows CANDU

Figure 2: How a Nuclear Generating Station Works

Source: Canadian Nuclear Association

CANDU REACTOR SCHEMATIC



- **Reactor Core:** Contains uranium, which is a chemical element to generate heat in a nuclear reactor.
- **Moderator:** A medium, such as water, that allows neutrons to slow down in order to cause further fission to occur.
- **Control Rods:** Components made of materials (such as stainless steel and cobalt) that absorb neutrons to stop the fission process, when required, and to control the level and distribution of power in the reactor.
- **Coolant:** A fluid circulating through the reactor core to absorb and transfer heat produced by the fission reaction, and maintain fuel temperature within acceptable limits.
- **Shielding:** Typically a meter-thick concrete and steel structure around the reactor and reactor components (like steam generators) to provide protection from intrusion, and to protect those outside from the effects of radiation in the event of any malfunction inside.

reactors to generate electricity using natural (unenriched) uranium. Other nuclear reactors that use normal water as a moderator need to modify (or enrich) the uranium before it can be used to generate electricity.

2.3 Darlington Station Refurbishment Project

2.3.1 Decision to Refurbish Darlington Station

On June 13, 2006, the Minister of Energy (Minister) directed the Ontario Power Authority (which merged with the Independent Electricity System Operator on January 1, 2015) to prepare an Integrated Power System Plan with various goals, which included planning for initiatives to reduce peak electricity demand, increasing cleaner energy sources to replace coal-fired generation, and maintaining nuclear capacity to meet electricity requirements. Three days later, the Minister issued a directive to OPG, requiring it to begin feasibility studies and environmental assessments on the refurbishment of its existing nuclear reactor units at Darlington Station and Pickering Station. At that time, the Minister identified a potential need for OPG's nuclear generating stations to operate beyond their expected end-of-life.

In November 2009, OPG completed a feasibility study that indicated that refurbishing Darlington Station was a more economical solution than other types of energy generation that OPG could have produced (such as natural gas). As a result of this study, OPG's Board of Directors approved about \$240 million in spending to continue OPG's planning for the Darlington Station Refurbishment Project (Project), including the planning for a number of projects necessary for the Project to occur (such as a building to safely store components of the nuclear reactors that would be removed as part of their refurbishment). **Appendix 3** identifies key dates related to the Project.

In addition to the Project, the other two nuclear generating stations in Ontario are also having their useful life extended (see **Appendix 2**):

- OPG's Pickering Station has six nuclear reactor units that were initially expected to stop operating in 2020. In November 2015, OPG's Board of Directors approved extending the useful life of all six nuclear reactor units (two until 2022 and the remaining four until 2024), in part to ensure a reliable supply of electricity while the Project is under way. OPG expects this to cost about \$310 million.
- Bruce Nuclear Generating Station, which is operated by a private-sector company, Bruce Power Limited Partnership (Bruce Power), has eight nuclear reactor units. Refurbishment was completed on two units in 2012. In January 2016, Bruce Power began a multi-year Life Extension Program (with work occurring until 2053) on the remaining six units, allowing them to operate through to 2064. Bruce Power estimates this will cost about \$13 billion in total.

2.3.2 Regulatory Approval for the Project

In order to refurbish Darlington Station, OPG needed to obtain regulatory approval from the Canadian Nuclear Safety Commission (Commission), an independent federal agency that regulates the production and use of nuclear energy in Canada. OPG was required to identify any potential gaps between Darlington Station's operations at that time and the newest modern safety standards and practices and to develop a plan for addressing those gaps. For example, OPG was to build a third emergency power generator that could withstand a higher level seismic event (earthquake) than the two existing emergency power generators at Darlington Station were designed to withstand. In total, OPG planned to spend over \$190 million to improve the safety of Darlington Station.

In December 2015, after obtaining regulatory approval from the Commission, OPG was granted

a 10-year operating licence, allowing it to operate Darlington Station from January 1, 2016, to November 30, 2025. OPG will need to apply again closer to the date its current licence is set to expire to obtain a licence to operate Darlington Station past the end of November 2025. With regulatory approval, OPG anticipates being able to continue operating Darlington Station until 2055.

2.3.3 Project Timeline

OPG is using a three-phase approach for the Project:

- **Initiation Phase:** OPG completed this phase in 2009. This involved performing the initial feasibility assessment and preliminary planning for the Project.
- **Definition Phase:** OPG began this phase in 2010 and completed it in 2015. This included performing detailed planning of refurbishment activities identified by OPG and com-

pleting prerequisite work that was necessary to allow refurbishment work on the actual nuclear reactors to occur, such as building facilities for processing and storing materials to be removed from the nuclear reactor units.

- **Execution Phase:** OPG started this phase in 2016 and currently expects to complete it in 2026. This involves performing refurbishment work on all four nuclear reactor units, such as shutting down the units before starting refurbishment work, and replacing or repairing most of the components in the units.

Figure 3 identifies the main activities and timing for each phase of the Project.

Even though each of the four nuclear reactor units needs to be refurbished, Darlington Station will remain operational during the entire Project. This is possible due to OPG’s ability to isolate, shut down and refurbish each reactor unit without impacting the others from operating normally.

Figure 3: Three Phases of the Project

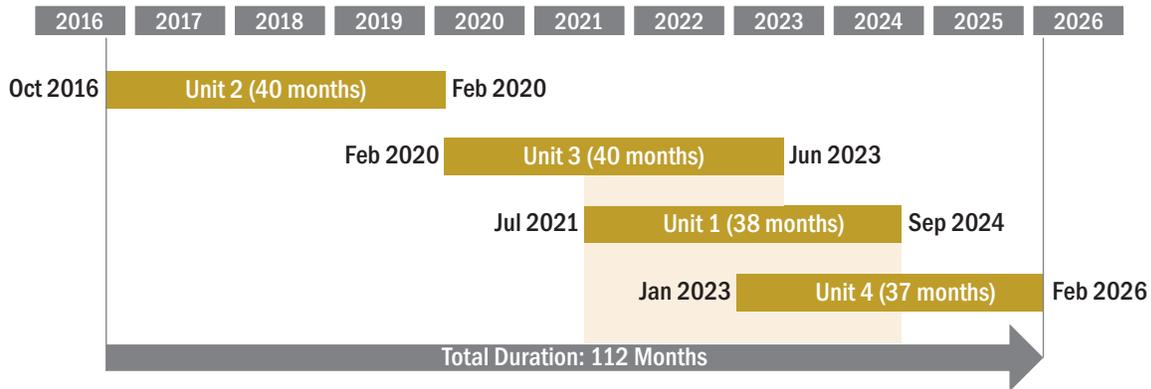
Source of data: Ontario Power Generation

Phase 1 (2007–2009): Initiation Phase	Phase 2 (2010–2015): Definition Phase	Phase 3 (2016–2026): Execution Phase
<ul style="list-style-type: none"> • Determine initial Project scope through technical assessments, condition assessments, and initiation of regulatory processes • Develop initial Project plans for initial cost and schedule estimates • Establish project management approach and governance • Establish overall contracting strategy 	<ul style="list-style-type: none"> • Obtain regulatory approvals • Implement project management and oversight • Implement safety improvements • Award major contracts to external contractors to perform Project work • Finalize project scope and complete engineering work • Complete prerequisite work (projects necessary to allow refurbishment of actual nuclear reactors to occur) • Construct a nuclear reactor mock-up and test tooling to be used in the Execution Phase • Develop total Project cost and schedule estimate • Mobilize and train staff 	<ul style="list-style-type: none"> • Shut down and remove fuel (uranium) from nuclear reactor units • Execute all refurbishment work • Meet all regulatory commitments • Execute plant maintenance and inspection activities • Load fuel into nuclear reactor units • Return nuclear reactor units to service
Total of Planned Spending (\$)	2.4 billion*	10.4 billion*

* See Figure 5 for detailed breakdown of the total budget of \$12.8 billion for the Project.

Figure 4: Timeline for the Execution Phase of the Project

Source of data: Ontario Power Generation



Shaded area indicates periods when more than one nuclear reactor unit is being refurbished at the same time.

At the time of our audit, OPG was only refurbishing one nuclear reactor unit (Unit 2). As **Figure 4** shows, starting in 2021, OPG plans to perform work on two nuclear reactor units at the same time.

2.3.4 Project Cost

OPG started estimating the Project's cost in 2009 during the Initiation Phase and updated the cost estimate based on new information since then. Specifically:

- In November 2009, when OPG completed a feasibility study as mentioned in **Section 2.3.1**, it estimated that the Project would cost about \$10.3 billion (in 2009 dollars).
- In OPG's 2013 annual report, it identified that the "[r]efurbishment of the four Darlington [Station nuclear reactor] units is currently estimated to cost less than \$10 billion in 2013 dollars" excluding interest and inflation (which totalled \$3 billion in OPG's 2009 internal Project cost estimate). OPG later identified that this cost estimate would be \$14 billion if converted into 2015 dollars and if based on a better understanding of expected interest and cost increases to staff and material costs over the duration of the Project.

- In November 2015, OPG's Board of Directors approved the plan for the Project at a total estimated cost of \$12.8 billion. This cost estimate was based on a better understanding of the Project's scope and actual costs than OPG's prior estimates.
- In January 2016, OPG publicly announced that the Project will cost about \$12.8 billion to complete.

Figure 5 provides the breakdown of the total estimated Project cost by the three phases of the Project. The majority of the Project's estimated cost relates to the repair or replacement of components to allow the nuclear reactor units to operate for an additional 30 years. While there are differences in the exact work that needs to be performed on each nuclear reactor unit, generally, OPG estimates that work will be completed faster on subsequent units based on experience gained from doing the same work on the earlier units. For example, OPG estimated that it will complete some of the main refurbishment work on the nuclear reactor units over 7% faster on the final nuclear reactor unit compared to the first nuclear reactor. OPG's estimate incorporated its research of other nuclear generating station refurbishment projects in Canada in recent years (including the refurbishment of Point Lepreau Nuclear Generating Station in New Brunswick and

Figure 5: Total Estimated Project Cost and Actual Spending, as of June 30, 2018 (\$ million)

Source of data: Ontario Power Generation

Project Work	As of Public Estimate in January 2016			As of June 30, 2018	
	Estimated Spending ¹	Estimated Contingency ¹	Total	Spending to Date	Expected Cost
Initiation and Definition Phases²					
Prerequisite ³	1,133 ⁴	32	2,426	1,300	1,417
Detailed Planning	1,261	-		1,191	1,257
Execution Phase^{2,5}					
Unit 2	2,704	696	10,374	2,215	3,152
Unit 3	1,884	524		169	1,993
Unit 1	1,756	406		42	1,749
Unit 4	1,895	349		21	1,915
Common ⁶	160	-		70	164
Total	10,793	2,007	12,800	5,008	11,647
Remaining Contingency					1,153
Total Estimated Cost					12,800

1. Estimated spending and estimated contingency amounts are as the OPG publicly announced in January 2016. Estimated contingency has been allocated to each part of the Project based on risks that OPG believes might occur during that part.
2. See Figure 3 for a description of the three phases of the Project.
3. OPG included the costs for 13 prerequisite projects in the total estimated cost that it publicly announced in January 2016. There were five additional prerequisite projects that were not included in this total estimated cost as they were either deemed not Project work (they were required even if the Project did not happen) or paid out of segregated funds that OPG had already set up. See Appendix 5 for a list of these five prerequisite projects.
4. \$1,109 million of \$1,133 million relates to 13 prerequisite projects (see Section 4.6). The remaining \$24 million relates to additional tasks that had to be done, such as the demolition of old facilities.
5. The nuclear reactor units are listed in the order in which they will be refurbished during the Execution Phase. See Figure 4 for the timeline of when OPG expects to refurbish each unit.
6. This refers to work that is related to all four nuclear reactor units, such as the replacement of eight cooling mechanisms storing used radioactive fuel located throughout Darlington Station.

the refurbishment of two nuclear reactor units at Bruce Nuclear Generating Station in Kincardine, Ontario, which were both completed in 2012).

Figure 6 provides the breakdown of the total estimated Project cost of \$12.8 billion by three cost categories:

- **Contracted Costs:** About \$6.1 billion (or almost 48%) represents payments to external contractors (from the private sector), which have been contracted by OPG to perform the majority of the Project work.
- **Internal Costs:** About \$4.7 billion (or approximately 37%) is for OPG's direct costs on the Project.
- **Contingency Costs:** About \$2 billion (or approximately 15%) to cover the additional

cost of risks that OPG has identified might occur during the Project.

As identified in Appendix 3, in November 2015, OPG's Board of Directors approved the total estimated Project cost of \$12.8 billion. Since the Project contains over 450 sub-projects (which are individual tasks that must be completed before the end of the Project), OPG's Board releases funding at various stages of the Project instead of all at once. For example, when the Project's total cost was publicly announced in January 2016, OPG's Board had released about \$3 billion in total to fund work related to the Initiation and Definition phases of the Project and the beginning of the Execution Phase.

Figure 6: Breakdown of Total Estimated Cost of the Project by Type of Cost (\$ million)

Source of data: Ontario Power Generation

Type of Cost	Main Responsibilities	Cost	Total
Contracted Costs¹			
SNC-Lavalin/AECON Joint Venture	Perform the main Project work on the nuclear reactor units (such as removal, replacement and repair of core components of the nuclear reactors) as well as other tasks such as maintenance and refurbishment of turbine generators	4,460	6,100
ES Fox	Supply and install replacements for the main components of the fuelling machine power track system	840	
Alstom	Supply equipment and provide technical services on the refurbishment of the turbine generators	355	
BWXT	Perform inspections and maintenance of steam generators, as well as removal of fuel from each core reactor	180	
Other ²	Perform certain prerequisite projects planned to be completed prior to starting the main refurbishment work	265	
Internal Costs			
Project Supports	Provide support to the Project through various business units (such as monitoring radiation levels and making sure staff work with necessary safety equipment)	2,600	4,700
Project Oversight	Directly oversee the external contractors contracted to complete Project work	600	
Interest Costs	Finance the Project	1,300	
Execution Costs	Work on part of the Project (such as removing uranium fuel from the nuclear reactors)	200	
Contingency Costs³			
	Cover the additional cost of risks that might occur during the Project		2,000
Total Estimated Project Cost			12,800

Note: All numbers in this figure have been rounded.

1. These contracted costs are OPG's estimates as of January 2016 of what each contractor on the Project will be paid.
2. "Other" primarily relates to work contracted with Black & McDonald, including the Heavy Water Storage and Drum Handling Facility (see Section 4.6.3 for more details on this project).
3. Depending on which risks do actually occur, this could result in additional payments to contractors (such as performing more work than was initially contracted to them) or additional direct costs to be incurred by OPG.

2.3.5 Project Oversight

A number of groups or bodies external and internal to OPG are responsible for overseeing the Project.

Figure 7 identifies the main oversight groups or bodies for the Project.

2.3.6 Contractor Procurement

Project work is primarily performed by external contractors. OPG selects the majority of the contractors by following a competitive procurement process, including the selection of a joint venture

between SNC-Lavalin Nuclear Inc. and AECON Construction Group Inc. in March 2012 to perform the detailed planning of some of the main nuclear reactor refurbishment work.

As part of its competitive procurement process, OPG first identified potential contractors that were qualified to do specific Project work based on their qualifications and previous work experience. OPG then asked these contractors to submit a bid to perform specific Project work, which included an estimated cost for the contractor to do the work and evidence of the contractor's previous experience

Figure 7: Roles of the Main External and Internal Groups and Bodies Overseeing the Project

Prepared by the Office of the Auditor General of Ontario

Oversight Group or Body	Oversight Focus or Purpose	Roles and Responsibilities
External Oversight		
Canadian Nuclear Safety Commission	Project Safety	<ul style="list-style-type: none"> Specifies safety standards that all nuclear generating stations in Canada must comply with in order to obtain a licence and be able to operate Has approved (as part of its operating licence) OPG to commence the Project based on its review of a number of safety-related activities performed by OPG (such as an Environmental Assessment to identify areas where OPG did not meet current standards and practices, and OPG's actions to address those areas for improvement) Has assigned about 20 of its staff members (including 10 on-site inspectors at Darlington Station) responsibility for inspecting and evaluating work to ensure OPG is complying with the terms of its operating licence while generating electricity at Darlington Station and throughout the Project
Ministry of Energy, Northern Development and Mines	Project Status and Performance	<ul style="list-style-type: none"> Represents the Ontario government as the sole shareholder of OPG, with the authority to stop the Project or adjust the Project's scope by issuing shareholder directives to OPG Has engaged an external advisor, who sits on the Darlington Refurbishment Committee of OPG's Board of Directors (see below) as an observer and non-voting member, to provide regular briefings and semi-annual reports to the Ministry on areas such as progress and risk management of the Project
Ontario Energy Board	Project Cost	<ul style="list-style-type: none"> Is Ontario's electricity regulator, which is responsible for reviewing and approving the costs charged by OPG, as the only rate-regulated electricity operator, as well as other regulated electricity utilities (e.g., transmitters and distributors) and rates charged to electricity ratepayers Reviews OPG's rate application for its two nuclear generating stations (Darlington and Pickering) and 54 regulated hydroelectric generating stations every five years Approved \$4.8 billion related to the Project in the rate application submitted by OPG for the period 2017–2021
Internal Oversight		
Darlington Refurbishment Committee of OPG's Board of Directors	Project Status and Performance	<ul style="list-style-type: none"> Oversees the Project's execution, which includes monitoring the Project's progress and performance against its schedule and budget, and making recommendations to OPG's Board Has retained an external advisory group* to support its oversight responsibility Receives regular reporting on the status of the Project from OPG senior management.
Refurbishment Construction Review Board	Project Status and Performance	<ul style="list-style-type: none"> Consists of external industry experts with relevant experience with megaprojects to provide assessments of the Project's progress and to advise OPG senior management (including the Chief Executive Officer, Chief Nuclear Officer and Senior Vice President of Nuclear Projects) Provides quarterly reports to OPG senior management (such as the President and the Chief Executive Officer) and provides updates to the OPG's Board of Directors on the status of the Project
OPG's Project Senior Management Team	Project Status and Performance	<ul style="list-style-type: none"> Consists of OPG senior management responsible for the Project (such as the Senior Vice President of Nuclear Projects) Receives regular reporting from OPG Project staff (such as directors and managers who are responsible for overseeing contractors perform Project work)

* The external advisory group comprises representatives from Burns & McDonnell and Modus Strategic Solutions Inc. It performs a quarterly assessment on the status of the Project (by reviewing materials provided to and prepared by OPG's Project Senior Management Team) to identify and report to the committee on areas of risk.

and technical ability to perform the work. OPG assessed the bids received using a scorecard that applied a specific predetermined weighting to two main criteria: bid price and technical ability of the contractors to perform the work they bid on. The weighting applied to these criteria differed based on OPG's judgment. Generally, for more complex project work, OPG would give more weight to a contractor's technical ability to perform this work than the bid price. OPG would then enter into a contract with the contractor whose bid OPG assessed as having the highest overall score.

2.3.7 Project Impact on Electricity Rates

As shown in **Figure 7**, the Ontario Energy Board (OEB) is Ontario's energy regulator. OPG submits a rate application once every five years to the OEB, which determines what rates OPG can charge for the nuclear electricity it generates. For example, in December 2017, the OEB approved OPG's nuclear electricity rate application for the 2017–2021 period. OPG was approved to earn a rate of about

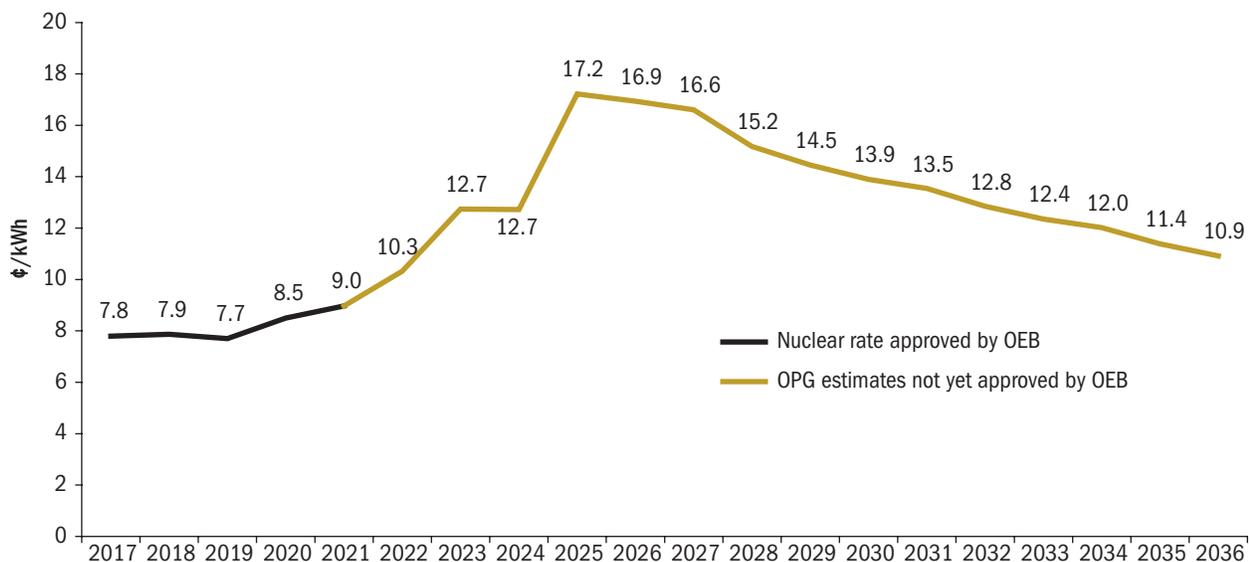
7.8 cents per kilowatt hour in 2017, which increases to 9.0 cents per kilowatt hour in 2021, representing an increase of about 15% over five years (or on average of over 3.5% per year).

As OPG completes the refurbishment work on its four nuclear reactor units, it adds the costs associated with refurbishing those units to the cost of electricity charged to ratepayers as soon as each unit returns to service and begins to generate electricity again.

Based on OPG's current cost estimates for both its Darlington and Pickering Stations (as OPG charges one nuclear electricity rate based on the total amount of nuclear energy generated at both stations), OPG expects (subject to approval by the OEB) its nuclear rate to increase at less than 2% per year on average between 2017 and 2036. **Figure 8** shows OPG's expected nuclear electricity rate growth from 7.8 cents per kilowatt hour in 2017 to 10.9 cents per kilowatt hour in 2036. The rate will be higher during the Project because of the refurbishment costs and because OPG generates less electricity while its nuclear reactor units are shut

Figure 8: Ontario Power Generation's Actual and Estimated Charges to Ratepayers for Nuclear Electricity, 2017–2036

Source of data: Ontario Power Generation



Note: OPG charges one rate for the electricity it generates at both its Darlington Nuclear Generating Station and Pickering Nuclear Generating Station. At the time of our audit, the Ontario Energy Board (OEB) had approved OPG's rates for 2017–2021. Rates shown for the period 2022–2036 are OPG estimates and have not been approved by the OEB. OPG estimates that rates decline after 2025 because by then the Project will be finished (so construction costs will be less) and production capacity will be greater than during the Project.

down to be refurbished. Thus, as **Figure 8** shows, the rate (which has not yet been approved by the OEB) will peak at 17.2 cents per kilowatt hour in 2025 (before the Project’s expected completion), then decrease in subsequent years.

While the cost of nuclear electricity is expected to increase after the Project’s completion, the Project has been identified as cost-effective by the Financial Accountability Office of Ontario (FAO), which is an independent office of the Legislative Assembly of Ontario responsible for providing analysis on the state of the Province’s finances and trends in the provincial economy. In November 2017, the FAO released a report on the planned refurbishment of the province’s three nuclear gen-

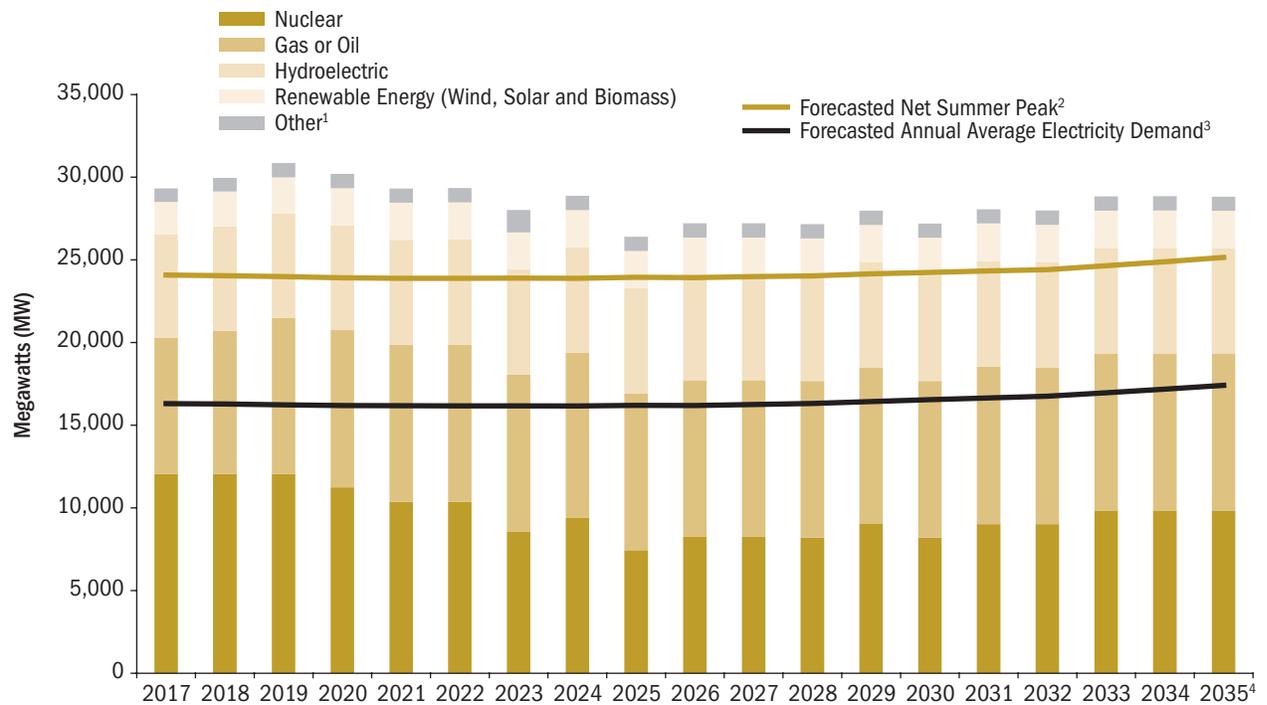
erating stations. It reported that “despite near-term Nuclear Price increases, [plans to refurbish the three nuclear generating stations] provide ratepayers with a long-term supply of relatively low-cost, low emissions electricity.”

2.3.8 Estimated Future Electricity Supply

We obtained projections on Ontario’s electricity supply and demand (from 2017 to 2035) made by the Independent Electricity System Operator (IESO), which is responsible for the long-term planning for electricity and procuring the generation capacity Ontario needs. **Figure 9** shows the projected electricity demand and supply from 2017

Figure 9: Ontario’s Forecasted Electricity Supply and Demand, by Fuel Type, 2017 to 2035, in Megawatts (MW)

Source of data: Independent Electricity System Operator (IESO)



Note: Data is based on the forecast performed by the IESO as part of its work on the 2017 Long-Term Energy Plan. 2017 data is therefore forecast but not actual. To comply with reliability standards established by the North American Electric Reliability Corporation and Northeast Power Coordinating Corporation (not-for-profit organizations responsible for enhancing the reliability of interconnected electricity system in North America), the IESO’s forecasts includes a 17% reserve margin in excess of peak demand to ensure system safety and reliability and to deal with unexpected events such as changes in demand and equipment failure. If there is not enough electricity being generated to meet the 17% reserve requirement in certain years, the IESO informed us that this could be addressed through a number of different options, including importing electricity from nearby provinces or states, extending existing contracts with electricity generators or increasing the amount of electricity requested during auctions.

1. “Other” primarily relates to electricity supply from sources such as the demand response program (which provides incentives to residential, commercial and industrial consumers to reduce or shift their electricity consumption as needed), energy storage and electricity import from other jurisdictions.
2. Ontario’s peak demand for electricity is generally highest in the summer and lower during the winter. In 2017, actual summer peak demand was about 22,000 MW.
3. Ontario’s annual average electricity demand is calculated by dividing the total electricity demand of a year by the number of hours for that year. In 2017, actual average electricity demand was about 15,000 MW.
4. 2035 is the furthest year for which the IESO is currently forecasting electricity supply and demand.

to 2035 in Ontario. For each year during this period, the projected electricity supply (about 29,000 megawatts) is expected to be sufficient to meet the projected electricity peak demand (about 25,000 megawatts), which typically occurs during summer. This indicates that even though all three nuclear generating stations in Ontario will be undergoing some degree of refurbishment work in the coming years as mentioned in **Section 2.3.1**, the IESO does not expect this to put the total projected electricity supply below the projected peak demand.

3.0 Audit Objective and Scope

The objective of our audit was to assess whether Ontario Power Generation (OPG) has effective systems and procedures in place to:

- plan and execute the Darlington Nuclear Generating Station Refurbishment Project (Project) in a cost-effective and timely manner in accordance with applicable legislation and standards; and
- manage, monitor and publicly report on the progress and performance of the Project to protect the interest of Ontarians.

Before starting our work, we identified the audit criteria we would use to address our audit objective. We based these criteria on a review of applicable legislation, policies and procedures, and internal and external studies. Senior management at OPG reviewed and agreed with our objective and associated criteria as listed in **Appendix 4**.

We conducted our audit work primarily at OPG's Darlington Nuclear Generating Station (Darlington Station) and its head office in Toronto. We obtained written representation from OPG that, effective November 8, 2018, it has provided us with all the information it is aware of that could significantly affect the findings of this report. We also met with key personnel at OPG involved in the Project and reviewed related documentation and data on the Project's status. We met with OPG's internal audit staff to

understand their audit work related to the Project, key findings and recommendations from their audit work, as well as actions taken by management to address such recommendations. Unless otherwise indicated, all information reviewed is based on the status of the Project as of June 30, 2018.

As well, we reviewed relevant documents and data related to the Project, including:

- plans and business cases (including initial cost and time estimates) for the Project to determine its reasonableness and completeness;
- documents related to the selection of external contractors for the Project to assess its fairness and compliance with OPG's policies;
- contracts OPG entered into with its main contractors to understand payment and other contract terms;
- reports provided by Project managers and directors to OPG's Board of Directors and senior management on the status of the Project;
- reports provided by external advisors (including the advisor engaged by the Ministry of Energy, Northern Development and Mines, the advisor to the Darlington Refurbishment Committee of OPG's Board of Directors and the chairperson of the advisory group that advises OPG senior management) on the status of the Project;
- audit reports, including reports from external auditing firms (engaged by OPG's internal audit to review payments OPG made to external contractors) to ensure contractors billed OPG appropriately according to the contract terms; and
- data on safety incidents, staff availability and incentive pay structure related to the Project to identify trends and issues.

In addition, in order to obtain a better understanding of the progress and impact of the Project, we met or spoke with various external parties involved in the Project, including:

- staff from the Ministry of Energy, Northern Development and Mines (Ministry) to understand the Ministry's role in the Project;
- external advisors on the Project (including the Ministry's advisor, the advisor to the Darlington Refurbishment Committee of OPG's Board of Directors and the chairperson of the advisory group that advises OPG senior management) to understand their thoughts on the current status of the Project;
- staff from the Canadian Nuclear Safety Commission to understand its assessment of OPG's compliance with nuclear safety standards during the Project; and
- staff from the Independent Electricity System Operator to understand the impact of the Project on Ontario's electricity supply.

Further, we engaged an external advisor who is a Professional Engineer with experience in the design and refurbishment of nuclear generating stations.

We conducted our work and reported on the results of our examination in accordance with the applicable Canadian Standards on Assurance Engagements—Direct Engagements issued by the Auditing and Assurance Standards Board of the Chartered Professional Accountants of Canada. This included obtaining a reasonable level of assurance.

The Office of the Auditor General of Ontario applies the Canadian Standards of Quality Control and, as a result, maintains a comprehensive quality control system that includes documented policies and procedures with respect to compliance with rules of professional conduct, professional standards and applicable legal and regulatory requirements.

We have complied with the independence and other ethical requirements of the Code of Professional Conduct of the Canadian Professional Accountants of Ontario, which are founded on fundamental principles of integrity, objectivity, professional competence and due care, confidentiality and professional behaviour.

4.0 Detailed Audit Observations

4.1 Ontario Power Generation Estimates Project Will Meet Time and Cost Estimates, but Should Remain Diligent Until Project Completed

At the time of our audit, Ontario Power Generation (OPG) estimated that the Darlington Nuclear Generating Station Refurbishment Project (Project) would be completed on time (February 2026) and within its total estimated cost (\$12.8 billion) that was publicly announced in January 2016. As of June 30, 2018, the estimate of \$12.8 billion included about \$11.6 billion in expected spending (compared to \$10.8 billion announced in January 2016) and \$1.2 billion still available as contingency (compared to \$2 billion announced in January 2016) to cover the cost of any risk that may still occur on the Project. However, we noted that a number of significant risks remain, which require OPG to be vigilant in order to keep to its budget and timeline for the Project.

Updated Estimated Project Costs

As shown in **Figure 5**, the total estimated Project cost of \$12.8 billion originally announced in January 2016 consisted of estimated spending of about \$10.8 billion and an estimated contingency of \$2 billion. As of June 30, 2018, we noted that:

- OPG had spent about \$5 billion (or almost 40% of the Project's total estimated cost) on the Project. This includes about \$2.5 billion spent in the Project's Initiation and Definition phases related to the substantial completion of prerequisite Project work needed prior to the start of refurbishing the four nuclear reactor units, or for continued operations of Darlington Station and detailed planning of the refurbishment work. The remaining

approximately \$2.5 billion is mostly related to performing actual refurbishment work on the nuclear reactor units. At the time of our audit, OPG had refurbished more than half of the first of four nuclear reactor units (Unit 2).

- OPG has allocated about \$800 million of the \$2 billion contingency to cover the cost of Project risks that have already been identified by OPG or occurred (such as cost overruns related to the prerequisite Project work that are discussed in **Section 4.6**), leaving \$1.2 billion as contingency to cover the cost of any risks that emerge over the remainder of the Project.

Lessons Learned

In our review of OPG's planning process for the Project's Execution Phase, we noted that OPG has been able to keep the Project within its original time and cost estimates mainly as a result of applying lessons learned from different sources. For example:

- OPG has researched and applied lessons from other large construction and nuclear refurbishment projects. This included the refurbishment of Point Lepreau Nuclear Generating Station in New Brunswick and the refurbishment of two nuclear reactor units at Bruce Nuclear Generating Station in Kincardine, Ontario, which were both completed in 2012.
- OPG has also applied lessons learned from its prerequisite Project work (discussed in **Section 4.6**) that had cost overruns and schedule delays due to various factors. These include:
 - OPG overrelied on initial cost and time estimates provided by contractors without obtaining a detailed understanding of the complexity and technical specifications of the work during planning. OPG now requires its staff to demonstrate a better understanding of the technical specifications of Project work before establishing initial cost estimates (see **Section 4.6.1**).

- OPG had poor risk management in planning and executing prerequisite work, resulting in project contingency amounts not being adequate to cover the actual cost of risks that materialized. Since then, OPG has established a risk management team to ensure that project managers accurately and consistently consider and identify Project risks, using a computer simulation to determine an appropriate amount of contingency to include in the Project's cost estimate (see **Section 4.6.2**).
- OPG selected some contractors that scored lower on technical criteria than competing contractors to complete the prerequisite work. For the more recent contracts related to the main Project work, OPG selected the contractors that were evaluated higher on technical criteria compared to competing contractors to perform the work (see **Section 4.6.3**).
- OPG assigned prerequisite work to staff who had limited relevant experience with complex projects. OPG now has another group, the Darlington Refurbishment group (with five members of senior management who had direct experience with the refurbishment of Point Lepreau Nuclear Generating Station), to oversee the main Project work (see **Section 4.6.4**).
- OPG had poor project management and oversight of external contractors on prerequisite work. OPG now takes a more proactive approach to overseeing contractors, including more frequent meetings to review contractor progress on Project work (see **Section 4.6.5**).

It is important that OPG continue to incorporate such learning in its planning and execution of the remaining Project work in order to avoid preventable mistakes.

Final Project Cost Remains Uncertain

A significant portion of the Project remains to be completed, including three nuclear reactor units that need to be fully refurbished. As shown in **Figure 5**, of the total estimated Project cost of \$12.8 billion originally announced in January 2016, we noted that OPG had spent about \$5 billion as of June 30, 2018, meaning that OPG still has to spend almost \$8 billion over more than seven years to complete the Project.

While OPG believes that the Project will be completed on time at a total cost of \$12.8 billion (which includes contingency funding of \$1.2 billion that is still available to cover any additional risks that may emerge over the remainder of the Project), if some (or all) of these risks do not occur, the Project may be completed below the \$12.8 billion cost estimate. On the other hand, however, the \$1.2 billion contingency may not be sufficient as there remain a number of risks on the Project with which OPG does not yet have direct experience or that are not fully within its control. Therefore, it is still possible that, if these risks occur, the Project could cost more or take longer to complete than OPG estimated. Examples of these risks include:

- OPG has only started its actual refurbishment work on one nuclear reactor unit (Unit 2). Starting in July 2021, OPG plans to work on more than one nuclear reactor unit at the same time. OPG has acknowledged that working on two nuclear reactor units at the same time will be more challenging than just working on one unit, so it may face new challenges not currently anticipated or with which it does not yet have experience.
- OPG has to perform certain work on the remaining nuclear reactor units that it has no prior experience doing. For example, OPG has to replace parts of the turbine generator in Unit 3 that are reaching the end of their useful life. Similar work was not required when refurbishing Unit 2 because the turbine generator in Unit 2 was in better condition and only required maintenance work (to be performed in 2022).

- OPG will return its first refurbished nuclear reactor unit (Unit 2) to service generating electricity before starting the execution of refurbishment work on the next unit (Unit 3). In compliance with its operating licence, OPG must receive approval from the Canadian Nuclear Safety Commission at various stages before Unit 2 can be returned to service. This requires system testing and submission of documentation. Although OPG has designated staff to oversee these activities, the required testing and approval processes, which involve external groups such as the Canadian Nuclear Safety Commission, could result in delays or additional costs.

As part of its risk management process, OPG indicated that it has mitigated some of the risks identified above by setting a tighter internal work schedule with an earlier completion date than what it publicly reported, giving it extra time or “buffer” to complete work on each nuclear reactor unit. For example, OPG’s internal work schedule estimates (as of June 30, 2018) that Unit 2 will be completed in September 2019, which is about six months earlier than the February 2020 date in OPG’s publicly reported schedule. Unit 3 is estimated to be completed in July 2022 according to OPG’s internal work schedule, which is about a year earlier than the June 2023 date in OPG’s publicly reported work schedule. Since OPG has so far only set this tighter internal work schedule for refurbishment work on the first two nuclear reactor units, it is important that it continue to take action to mitigate risks for refurbishment work on the remaining units, and to update its cost and time estimates and make decisions based on the best information available.

We also noted that, since 2017, OPG has been publicly reporting on a quarterly basis certain performance measures related to the Project (such as how the Project is meeting its cost and time estimates publicly announced in January 2016). In our review of the information used by OPG in preparing these public reports, we found that OPG has been accurately reporting the progress of the Project

publicly against the cost and time estimates publicly announced previously as well as other performance measures and targets.

RECOMMENDATION 1

To ensure that the Darlington Nuclear Generating Station Refurbishment Project (Project) is completed in a timely and cost-effective manner and that public reporting on Project progress is complete and accurate, we recommend that Ontario Power Generation continue to:

- reassess Project risks on a regular basis and update time estimates, cost estimates and contingency amounts accordingly;
- review and apply lessons learned from completed Project work to the remaining work on the Project; and
- publicly report its progress against Project targets at least quarterly.

RESPONSE FROM ONTARIO POWER GENERATION

Ontario Power Generation (OPG) agrees with the Auditor General's recommendations.

Prior to beginning the Darlington Refurbishment Project, OPG spent years preparing and conducting detailed planning, using industry best practices, to arrive at a cost and schedule estimate that it has confidence it could achieve.

As part of that planning, OPG developed a robust risk management process where risks are identified, classified, quantified and mitigated to the extent possible. In a project of this size and scope, global experience dictates that there will be uncertainties that cannot be entirely mitigated or avoided. Accordingly, OPG developed a detailed inventory of risks and contingency amounts in accordance with the recommended practices of the Association for the Advancement of Cost Engineering, a leading authority in the area of project cost estimation. These contingency amounts are expected to be used over the course of the Project.

With a large portion of the work on the first unit completed and with continued modelling, OPG is confident that the Project will still be completed within its \$12.8 billion budget. As recommended by the Auditor General, OPG will continue to use its risk management and project control processes to assess Project risks on a regular basis and update cost estimates and contingency amounts accordingly.

OPG's planning efforts also include a detailed review and incorporation of thousands of lessons learned from other megaprojects across the world, including other large nuclear projects. OPG will continue to identify, document, evaluate and incorporate lessons learned from ongoing and past projects into future work, leading to opportunities to execute work more efficiently.

Since beginning the execution phase of the Project two years ago, OPG has transparently and publicly reported on the progress of the Project on a quarterly basis. OPG will continue to publish these quarterly reports.

4.2 Pending Shortage of Skilled Trades and Potential Retirement of Experienced Executives and Management Staff Remain a Significant Risk to Completing Project on Time and on Budget

A shortage of skilled tradespeople hired by contractors who are responsible for performing critical and technical work directly on the Project, and the eligibility of nearly all of OPG's executives and over 30% of its management staff (who are part of its Darlington Refurbishment group) to retire before the Project's completion, pose a serious risk for OPG to complete the Project on time and on budget.

4.2.1 Shortage of Skilled Trades Poses Risk of Project Delays

OPG faces the risk that there will not be sufficient experienced skilled trades working on the Project, which could increase the risk of errors being made and delays on the Project.

At the time of our audit, about 1,500 external full-time-equivalent staff hired by contractors were working on the Project. They are primarily qualified skilled trades, such as boilermakers and millwrights (who remove and install nuclear reactor unit components), performing the actual refurbishment work on the nuclear reactor units.

Starting in 2020, OPG will be in competition with another nuclear generating station for these skilled trades. During that year, Bruce Power Limited Partnership (Bruce Power) begins the main repair and replacement work on the first of its six nuclear reactor units at Bruce Station in Kincardine. Work on its six units will continue over 13 years, until 2033 (see **Appendix 2**). As a result, for more than six years, from 2020 to 2026, both OPG and Bruce Power will be refurbishing their stations at the same time.

OPG indicated that it has taken action to address the shortage of skilled trades, including performing an assessment of its needs for skilled trades on the Project, consulting trade unions, analyzing external data from BuildForce Canada (a national industry-led organization that provides construction labour market information), and identifying specific skilled trades with the biggest staffing challenges for the Project. Based on our review of OPG's data and analysis, we noted that:

- OPG identified a potential shortage of boilermakers as one of its biggest risks to the Project. In 2018, the Project will require about 260 boilermakers; this will more than double to almost 550 in 2021.
- Working together, OPG and Bruce Power estimated that, between 2021 and 2025, collectively they will need at most about 1,000 boilermakers for their refurbishment activities,

with the greatest need for boilermakers prior to completion of the Project occurring in 2021.

- In January 2018, BuildForce Canada released a report that estimated that nearly 20% of Ontario's current overall construction workforce is expected to retire in the next decade. Therefore, OPG will potentially have access to fewer experienced skilled trades in the labour market as the Project continues.

OPG indicated that it has been working with Bruce Power to assess both organizations' need for boilermakers. At the time of our audit, it was also in the process of forecasting the future supply of boilermakers based on information provided by the International Brotherhood of Boilermakers trade union—but it did not yet have a clear understanding of whether the projected supply of boilermakers would meet its projected need. Given that many training programs for skilled trades take between four and five years for a person to complete and obtain qualification, it is urgent that OPG determine if it is likely to experience a shortage of boilermakers and, if so, take immediate action.

RECOMMENDATION 2

To ensure that the Darlington Nuclear Generating Station Refurbishment Project (Project) has enough skilled tradespeople to perform the necessary refurbishment work, we recommend that Ontario Power Generation (OPG):

- complete a forecast of the future supply of skilled trades identified as being at risk of shortage to determine the impact of this risk on the Project, and take action to prevent or mitigate such risk;
- work with Bruce Power Limited Partnership (Bruce Power) continuously and closely to manage the demand for staffing resources during the period when both OPG and Bruce Power have refurbishment work under way, and adjust the Project's work plans where appropriate; and

- collaborate with other stakeholders (such as the federal and provincial governments, trade unions and colleges) to increase the supply of skilled trades (particularly boiler-makers) needed on the Project.

RESPONSE FROM ONTARIO POWER GENERATION

OPG agrees with the Auditor General that ensuring access to a sufficient pool of qualified trades is key to the success of the Project.

At its peak, the Project will require 11,800 additional jobs per year across the industry. OPG agrees that a shortage of skilled trades is a risk for the Project. OPG identified this risk early in the Project and has taken mitigating actions, which are tracked at both the Project and enterprise levels and regularly reported to Senior Management and the Board of Directors.

OPG continues to address skilled trades supply gaps. In particular, OPG will continue its collaboration with Bruce Power, relevant unions, educational institutions and other stakeholders to minimize potential cost and disruptions to the Project. This collaboration involves three streams to mitigate the trades risk, as outlined below:

- Collaboration among OPG, Bruce Power, vendors and trade unions to develop enhanced supply and demand data on skilled trades.
- Initiatives to build capacity within the current supply of trades by streamlining processes at both OPG and Bruce Power, including co-ordinated security processing and training as well as modified shift schedules to attract talent.
- Building up new sources of supply by promoting trades programs through recruitment initiatives at local job fairs and community outreach, and specific initiatives to increase the level of interest of women and Indigenous peoples in trades. OPG is working with various provincial entities and other Canadian organizations to support skilled trades

initiatives across the country. OPG welcomes the support of the Province, trade unions, colleges and other stakeholders to increase the supply of skilled trades.

4.2.2 Nearly All OPG Executives and Over 30% of Management Staff Working on the Project Are Eligible to Retire before the Project's Completion

OPG faces a potential risk related to the possible retirement of a significant number of executives and management staff who work on the Project prior to its completion.

At the time of our audit, OPG had about 980 internal full-time-equivalent staff working on the Project. This includes over 150 executives and management staff as part of its Darlington Refurbishment group who spend some or all of their time working on the Project. **Figure 10** shows the staff count by category (executives and management staff) and the number of staff eligible to retire at the end of 2018, 2021 (when the Project's Execution Phase is expected to be 50% complete) and 2025 (just prior to the Project's expected completion in February 2026). About 75% of executives working on the Project are eligible to retire in 2021, growing to almost 90% in 2025. Over 25% of management staff working on the Project are eligible to retire in 2021, increasing to almost 35% in 2025.

Having experienced staff continuously working on the Project is important to ensure that past mistakes will not be repeated and new challenges can be managed as quickly and cost-effectively as possible. While OPG has taken action to address the risk of losing experienced staff, we noted more needed to be done to ensure the smooth transfer of knowledge by identifying and training competent staff who can fill in if experienced staff decide to retire earlier. OPG informed us that it has identified staff retention as a Project risk and has implemented succession planning to mitigate this risk, particularly for those in a management position. Specifically, at the time of our audit:

Figure 10: OPG Executives and Management Staff Working on the Project and Their Eligibility for Retirement

Source of data: Ontario Power Generation

OPG Staff Categories	# of Staff as of June 30, 2018	Cumulative Total # of Staff Eligible to Retire by Year-End			% of Cumulative Total Staff Eligible to Retire by Year-End		
		2018	2021	2025	2018	2021	2025
Executive	8	4	6	7	50	75	88
Management	149	19	40	51	13	27	34
Total	157	23	46	58			

Note: Includes regular staff of OPG’s Darlington Refurbishment group, who spend some or all of their time working on the Project.

- OPG indicated that it has identified individuals who will be able to take over 45 out of the 58 management and executive positions where the current staff are eligible to retire by the end of 2025. This leaves 13 positions for which OPG currently has not identified replacement candidates. Six of these are for individuals eligible to retire by the end of 2018.
- OPG informed us that it may be able to fill some of its Project staffing needs from staff currently working at its Pickering Station, as two nuclear reactor units at Pickering Station are scheduled to stop producing electricity in 2022 and the four remaining units are expected to shut down in 2024 (see Appendix 2). However, at the time of our audit, OPG has not determined specifically when or how many of the almost 1,800 staff working at Pickering Station will be brought onto the Project. While OPG’s staff from Pickering Station are more familiar than external new hires would be with OPG’s processes, governance and controls associated with working in a nuclear generating station, they would still need to receive additional training on refurbishment-specific processes, which are different than the routine operational processes at Pickering Station.

RECOMMENDATION 3

To ensure that Ontario Power Generation (OPG) has competent and experienced staff working on the Darlington Nuclear Generating Station

Refurbishment Project (Project) throughout the life of the Project, we recommend that OPG identify and train staff to be able to take over work being done by the existing staff (especially executives and management staff) who work primarily on the Project and are eligible to retire before the completion of the Project.

RESPONSE FROM ONTARIO POWER GENERATION

OPG agrees that access to an experienced team on an ongoing basis is key to the success of the Project. OPG has a number of programs to attract, retain, align and develop qualified resources for the Project.

Attrition rates at OPG are well understood, and management will continue to use corporate-wide succession planning and talent review processes to identify and prepare future leaders to assume key roles as the Project unfolds.

OPG also has a pool of staff in Pickering who have extensive nuclear and project management experience, and will be trained on refurbishment-specific activities as needed.

OPG has a number of programs in place to develop internal talent into potential successors, including an Enterprise Projects Organization focused on implementing a standardized and scalable project delivery model throughout OPG. This enterprise organization has developed internal and external training specifically designed to advance project management

capability across the organization. In addition, OPG has detailed succession planning and mentoring programs designed to ensure it has sustained bench strength to manage refurbishment.

As with any project, there is a risk that Project staff may leave the organization for a variety of reasons. OPG has already identified succession candidates for the key roles in the Project, and other roles will be filled through internal or external recruitment or will be eliminated where possible. To date, OPG has been successful in attracting external talent where required skill sets could not be developed internally. However, going forward, OPG will have to ensure it has the necessary tools to attract and retain rare skill sets in a very competitive market.

4.3 OPG Incurred Additional Costs as Contractors Did Not Perform up to Expectations but Contractors Continue to Be Eligible to Receive Their Full Profit

Since external contractors are responsible for performing the majority of the Project work, contractors with poor performance or not performing up to OPG's expectations can result in cost overruns and delays. In some cases, OPG has proactively provided additional assistance to support contractors to perform Project work more efficiently, which has helped the Project to remain on time and to be completed within its cost estimate. While OPG has not paid contractors for work that does not meet OPG's quality standards and has achieved settlements of over \$50 million with contractors as compensation for their involvement in cost overruns and schedule delays to Project work so far, we question the fact that contractors continue to receive or remain eligible to receive their full profit despite OPG providing additional assistance to help them achieve the level of performance needed to earn such profit. When evaluating the contractors' performance to determine the amount of profit, OPG did not consider the cost it incurred in providing addi-

tional assistance to those contractors that did not fully meet OPG's initial expectations, and did not consider the fact that those contractors actually performed some aspects of their work less independently as a result of receiving OPG's assistance.

OPG entered into contracts with external contractors to perform the majority of the Project work. As shown in **Figure 6**, of the total estimated Project cost, about \$6.1 billion (or about 48%) pays external contractors to perform Project work. OPG entered into different types of contracts with the contractors depending on the nature of the contractors' work; generally, OPG's payment covers the contractor's direct cost, overhead cost and profit. Of the total amount that OPG currently expects to pay to Project contractors, over \$800 million is to cover their overhead costs and profit. The actual amount that is paid under most contracts is linked to how well the contractors meet agreed-upon performance targets (related to a targeted cost and time to complete the Project work) established with OPG.

About \$4.7 billion covers OPG's internal costs. Of this amount, about \$3.2 billion is to be spent on Project oversight and support (overseeing the contractors performing Project work and providing Project support to both OPG staff and contractors). The remaining \$1.5 billion is to cover interest (to finance the Project) and OPG's costs to perform Project work itself (such as removing uranium fuel from the nuclear reactors).

As of June 30, 2018, OPG estimated that it will spend almost \$50 million more overall on Project oversight and support than it initially estimated. While OPG informed us that this cost increase is due to its underestimating the actual amount of people and time it would take to oversee the Project, this increase also includes the additional support that OPG has had to provide to contractors to complete Project work on time and on budget. However, when paying profits to contractors, OPG did not consider the additional cost it incurred as a result of providing additional support to them. For example:

- OPG spent about \$1.4 million to implement a collaborative front-end planning process with

contractors when planning how work will be performed. This meant that the contractors would work less independently than was originally planned as OPG engineers now worked alongside contractor staff to assist them in completing the planning documents.

- Since April 2016, OPG has loaned (or seconded) seven of its experienced staff to a contractor for Project work. These secondments have ranged from about three months to 21 months in various roles (including managerial roles) on the contractor's team (such as providing training to the contractor's staff and assistance to help the contractor's staff plan for upcoming Project work). These loaned staff are directly supervised and managed by the contractor, but they have remained on OPG's payroll and have cost OPG an estimated \$1.2 million in total. While the terms of the secondment agreements allow for OPG to have the contractor "bear the [r]eimburseable [c]osts" of the seconded employee (which includes base salary and expenses), OPG has chosen not to do so.

In both cases, OPG did not consider the additional cost and support it provided when paying profit to the contractors. This is because, in the majority of contracts, the amount of profit the contractors can earn is dependent on the contractor's performance on the Project work, but such performance is evaluated largely based on the contractor's adherence to its targeted completion date and its own cost (but not OPG's cost). Therefore, as OPG incurs additional costs to support the contractors to meet their cost and schedule targets, the amount of profit that the contractors are eligible to earn is not impacted.

In another case, in 2017, OPG noticed that a contractor was struggling to resolve Project-related issues on its own (such as ensuring that the necessary staff and tools are identified and made available so that future Project work is not delayed). To address these issues, in early 2018, OPG and the contractor developed an integrated team in

which about 40 OPG staff work directly with the contractor's project management team to provide active support.

While being part of an integrated team does not result in OPG taking on contractor responsibilities, this has resulted in the contractor estimating the cost of completing its current work to decrease by about \$8 million, primarily due to planning work performed by this team. Because the contractor's own cost will therefore likely be lower than the targeted cost for this work, the contractor's opportunity to earn more profit will also increase. As OPG's assistance contributed to these lower costs and potentially comes at an additional cost to OPG, we question whether the contractor should be eligible to earn the same profit as if it performed the work independently.

We noted that OPG senior management also raised concerns about contractors' performance. In 2017, OPG senior management wrote a memorandum to OPG's Board of Directors indicating a number of areas in which contractors generally performed below OPG's expectation and where OPG had to provide additional assistance to the contractors. For example:

- The contractors did not effectively plan Project work to meet OPG's documentation requirements although OPG communicated such requirements to the contractors in advance.
- The contractors did not provide effective training to staff on safety standards in a nuclear generating station as many of the supervisory staff came from a non-nuclear construction background.
- The contractors did not effectively monitor the procurement of materials needed for Project work to ensure the materials would arrive on time when needed and not cause unnecessary delays or work stoppages.

RECOMMENDATION 4

To ensure that contractors working on the Darlington Nuclear Generating Station Refurbishment Project (Project) only receive profit if their performance meets Ontario Power Generation's (OPG's) expectation and that the Project is completed on time and on budget, we recommend that OPG:

- continue to provide contractors with additional assistance when the contractors are unable to successfully achieve OPG's cost and time targets for Project work;
- track and consider taking action to recover the cost of additional support provided to contractors above what was expected when contracts with the contractor were signed; and
- take any assistance and support provided to contractors into consideration when evaluating contractors' performance and determining contractors' profit.

RESPONSE FROM ONTARIO POWER GENERATION

OPG agrees with the Auditor General that it is important to hold contractors accountable and ensure that payments are aligned with performance. OPG's contract management approach allows for early identification and quick resolution of issues, while holding each party to its respective accountabilities in accordance with contract terms and conditions. OPG's contract provisions tie contractors' incentives to the long-term success of the Project and align OPG's and contractors' goals. This approach was developed from lessons learned in other refurbishment projects and is considered an industry best practice.

OPG's extensive contract management processes track contractors' costs and performance and ensure issues are addressed. OPG has and will continue to exercise its contractual rights to withhold payments where contractors' performance is deemed to be unsatisfactory and

to implement disincentives where contractually appropriate.

Within its contract management approach, OPG uses a variety of arrangements to oversee its contractors. OPG performs its obligations as the owner, and the contractors perform their contractual obligations—even when OPG and contractors are functioning as an integrated team. In rare instances, where OPG believes that the unique expertise lies within its own organization (plant-specific knowledge, nuclear expertise, etc.), it steps in to assist contractors directly. This is the most cost-effective way to address risks. In these cases, OPG tracks the costs associated with the support provided and retains contractual rights to recover these amounts at a later date. Ultimately, OPG is responsible for the Project and takes the necessary steps to ensure that it is successful.

As recommended by the Auditor General, OPG will continue this collaborative approach to project management. OPG will also continue to track costs where additional support is provided to the contractors, and OPG's existing contracts will continue to ensure that contractors are given the incentive to perform well and that OPG and contractor goals are aligned. Ensuring that OPG and its contract partners work well together and are aligned to common objectives is critical to delivering the Project on time and on budget.

4.4 Insufficient Action to Prevent Recurring Safety Incidents Affects Worker Safety and Project Costs and Timelines

Since 2010, when prerequisite work on the Project began, about 30 safety events have happened at Darlington Station where Project staff required medical treatment. While the severity of safety incidents has been low (meaning they did not result in any serious injuries where staff missed work for more than one day), the frequency of these

incidents has remained constant. OPG has not met its safety targets and has not taken effective action to reduce the recurrence of preventable safety incidents on the Project. This has caused delays and additional costs of over \$700,000.

Safety incidents put individuals working on the Project in potentially harmful situations. They can also prevent OPG from completing the Project on time because any serious or major safety incident could result in an investigation by the Ministry of Labour and the Canadian Nuclear Safety Commission, which can halt Project work or even limit OPG's operations until corrective actions are implemented.

4.4.1 Safety Targets Not Met despite No Serious Injuries to Project Staff

Figure 11 shows OPG's safety performance related to the Project from 2014 through June 30, 2018. OPG has monitored and assessed its safety performance related to the Project through the following measures:

- **Rate of safety incidents:** The number of safety incidents for every 200,000 hours worked by staff against a target, which was 0.24 in 2016 and 0.37 in 2017. OPG's Presi-

dent and Chief Executive Officer increased the target to 0.37 in 2017 in recognition of the fact that the number of safety incidents would likely increase as a result of more complex work being performed in the Project in 2017 than previously.

- **Number of injuries:** The number of injuries (including those that did not result in days lost from work).
- **Number of near-miss safety incidents:** The number of incidents in which no one actually got hurt but where there was the potential for someone to have been hurt.

Based on our review of OPG's rates of safety incidents related to the Project since 2016 (when the actual refurbishment work on the first nuclear reactor unit began), we found that OPG did not meet its safety incident rate targets, and the number of injuries requiring medical treatment also increased. Specifically:

- OPG's rate of safety incidents related to the Project in 2016 (0.5), 2017 (0.49), and the first six months of 2018 (0.48) remained almost the same and did not meet the targets (0.24 in 2016 and 0.37 in 2017 and 2018).

Figure 11: Project Safety Performance, January 2014 through June 2018

Source of data: Ontario Power Generation

Year	Safety Incident Rate (# of Events per 200,000 Hours Worked) ¹	# of Injuries			# of Near-Miss Safety Incidents		
		Lost Time Injuries ²	Medically Treated Injuries ²	First Aid Injuries ²	High-Risk ³	Medium-Risk ³	Low-Risk ³
2014	0	0	0	Not tracked	4	0	Not tracked
2015	0.29	0	1	for Project	3	0	for Project
2016	0.5	0	9	26	6	3	159
2017	0.49	0	14	46	14	3	214
Jan-Jun 2018 ⁴	0.48	0	7	19	1	2	104

1. The safety incident rate is calculated by the number of medically treated injuries divided by the total number of hours worked in the year then multiplied by 200,000.
2. A lost time injury is a work-related injury or illness that results in death, a permanent disability or a critical injury. A medically treated injury is a work-related injury or illness requiring treatment beyond first aid but that does not result in days lost from work. A first aid injury is an injury that also does not result in days lost from work but that is treated without a physician (such as use of bandages, cleaning of wounds, and use of hot and cold compress).
3. High- and medium-risk near-miss safety incidents are incidents where death, a permanent disability or a critical injury has a reasonable potential to occur (for example, someone working at a height of 12 feet above the ground leaned on a gate that was not closed properly but caught themselves before potentially falling). A low-risk near-miss safety incident is an incident where there is an unlikely occurrence of death, permanent disability or a critical injury (for example, someone being struck on their hard hat and shoulder by pliers dropped from seven feet above).
4. Data is shown for the six-month period from January 1, 2018, to June 30, 2018.

- The total number of injuries increased from 35 in 2016 to 60 in 2017, of which the number of injuries that required medical treatment by a physician (such as a worker who cut their thumb while stripping wire) also increased from nine to 14. For the first six months of 2018, there were still seven injuries that required medical treatment by a physician. These injuries caused harm to staff but did not result in staff missing any days of work.

In 2016, OPG and an external advisor identified concerns over Project staff safety. Specifically:

- In a briefing to the Ministry of Energy in May 2016, OPG noted, “The [contractor staff] is unable to see the connection between Nuclear Safety, and the work that they perform.” OPG believed this to be the case in some circumstances due to contractor staff not having previous experience working in a nuclear generating station.
- In December 2016, the Refurbishment Construction Review Board (hired by OPG senior management to assist them with overseeing the Project) noted during its tours of Project work sites a number of incidents of non-compliance with OPG’s safety requirements (such as the failure of Project staff to secure a wrench properly when working at heights above ground). The advisory group attributed these findings to a “lack of communication and enforcement of expectations” by OPG.

To address these safety concerns, OPG implemented a number of safety improvement initiatives in early 2017, which included communicating its expectations on nuclear safety to its staff and contractors’ staff. For example, in March 2017, OPG started quarterly meetings attended by the Project’s contractors, staff union representatives, and OPG’s Health and Safety group to discuss their performance against OPG’s safety expectations, safety trends and any corrective actions to create a safer work environment.

However, as previously mentioned and shown in **Figure 11**, OPG’s safety improvement initiatives

have not significantly reduced OPG’s rates and number of safety incidents. Therefore, OPG needs to further strengthen its safety improvement initiatives throughout the remainder of the Project to prevent or reduce safety incidents in order to protect staff working on the Project, and mitigate the risk of cost overruns and delays that can be caused by any safety incidents.

Our review of the number of near-miss safety incidents (where harm did not occur but could have) related to the Project in 2016 and 2017 also found that both higher-risk and low-risk incidents increased as shown in **Figure 11**. Specifically:

- For higher-risk near-miss safety incidents (which incorporate incidents that OPG classifies as both high and medium risk that could have resulted in death or critical injuries such as a disability), OPG reported 17 cases in 2017, up from nine in 2016.
- For low-risk near-miss safety incidents (which would not likely result in death, a permanent disability or a critical injury), OPG reported 214 cases in 2017, up from 159 in 2016.

For the first six months of 2018, while there were only three higher-risk near-miss safety incidents, the number of low-risk near-miss safety incidents remained high at 104 cases. We also noted that the majority of the higher-risk near-miss safety incidents that occurred in 2017 had two common causes: (1) staff violating OPG’s safety requirements on preventing falls when working at heights above ground; and (2) staff dropping tools and parts when working at heights above ground. We found that although OPG investigated each of these incidents, it could have taken steps earlier to identify the common causes of these incidents and take action to prevent their recurrence.

4.4.2 Lack of Proactive Action to Reduce Recurring Preventable Safety Incidents

From January to July 2017, seven of the 10 higher-risk near-miss safety incidents that occurred were related to staff violating OPG’s safety requirements

relating to preventing falls when working at heights above ground, and could have resulted in death or critical injuries. In one case, an individual working at 12 feet above the ground leaned on a gate that did not close properly. In another case, an individual did not wear a harness while working at almost 20 feet above the ground.

While OPG investigated each of these incidents separately, it did not identify the common cause of these repetitive but preventable incidents until July 2017 when the seventh incident happened. As a result of its investigation completed in September 2017, OPG required contractors to attempt to reduce the frequency of this type of incident by taking various actions, such as conducting meetings before work begins to identify and document specific hazards. Since then, one similar higher-risk near-miss safety incident (where an individual did not wear a harness while working more than 10 feet above ground) occurred in November 2017 and five similar low-risk near-miss safety incidents occurred between October 2017 and the time of our audit. This suggests that if OPG had identified the common cause of this type of repetitive safety incident earlier, the frequency of similar incidents that occurred between January and July 2017 could have been reduced.

From January to September 2017, of the low-risk near-miss safety incidents that occurred, six were related to staff dropping tools or parts from above ground that nearly hit others below. In September 2017, two higher-risk near-miss safety incidents with the same cause also happened. Although OPG investigated each of these incidents separately, it did not identify why this type of incident was regularly occurring. However, one contractor working on the Project told OPG that it had performed an investigation into this pattern of recurring incidents. The contractor identified corrective actions, such as installing netting beneath above-ground work areas, and inspecting work areas between shifts to ensure tools and parts are securely stored.

In November 2017, the same type of incident occurred again when a worker dropped a bag

containing pieces of metal from almost 35 feet above ground, almost hitting another worker. As a result, the contractor stopped about 800 of its staff from working on the Project for two days: about 500 staff stopped working while another 300 staff in supervisory and management roles gathered at Darlington Station to develop safety improvement plans and procedures. The contractor's staff were still paid for these two days when they did not work, which cost OPG over \$700,000.

Subsequent to the incident in November 2017, another 10 safety incidents related to falling objects occurred, including one in May 2018 where a piece of steel fell 23 feet, which could have resulted in the death of, or critical injury to, nearby staff. While the contractor noted in its corrective action plan that “[h]uman errors will occur in the best of organizations. They cannot be completely eliminated,” the contractor also noted that its “[m]anagement and supervision have not established high standards and expectations for preventing dropped or falling objects,” which can be done if “[d]ropped and [f]alling [o]bjects [are] [s]trongly [r]eacted to [b]y [m]anagement.”

RECOMMENDATION 5

To ensure that the number of safety incidents on the Darlington Nuclear Generating Station Refurbishment Project (Project) remains as low as possible, we recommend that Ontario Power Generation:

- perform a review of its process for reviewing safety incidents to determine why previously identified corrective actions (such as those related to falling objects) have not effectively reduced the number of safety incidents occurring on the Project;
- develop new initiatives to address safety concerns related to the Project and meet its safety performance targets; and
- modify its process to investigate safety incidents that are the same or similar in order to identify their common cause in order to take action to prevent their recurrence.

RESPONSE FROM ONTARIO POWER GENERATION

Ontario Power Generation (OPG) agrees with the Auditor General that it is important to ensure that the number of safety incidents on the Project remains as low as possible. In fact, safety is the overriding priority for OPG, which has led to its having the lowest injury rate in the Canadian electricity sector. The Canadian Electricity Association (CEA) awarded OPG its President's Award of Excellence for OPG's safety performance in 2017. Additionally, the Canadian Nuclear Safety Commission has awarded the Darlington Nuclear Generating Station the highest possible safety performance rating for the last eight consecutive years in publicly released safety assessments.

In order to maintain this top safety performance, OPG continues to set very challenging targets for its day-to-day operations. Notwithstanding that the Project work is being executed by contractors and trades in a very complex construction environment, OPG purposefully sets the same challenging targets and expects the same level of performance from the Project. This expectation has resulted in a Project safety incident rate that is about 10 times better than the construction industry average overall.

OPG employs a variety of leading indicators to ensure that issues are addressed before incidents occur. OPG's practice of proactively tracking events where no injuries occur, but where there is potential for harm, is one example of a leading indicator. This practice exceeds the standards of other construction industries and companies, where these events are not similarly tracked. OPG carefully logs and reviews each of these incidents and adopts corrective actions to prevent future incidents. In addition, OPG has rigorous, best industry processes to review safety incidents, analyze trends and initiate common cause investigations. In 2017, the first full year of execution, there was a significant increase in

the number of people working on refurbishment, which resulted in a proportional increase in the number of incidents with higher potential for harm, as described by the Auditor General. As depicted in **Figure 11** of the Auditor General's report, in 2018 the number of these incidents dropped significantly, demonstrating the effectiveness of OPG's rigorous approach to safety.

Given its commitment to continuous improvement, OPG will review the safety incidents cited by the Auditor General to identify potential enhancements to its corrective action program and timeliness of the common cause investigation process. As recommended by the Auditor General, OPG will consider new initiatives to address safety concerns and enhance safety performance, where there are adverse trends. Safety will continue to remain OPG's priority.

4.5 Post-payment Audits Need to Be Continued to Identify and Prevent OPG's Overpayments to Contractors

OPG has hired external auditing firms to perform post-payment audits in order to assess whether it paid contractors working on the Project accurately according to the terms of the contracts. Since these audits have resulted in almost \$4 million in recovery of overpayments to contractors, OPG needs to continue to conduct these audits to encourage contractors to remain focused on accuracy when billing OPG for work performed and to help OPG identify overpayments throughout the duration of the Project.

OPG has processes in place to ensure that contractors only charged OPG for work they actually performed, such as reviewing the number of labour hours charged by contractors and the invoices submitted by contractors on their purchases. However, these processes are not enough to ensure that contractors are paid accurately for Project expenses. For example, OPG cannot fully verify whether contractors actually paid their staff the rates they

charged to OPG without reviewing data from the contractors' own payroll systems. Therefore, post-payment audits where auditors review data from the contractors' own information systems are an important control to help OPG identify ineligible payments to the contractors. Since November 2015, OPG has recovered almost \$4 million in overpayments to the contractors based on the findings from these post-payment audits.

Previous audits identified that OPG needed to improve its processes to validate contractors' compliance with contract terms in order to ensure that the contractors only charged OPG for eligible expenses and did not overstate their actual costs or commit fraud. Examples of findings from previous audits include:

- Our 2013 audit of OPG's human resources identified that the hours reported by contractors as being worked were not always properly supported or reconciled to documents (such as overtime approvals or timesheets) by OPG staff, which could lead to OPG overpaying these contractors.
- In February 2014, OPG's Internal Audit group issued a report on the contractor invoicing and payment process related to two contractors hired by OPG to perform both Project and non-Project work. As part of its report, Internal Audit identified that OPG had not exercised its right to perform post-payment audits of contractors' charges for contracts in place at that time.

In response to these previous audits, starting in 2014, OPG has engaged external auditing firms to perform post-payment audits in order to determine if the contractors charged OPG appropriately based on contract terms and if these charges were accurate and supported by appropriate documentation (such as employee timesheets and invoices for purchased goods). For example:

- In November 2015, post-payment audits found and recovered about \$3.6 million in overpayments (related to payments between February 2012 and March 2015) from two

contractors, mostly related to payroll deductions in excess of regulatory limits (such as for Canadian Pension Plan and Employment Insurance premiums) related to the contractors' own employees and sub-contractors.

- In November 2016, a post-payment audit of one Project contractor's billings from 2014 and 2015 resulted in OPG recovering about \$300,000 in overpayments to the contractor. These related to the cost of information technology resources that were not reimbursable in accordance with the contract.
- In June 2017 and June 2018, two other post-payment audits found another \$2.7 million in potential overpayments to two contractors performing Project work. These related to excessive payroll deductions (such as Workplace Safety Insurance Board premiums) and billings for hours not supported by appropriate documentation. At the time of our audit, OPG was in the process of reviewing the audit findings with the contractors to determine the amount of recovery.

Based on the results of the post-payment audits, OPG has modified its processes to reduce the likelihood of additional overpayments to contractors. For example, subsequent to the November 2015 post-payment audits, OPG developed a process that requires contractors' project management staff to obtain prior approval from OPG before obtaining a living-out allowance (for staff who have to stay away from home due to Project work).

As subsequent post-payment audits continue to identify other areas where overpayments to contractors occurred, OPG needs to continue making changes to its invoicing and payment processes in order to prevent or minimize overpayments. At the time of our audit, post-payment audits had saved OPG about \$3 million (almost \$4 million in overpayments recovered minus about \$1 million spent to perform these audits), so they clearly remain a useful and cost-effective tool to identify overpayments and signal to contractors that their billings are being thoroughly reviewed.

RECOMMENDATION 6

To ensure Darlington Nuclear Generating Station Refurbishment Project (Project) contractors are paid only for eligible expenses that have actually been incurred, we recommend that Ontario Power Generation:

- continue to perform post-payment audits regularly on Project contractor payments and recover any overpayments identified in these audits from contractors; and
- where cost-effective, make changes based on the results of the post-payment audits to its contractor invoicing and payment processes to reduce the likelihood that overpayments occur.

RESPONSE FROM ONTARIO POWER GENERATION

Ontario Power Generation (OPG) agrees with the Auditor General that it is important to ensure that contractor payments are accurate and that regular post-payment audits are performed.

Before paying contractor invoices, OPG uses a rigorous, multi-step invoice approval process to ensure that payments are only made in accordance with contract terms and conditions.

In addition, OPG has incorporated the right to audit all financial and other records in its contracts with Project vendors. OPG proactively engages independent third-party auditors to ensure that contractor payments are properly supported by a complete set of documentation, appropriate to the circumstances and in compliance with OPG contract terms and conditions. Contract provisions allow OPG to recoup any overpayments.

All major refurbishment contracts are routinely audited by independent third parties. These audits are performed to ensure the eligibility of charges. Historically, the post-payment audits for OPG's contracts have resulted in findings well below what is typical in the industry.

This demonstrates the effectiveness of OPG's invoice approval process, even before payments are made.

As recommended by the Auditor General, OPG will continue to perform regular post-payment audits for all major contracts and, where cost-effective, look for opportunities to make changes to its invoicing process to reduce the likelihood of overpayment.

4.6 Prerequisite Project Work Costs over \$725 Million More Than Initially Estimated and Will Be Completed Later Than Planned

Prior to starting the main refurbishment work on the Project, OPG had to perform work on 18 prerequisite projects that were necessary to allow refurbishment work on the actual nuclear reactors to occur, such as building facilities for processing and storing materials to be removed from the nuclear reactor units. The total cost of these prerequisite projects is expected to be over \$725 million (or over 75%) more than OPG's initial cost estimate. Fourteen of these projects were or are expected to be completed later than OPG initially estimated.

As part of its planning for the Project, OPG identified 18 prerequisite projects that it planned to start prior to starting the refurbishment work on the nuclear reactor units. We noted that the estimated Project total cost publicly announced by OPG in January 2016 only included 13 of 18 prerequisite projects, as OPG reclassified five of these projects prior to its public announcement primarily because this work would have been performed even without the Project. We included these five projects as part of our review and analysis of prerequisite projects since they are all required for the continued operation of Darlington Station. **Appendix 5** provides a list of all 18 prerequisite projects and the reasons that OPG did not include five of these projects in its Project cost estimate publicly released in January 2016.

Figure 12 shows a comparison between the original estimated costs for all 18 of these prerequisite

Figure 12: Cost and Completion Date Estimates for 18 Prerequisite Projects

Source of data: Ontario Power Generation

Prerequisite Projects	Original Estimated Cost ¹ (\$ million)	Cost as of June 30, 2018 ² (\$ million)	Cost Above Original Estimate ² (\$ million)	# of Projects Above Original Cost	# of Projects Completed Later than Original Plan ²
13 included in total estimated Project cost ³	762	1,402	640	11	11
5 not included in total estimated Project cost ^{3,4}	193	280	87	4	3
Total	955	1,682	727	15	14

Note: See **Appendix 5** for a list of all 18 projects and details on each of the projects.

1. OPG created a number of estimates at various stages of each project, such as when the need for the project work was first identified, when the project work was fully planned and when OPG was ready to start the main construction work on the project. Generally, we have identified OPG's cost and time estimates just prior to the start of construction work on the project as its original estimate, because earlier estimates may not have been developed based on a complete understanding of the conceptual design chosen for the project. Cost estimates include contingency amounts.
2. Amounts and completion dates are based on OPG's estimates for each prerequisite project as of June 30, 2018. Since two prerequisite projects have not been completed as of June 30 2018, the actual total cost of prerequisite projects and completion dates compared to original estimates are not known.
3. The total estimated Project cost is \$12.8 billion, which OPG publicly announced in January 2016.
4. Three of the five prerequisite projects were originally considered as Project work but were later removed from the Project's cost estimate as OPG determined this work would have been performed even if the Project did not occur. The remaining two prerequisite projects were related to nuclear waste management projects that OPG funds through segregated funds and were therefore not included in the Project's overall cost estimate. See **Appendix 5** for a list of these five prerequisite projects.

projects and their costs as of June 30, 2018, and the number of these projects completed later than the original plan. **Appendix 5** provides more details on each of these projects. Of the 18 projects, 16 had been completed and the remaining two were under way as of June 30, 2018. We found that:

- Fifteen of these 18 prerequisite projects had cost increases. The total cost of these projects is estimated to be over \$725 million more than originally estimated. The majority of this cost overrun was related to one prerequisite project, the Heavy Water Storage and Drum Handling Facility (see **Section 4.6.3**). Specifically, of the \$725 million cost overrun, about \$345 million was already included as estimated spending in the Project's \$12.8 billion total cost estimate that OPG publicly released in January 2016. Since then, an additional \$295 million has been allocated from the Project's contingency to cover these projects cost overruns. The remaining cost overrun of about \$85 million related to the five prerequisite projects was not included in OPG's total estimated Project cost of \$12.8 billion for the reasons stated above.

- Fourteen of the 18 prerequisite projects were or are expected to be completed later than originally planned. While late completion has not resulted in delays to other Project work (mainly because OPG required staff to work more hours in order to prevent delays in prerequisite work from disrupting other Project work), OPG spent almost \$32 million to complete project work faster (such as having staff work overtime), which could have been avoided or reduced if OPG had planned its prerequisite work better (see **Section 4.6.1**).

As shown in **Figure 12**, even if we excluded the five projects that were not included in the Project's \$12.8 billion public cost estimate from our review and analysis, the 13 prerequisite projects that OPG included in the Project are expected to cost more and take longer to complete than initially estimated. Specifically:

- Eleven of these 13 prerequisite projects had cost overruns. The total cost of these projects is now estimated to be about \$640 million more than originally estimated.

- Eleven of these 13 prerequisite projects were or are expected to be completed later than originally planned.

We found that the significant cost overruns and delays on the prerequisite projects were due to five main factors:

- lack of detailed planning and understanding of project work complexity resulted in inaccurate estimates and scoping as well as underestimation of project costs (see **Section 4.6.1**);
- poor risk assessment (see **Section 4.6.2**);
- underweighting technical criteria when selecting contractors to complete the work (see **Section 4.6.3**);
- assigning prerequisite work to staff with limited relevant experience with complex project work (see **Section 4.6.4**); and
- poor project management and oversight of external contractors (see **Section 4.6.5**).

We found that in most cases, several of these factors played a role in the cost overrun for individual prerequisite projects.

As discussed in **Section 4.1**, OPG has applied lessons learned from these prerequisite projects to the remaining Project work by implementing changes such as improving its understanding of the technical specifications of Project work before establishing initial cost estimates, using a computer simulation to determine an appropriate amount of contingency for Project work, and taking a more proactive approach to contractor oversight.

4.6.1 Lack of Detailed Planning and Understanding of Project Work Complexity Resulted in Inaccurate Estimates and Scoping as Well as Underestimation of Project Costs

OPG staff did not develop accurate initial cost and time estimates for most of the prerequisite projects because they did not have a detailed understanding of the complexity and specific technical requirements of the work when the estimates were made.

As a result, a number of prerequisite projects were not appropriately scoped, which contributed significantly to the underestimation of project costs and cost overruns described earlier in this section (totaling over \$725 million). Further, better planning may have allowed OPG to avoid almost \$32 million in costs (such as having staff work overtime to complete project work faster) it incurred on these prerequisite projects.

In our review of planning documents for the Project, we noted that the majority of the prerequisite projects had cost increases that were partially due to OPG's reliance on cost estimates provided by the contractors during the planning process when it did not understand the full complexity and requirements of the Project work. In other words, OPG inappropriately treated or classified the initial cost estimates as being reasonable without actually knowing the complexity and requirements of the work. OPG indicated to us that execution work on some of the prerequisite projects had to start before the completion of detailed engineering to ensure that there would be no delays to the start of the refurbishment work on the actual nuclear reactor units.

As part of the planning process of prerequisite work, OPG staff (such as project managers and directors) are required to provide OPG senior management with a project business case that includes cost and time estimates for completing the work. There are best practices for developing cost and time estimates, such as those established by the American Association of Cost Engineers (AACE) International, which is an association that shares knowledge and certifies cost engineers and estimators. AACE International has developed a cost estimate classification system that classifies projected work on the basis of the degree of certainty known about the details of a project at a particular point in time. For instance, as **Figure 13** shows, Class 5 designates work that is relatively preliminary, with many unknowns, while Class 1 signifies a very high degree of certainty.

Figure 13: American Association of Cost Engineers (AACE) International Estimate Classification System

Prepared by the Office of the Auditor General of Ontario

	Class 5	Class 4	Class 3	Class 2	Class 1
Level of project definition required ¹	0 to 2%	2 to 15%	15 to 40%	40 to 70%	70 to 100%
Expected accuracy range ²	-50 to +100%	-30 to +50%	-20 to +30%	-15 to +20%	-10 to +15%
Typical purpose of estimate/possible end usage of estimate	<ul style="list-style-type: none"> • Concept screening • Assessment of initial viability • Evaluation of alternatives 	<ul style="list-style-type: none"> • Detailed strategic planning • Determination of feasibility • Preliminary budget approval 	<ul style="list-style-type: none"> • Basis for budget authorization • Support project funding requests 	<ul style="list-style-type: none"> • Control baseline for monitoring project cost and progress 	<ul style="list-style-type: none"> • Final control baseline for monitoring variations between all actual project costs and the budget

1. Level of project definition required refers to the percentage of engineering and project design that has been completed. AACE's estimate class system identifies that some levels of project definition could possibly relate to two different estimate classes. For ease of understanding, we removed these overlaps.
2. This represents the typical ranges of accuracy of cost estimates to actual project costs. For example, for a Class 5 cost estimate, typically actual project costs might be as much as 100% greater than the estimated cost or might be as much as 50% lower than the estimated cost.

One of the main causes of cost overruns on pre-requisite projects was the initial misclassification of contractors' estimates—misclassification that indicated a higher degree of understanding, and lower degree of risk, than was actually the case. This meant that the contractors' initial estimates were not nearly as reliable as OPG staff believed. As those projects proceeded and their actual complexity and requirements became more evident, the project work had to be altered, resulting in significant additional costs. Some of these costs (including almost \$32 million spent by OPG to complete these projects faster, such as by having staff work overtime) could have been avoided if OPG had properly classified contractor cost estimates or obtained more accurate cost and time estimates prior to starting project work. Two examples of projects where OPG relied too heavily on contractors' initial estimates are the Auxiliary Heating System and the Containment Filtered Venting System.

Auxiliary Heating System

The final cost to build an Auxiliary Heating System (Heating System) is estimated to be \$61 million more than OPG staff's original estimate in large

part because staff, relying on information provided by the contractor, initially classified the cost estimate as Class 3 (according to AACE International standards) but it subsequently proved to be Class 5.

In 2012, OPG senior management approved the business plan for building the Heating System, which is a back-up to the main heating system at Darlington Station in case all four nuclear reactor units shut down in the winter months. OPG staff developed the business plan (including cost and time estimates) largely based on information from the contractor that OPG hired to build the Heating System. At that time, the Heating System was estimated to cost about \$39 million (or \$46 million after factoring in a contingency of \$7 million to cover potential risks) and be completed in April 2015. OPG staff classified this cost estimate as Class 3, which is suitable for budget approval or funding request according to AACE International standards (see **Figure 13**).

As part of the business plan submitted to OPG senior management for the Heating System, OPG staff identified seven alternative options to building the Heating System. Examples of these alternatives included renting portable boilers during an emergency to provide heating when necessary

and using other types of fuel (such as electric or gas as opposed to steam) to operate the Heating System. OPG staff estimated that the costs of these alternatives ranged from about \$43 million to about \$121 million. OPG informed us that it rejected these alternatives for various reasons; for example, some alternatives were too costly and would not meet OPG's heating needs in an emergency.

In 2014, OPG realized its original cost estimate for the Heating System should have been classified as Class 5, which is the most basic and least accurate type of estimate, instead of Class 3. This misclassification occurred because OPG staff relied on the cost estimate provided by the contractor without obtaining a detailed understanding of the complexity and specific technical requirements to build the Heating System at that time. As a result, the Heating System was completed in March 2016 (almost a year later than the original estimated completion date of April 2015) and cost about \$107 million (or about \$61 million more than the initial estimate of \$46 million), making the Heating System more costly than almost all the alternatives considered.

We noted that the Ontario Energy Board (OEB) also expressed its concern over the cost of the Heating System. In December 2017, the OEB issued a decision for OPG's 2017–2021 rate application and specifically stated that, in relation to the Heating System, “[i]t is not obvious whether the best alternative was selected or whether costs for the alternative selected were contained” and “there were other options available to OPG when selecting a contractor that may not have been adequately explored.” As a result, the OEB disallowed OPG from including about half of the cost overrun of the Heating System above the initial cost estimate into its rate base, meaning that OPG is unable to charge electricity ratepayers for the amount disallowed by the OEB. The actual amount disallowed by the OEB was about \$27 million, which represents the amount of the Heating System cost that the OEB considers not to have been prudently spent by OPG.

Containment Filtered Venting System

A similar situation occurred with another prerequisite project related to building a Containment Filtered Venting System (Venting System), which limits the amount of radiation released in the case of an incident within a nuclear reactor unit. In 2014, OPG senior management approved the business plan for building the Venting System. The business plan (including cost and time estimates) was developed by OPG staff primarily based on information from the contractor that OPG selected to build the Venting System. At that time, the Venting System was estimated to cost about \$77 million and be completed in April 2016.

After OPG obtained a more in-depth understanding of the needs for the specific design of the Venting System, it realized that building the Venting System was more complex than initially estimated. The Venting System was completed almost a year late, in March 2017, at a total cost of over \$110 million, over 40% (or \$33 million) more than initially estimated.

As a lesson learned from this work, OPG acknowledged that “[the (c)ontractor’s] estimates should be appropriately classified to reflect [the] lack of engineering definition. [The (c)ontractor’s] estimates should not be relied on until they are fully vetted and understood by OPG.”

4.6.2 Poor Risk Assessment Resulted in Higher Costs than Estimated

OPG did not accurately consider the cost of potential risks related to the prerequisite work when developing initial cost estimates for the work.

As mentioned in **Section 4.6.1**, OPG largely based its cost estimates for prerequisite work on estimates provided by contractors that contracted with OPG. The contractors estimated the costs by considering various factors, such as material costs and direct labour costs. OPG staff then added a contingency amount to the estimated cost to cover the costs of potential risks, such as materials costing more than expected or workers taking longer to

complete work than expected. When determining the contingency amount, OPG staff have to consider both the likelihood of risks occurring and the potential dollar impact of the risk.

The external advisor hired by OPG's Board of Directors to help oversee the Project identified that OPG "failed to identify or mitigate known risks" and that "risk management was not taken seriously" when it came to developing contingency amounts for prerequisite work. As shown in **Figure 12**, the original estimated cost for the 18 prerequisite projects was about \$955 million, which included about \$100 million that OPG added as contingency. As discussed in **Section 4.6.1**, OPG indicated that it did not have time to complete its cost and time estimates for prerequisite work based on a detailed understanding of the work's complexity and technical specifications, resulting in misclassification of its estimates. It was therefore inappropriate for OPG to assume that the level of contingency allocated to the prerequisite work was appropriate based on the reasonability of the cost estimates it developed. We identified several examples where the contingency amounts were insufficient to cover risks in the prerequisite work.

Contingency Amounts Not Sufficient to Cover Soil Contamination Issues

In May 2014, based on information from OPG staff working on the Project, the external advisor engaged by OPG's Board of Directors identified that "there was a high likelihood that there would be contaminated soil issues" during OPG's prerequisite work. Our discussion with Project staff indicated that concerns about contaminated soil were partially based on an incident in 2009, where an underground tank at Darlington Station leaked water that contained tritium (a radioactive by-product created in a nuclear reactor). Excessive consumption of tritium can cause negative health effects. At the time of the spill, OPG's analysis indicated that the spill did not pose health consequences to the nearby population.

While OPG added contingency amounts in its cost estimates for prerequisite work to address the risk of potential soil contamination, we found prerequisite projects where the contingency amounts were not sufficient to cover the actual cost incurred by OPG to deal with the issue. Two examples are related to the additional Emergency Power Generator and the Island Support Annex prerequisite projects.

Emergency Power Generator

In 2014, OPG senior management approved a cost estimate of about \$88 million for the prerequisite work of building an additional Emergency Power Generator, which is used in case the backup generators at the Darlington Station fail during an emergency such as an earthquake. This estimate included almost \$9 million in contingency to address any potential risks.

OPG now expects the Emergency Power Generator to cost almost \$150 million, which is about \$62 million or 70% more than initially expected. The significant cost increase is partially due to tritium-contaminated soil being found on the Emergency Power Generator site, which increased the cost to remove and dispose of the soil. While other factors (such as regulatory changes requiring OPG to build the generator so that it can withstand stronger earthquakes) also increased the cost of this work, OPG indicated that "[s]oil contamination was a risk identified by the project team and incorporated in the development of the original project budget via contingency" and acknowledged that "the impact of the soil contamination and the cost to manage the excavated soil was beyond what was initially budgeted for."

When we asked OPG to provide a detailed breakdown of the contingency amounts for each risk factor included in its initial cost estimate for this work, it was unable to provide this information. OPG indicated that the initial contingency amounts estimated for these projects were based on a percentage of the overall project cost as well as on the judgment and discretion of the project manager.

Island Support Annex

In 2013, OPG senior management approved a cost estimate of about \$31 million for the prerequisite work of building an Island Support Annex, which is used by contractors as office space and an area for performing preparatory work activities outside of the nuclear reactor units. This included almost \$5 million in contingency to address any potential risks. As part of its earlier risk assessment in relation to this work, OPG identified that the potential impact from encountering poor soil conditions was “low.”

In 2016, OPG’s cost estimate for the Island Support Annex increased by \$15 million (or about 50%) to about \$46 million. At that time, OPG identified that one of the major factors contributing to the increased cost was that OPG’s initial cost “estimate for subterranean risks was not sufficient to cover actual risks encountered.” In addition to inadequate consideration of risk related to poor soil conditions, OPG indicated that the cost increase was also related to the cost of locating and removing materials buried underground on the building site because OPG had not recorded the buried materials in its worksite plans.

4.6.3 Underweighting Technical Criteria When Selecting Contractors Contributed to Cost Overruns and Delays

Project work is primarily performed by external contractors. OPG selected the majority of contractors using a competitive bidding process. Overall, we identified that OPG’s procurement process generally complied with its own policies and the Broader Public Sector Procurement Directive. However, in our review of OPG’s evaluations of contractor bids for 17 of the 18 prerequisite projects (OPG was not able to locate the contractor bid evaluation information for one prerequisite project), we found five projects where OPG selected contractors that submitted lower bid prices but scored lower on the technical criteria than the competing contractors. Collectively, these five prerequisite projects are expected to cost about \$500 million more than

originally estimated. If OPG had scoped prerequisite projects appropriately by obtaining a detailed understanding of these projects’ complexity (as discussed in **Section 4.6.1**) and placed greater weighting on technical criteria when selecting contractors, it would have saved money and avoided delays.

As part of its competitive bidding process, OPG creates a scorecard to evaluate each contractor’s proposal based on two main criteria: bid price and technical ability to complete the specific project work. OPG determines weighting for each evaluation criterion prior to receiving the contractors’ proposals and communicates the weightings to potential contractors in advance of them submitting their proposals. While the exact weighting OPG applies to each bid evaluation differs according to the complexity of the work, we noted that for half (or nine) of the 18 prerequisite projects, OPG assigned a score of 40% to bid price and 60% to technical ability to complete the work. OPG then selected the contractor with the overall highest score.

On five projects, the contractors that OPG selected to complete the specific project work were given a lower score on technical criteria than the competing contractor. **Appendix 6** summarizes the scores of contractors that bid on these five projects. It also shows the cost increase on each of these projects compared to OPG’s initial cost estimate. Apart from the total cost increase of over \$500 million for these five projects (which is primarily due to OPG relying on initial cost estimates without having a detailed understanding of project work’s complexity and technical requirements, as discussed in **Section 4.6.1**), there have been costs and delays associated with having to replace contractors on the Project. For example, as discussed in detail further on, OPG incurred \$14 million in costs directly due to the replacement of one contractor that was selected to perform a prerequisite project even though it scored lower on the technical criteria than a competing contractor.

Heavy Water Facility to Cost about \$400 Million More than Initial Estimate

Of these five projects, the most significant cost increase—about \$400 million—was related to building a Heavy Water Storage and Drum Handling Facility (Heavy Water Facility), which is used to safely store and process radioactive heavy water extracted from each nuclear reactor unit being refurbished.

In 2012, OPG received bids from two contractors (Black & McDonald and a competing contractor) related to the Heavy Water Facility. As shown in **Figure 14**, OPG evaluated both contractor bids against the same scorecard, which attributed 50% of the overall score to the contractor’s bid price and 50% to the contractor’s technical expertise, risk management plans and overall quality of the proposal.

As part of the bid evaluation, OPG identified that the competing contractor had some experience with parts of a different nuclear generating station’s Heavy Water Facility, while Black & McDonald’s experience with this type of project was limited. OPG also identified that compared to Black & McDonald’s bid, the competing contractor’s bid was more thoroughly thought out.

Figure 14 shows that even though OPG gave Black & McDonald’s proposal a significantly lower technical score than the competing contractor, it selected Black & McDonald as the winning contractor as a result of its lower bid price.

In 2013, largely relying on information from Black & McDonald’s proposal, OPG estimated the Heavy Water Facility to cost \$110 million and be ready for use by October 2015.

In October 2014, OPG terminated its contract with Black & McDonald to construct the Heavy Water Facility. At that time, OPG believed that Black & McDonald’s performance on the project was poor. In March 2015, OPG estimated that the Heavy Water Facility would actually cost over \$380 million—about \$270 million or almost 3.5 times more than originally planned—and not be completed until May 2017: two years later than originally planned.

Figure 14: OPG’s Assessment of Contractors’ Bids for the Heavy Water Storage and Drum Handling Facility

Source of data: Ontario Power Generation

Criteria	Score	
	Winning Contractor*	Competing Contractor*
Price	50/50	25/50
Technical Expertise, Risk Management Plans and Overall Quality of Proposal	32/50	49/50
Total	82/100	74/100

* Only two contractors bid on this project.

In July 2015, OPG replaced Black & McDonald with a new contractor that was selected through a competitive bidding process. OPG adjusted scorecard weightings by allocating 25% of the scorecard to the contractor’s bid price and 75% to the contractor’s technical ability to perform the project work, reflecting the more complex scope of work at that time. If OPG had used this weighting instead of the original weighting (50% to bid price and 50% to technical ability) to evaluate the contractors’ bids received for the Heavy Water Facility in 2012, it would have selected the competing contractor over Black & McDonald (assuming the bidding contractors would not have submitted different proposals in response to the different weighting). At the time of our audit, OPG had already paid Black & McDonald over \$83 million for the work completed on the Heavy Water Facility.

In 2015, OPG approved the request of the newly selected contractor (a joint venture between SNC-Lavalin Nuclear Inc. and AECOM Construction Group Inc.) to change the design of the Heavy Water Facility. In a project business case for the Heavy Water Facility, OPG identified that this was based on the contractor’s view at that time that design changes would not increase the cost to perform the project work; however, these actually resulted in further cost increases (about \$130 million, primarily related to design changes suggested by the new contractor in addition to changes to the

project's scope and other factors) and delays to the Heavy Water Facility.

At the time of our audit, the Heavy Water Facility was expected to cost about \$510 million—about \$400 million or over 4.5 times more than originally estimated, and not to be completed until May 2019—three-and-a-half years later than originally estimated. This includes approximately \$130 million primarily related to allowing the newly selected contractor to make design changes (in addition to other factors, as mentioned above) and about \$14 million related to selecting the new contractor and transferring the work to it from Black & McDonald.

4.6.4 Assigning Prerequisite Project Work to Staff with Limited Relevant Experience with Complex Project Work

OPG assigned prerequisite work to its Projects and Modifications group, which had limited appropriate experience with complex projects related to effectively planning and executing the prerequisite Project work.

OPG established its Projects and Modifications group in 2001 to maintain and upgrade operational parts in its nuclear generating stations and nuclear waste facility. Prior to the execution of prerequisite work, the group's average annual spending was about \$225 million. This more than doubled to about \$530 million in 2014 when the group started performing prerequisite work.

In January 2010, OPG formally created another group, the Darlington Refurbishment group, to focus on planning and eventually overseeing the Project's Execution Phase. In order for this new group to focus on detailed planning for the Project, OPG senior management assigned the prerequisite work to its Projects and Modifications group. However, the prerequisite work contained a number of complex projects that the Projects and Modifications group did not have previous experience performing because it only performed routine or smaller scale capital projects at its nuclear facilities, such as replacing air conditioning units, radiation

detection systems and a water treatment system. In contrast, the Darlington Refurbishment group has included five people in senior management positions who had direct experience working on the Point Lepreau Nuclear Generating Station refurbishment project in New Brunswick, which had started in 2008.

Since OPG planned to complete the majority of the prerequisite work prior to starting the refurbishment of nuclear reactor Unit 2 in 2016, the Projects and Modifications group had little opportunity to develop the refurbishment-specific skills it required because it needed to meet the fixed deadline.

4.6.5 Poor Project Management and Oversight of Contractors Performing Prerequisite Project Work

Based on our review of the reports issued by different external oversight parties on the Project, we noted that one of the main causes for cost overruns and delays of prerequisite work was OPG's poor oversight of external contractors due to its "hands-off" project management approach by allowing contractors to plan the projects without appropriate monitoring. Once prerequisite project work began, OPG did not challenge or put enough pressure on the contractors to meet the Project's cost and time estimates, and to explain why these estimates were not achieved. Specifically:

- In May 2014, a Project advisor engaged by OPG's Board of Directors indicated that OPG had a "hands-off" approach in its oversight of contractor planning of prerequisite work, "leading to a series of cascading management failures and contractor performance issues."
- In July 2016, a group of advisors engaged by OPG senior management identified weaknesses in OPG's contractor oversight and project management culture (such as "a cultural tolerance for acceptance of work delays" and "[weak m]anagement behaviour when [s]chedule expectations are missed"). In particular, the advisory group stated that "the

prevailing ‘discussion’ at a meeting is focused on when the new target completion date is, but little to no discussion as to why was it missed, why [were] there no previous warnings or requests for assistance [and] why there was not a previous recovery plan to ensure the target completion date would not be missed.”

- In December 2017, the OEB stated in its decision on OPG’s 2017–2021 rate application that having robust project controls in place is “a critical component of good planning and execution of capital projects that allow projects to be completed on time and on budget.” However, it is “not convinced that project controls are as robust as they could be” as part of OPG’s oversight of the prerequisite work.

In response to the concerns raised by various oversight parties, OPG has made changes to improve its oversight and project management approach for the remainder of the Project. Examples of changes include having review meetings between OPG’s management and contractors to discuss reasons or risks for Project work not being completed on time, and requiring contractors to report Project estimated costs on a weekly basis.

RECOMMENDATION 7

To ensure that mistakes made during prerequisite project work on the Darlington Nuclear Generating Station Refurbishment Project (Project) are not repeated, we recommend that Ontario Power Generation continue to:

- perform detailed planning of Project work diligently and appropriately before allowing its senior management team to release funding for refurbishment work during the remainder of the Project;
- review the evaluation scorecards for the remaining Project work not yet contracted and adjust the weightings applied to technical criteria and bid price as necessary to appropriately consider the importance of technical criteria when selecting contractors; and

- review and apply lessons learned on project management approaches from completed Project work (including those recommended by advisors) to the remaining work on the Project.

RESPONSE FROM ONTARIO POWER GENERATION

OPG agrees with the Auditor General’s recommendations. As stated by the Ontario Energy Board (see Overall Response), OPG followed industry best practices to develop detailed plans and established robust controls and risk management processes to successfully manage the Project. Notwithstanding the challenges faced during the prerequisite project work, the Darlington Refurbishment is on track to be completed on time, on budget, safely and with quality.

OPG’s procurement processes for the prerequisite work were aligned with the principles and applicable requirements in the Ontario Public Service Procurement Directive. To evaluate the contractors bidding on the work, OPG established evaluation criteria and weightings based on the expected complexity and scope of the projects at the time. The work was awarded to the contractors who had the highest overall score.

The prerequisite projects were complex projects with unique scopes of work. Early on, OPG established the initial estimates based on conceptual designs that did not reflect the true complexity or scope of the required work. At the time, OPG was still strengthening its project management capabilities and incorrectly characterized these estimates as having a higher degree of certainty than they actually did. Contrary to OPG’s Class 3 characterization at the time, the initial estimates were Class 5 values with an expected accuracy range of –50% to +100% (see **Figure 13**). The cost and schedule increases described by the Auditor General are

not unusual for this type of initial estimate and fall within the expected accuracy range.

The majority of cost increases for the prerequisite work were due to evolution of project scope or unforeseen conditions during construction. As identified by an external advisor to OPG's Board of Directors, "the increased budgets [were] simply reflective of the true project costs had they been estimated properly at the outset."

In 2015, OPG established more detailed Class 3 estimates for these projects as part of the overall Refurbishment estimate, which included sufficient contingency amounts based on detailed evaluation of risks. At this time, the cost of the prerequisite work continues to be within the expected accuracy range of these estimates, and Project contingency continues to be adequate to address future risks.

The prerequisite scope of work became a valuable source of lessons learned for the remainder of the Project. Prior to releasing funds to enter the execution phase of Refurbishment, OPG ensured that detailed engineering work was completed, a Class 3 overall estimate was established, and sufficient contingency was calculated based on a comprehensive evaluation of risks. The external advisor to OPG's Board of Directors and expert testimony at the Ontario Energy Board concluded that the organization had learned early and essential lessons from these projects and that there was no evidence that the remainder of the Project would face similar challenges. Going forward, OPG will continue these practices, which are aligned with the Auditor General's recommendations.

Appendix 1: Glossary of Terms

Prepared by the Office of the Auditor General of Ontario

Bruce Nuclear Generating Station: A nuclear generating station operated by Bruce Power Limited Partnership in Kincardine, Ontario. Two of its eight nuclear reactor units were refurbished in 2012. The station's operations will be extended to 2064 through a life-extension program that began in January 2016. This includes the refurbishment of the remaining six units and is expected to be completed in 2053.

Canadian Nuclear Safety Commission: An independent federal agency that regulates the use of nuclear energy in Canada. It specifies safety standards that all nuclear generating stations in Canada must comply with in order to obtain a licence and be able to operate. It approved Ontario Power Generation (OPG) to start the Darlington Nuclear Generating Station Refurbishment Project (Project) based on its review of safety-related activities performed by OPG (such as an Environmental Assessment).

contingency: Funds that are allocated to cover the potential costs if certain risks occur. OPG allocated about \$2 billion of its estimated \$12.8 billion total Project cost to address potential risks and uncertainties the Project faced. This amount was determined using a computer simulation based on the likelihood of certain risks to occur on the Project and the estimated cost to OPG if those risks were to occur.

contractor: External construction and engineering vendors hired and overseen by OPG to perform the majority of work on the Project. Includes a joint venture between SNC-Lavalin Nuclear Inc. and AECOM Construction Group Inc. to complete the main nuclear reactor refurbishment work.

Definition Phase: During this phase of the Project, from 2010 to 2015, OPG performed detailed planning of refurbishment activities and substantially completed prerequisite work that was necessary to allow refurbishment work on the nuclear reactors to occur. This included activities such as building facilities to process and store materials to be removed from the nuclear reactor units.

Execution Phase: This phase of the Project started in 2016 and is estimated to be completed in 2026. During this phase, OPG will be performing refurbishment work on all four nuclear reactor units. This includes shutting down the units before starting refurbishment work, and replacing or repairing most of the components in the units.

external advisor: One of three external groups on the Project—an advisor who reports to the Ministry of Energy, Northern Development and Mines, an advisor who reports to the Darlington Refurbishment Committee of OPG's Board of Directors, or an advisory group that advises OPG senior management. (This does not refer to the external advisor the Office of Auditor General of Ontario engaged on this audit who has experience in the design and refurbishment of nuclear generating stations.)

Independent Electricity System Operator (IESO): Administrator of the Ontario wholesale electricity market that matches electricity supply with demand. Also responsible for the long-term planning for and procuring the generation of Ontario's electricity needs.

Initiation Phase: This phase of the Project occurred from 2007 to 2009 when OPG performed the initial feasibility assessment and preliminary planning work for the Project.

nuclear reactor unit: An assembly of equipment including a reactor core, steam generator and steam turbine used to generate electricity. See **Figure 2** for a visual depiction of the nuclear reactor unit as part of how a nuclear generating station works.

Ontario Energy Board (OEB): Regulator of electricity in Ontario that is responsible for reviewing and approving the costs charged by electricity generators (such as OPG) and rates charged to electricity users. It reviews OPG's rate application for its two nuclear generating stations every five years.

Pickering Nuclear Generating Station: A nuclear generating station operated by OPG located in Pickering, Ontario. The station has six operating nuclear reactor units, of which two units are scheduled to stop producing electricity in 2022. The four remaining units are expected to shut down in 2024.

Point Lepreau Nuclear Generating Station: A nuclear generating station with one operating nuclear reactor unit operated by New Brunswick Power Corporation, located approximately 40 kilometres west of Saint John, New Brunswick. Its nuclear reactor unit was refurbished between 2008 and 2012.

prerequisite Project work: Construction of buildings and infrastructure (such as water, sewer and piping systems) planned to be completed prior to the starting of refurbishment work or needed for the continuing operations of Darlington Nuclear Generating Station.

Appendix 2: Overview of Ontario's Nuclear Generating Stations

Prepared by the Office of the Auditor General of Ontario

	Bruce Nuclear Generating Station	Darlington Nuclear Generating Station	Pickering Nuclear Generating Station
Operator	Bruce Power Limited Partnership	Ontario Power Generation	Ontario Power Generation
Location	Kincardine	Clarington	Pickering
# of nuclear reactor units	8	4	6 ¹
Year started operating ²	1977	1990	1971
Installed capacity as of June 2018 (MW)	6,232	3,512	3,100
Plans for the station	Extending the useful life of six nuclear reactor units through the repair and replacement of nuclear reactor components	Refurbishing all four nuclear reactor units	Extending the useful life of the nuclear reactor units past 2020 through maintenance work
Estimated cost of life extension/refurbishment work	\$13 billion	\$12.8 billion	\$0.3 billion
Estimated timing of life extension/refurbishment work	2016–2053 ³	2016–2026	2016–2020
Nuclear reactors can remain operational after refurbishment	Until 2064	Until 2055	Until 2024 ⁴

1. Pickering Nuclear Generating Station had eight nuclear reactor units. Two units stopped operating in 1997.
2. Year when the first nuclear reactor unit at a station started operating.
3. In January 2016, Bruce Power began a multi-year Life Extension Program on six of its eight nuclear reactor units. The Program has two parts: 1) Major Component Replacement (that will continue through 2033 with execution work starting in 2020); and 2) Asset Management program (that will run until 2053). Refurbishment work on the other two of its eight nuclear reactor units had been completed in 2012.
4. Two nuclear reactor units at Pickering Nuclear Generating Station will stop operating in 2022, with the remaining four units continuing to operate until 2024.

Appendix 3: Key Dates Related to the Project

Prepared by the Office of the Auditor General of Ontario

Date	Event
June 2006	The Minister of Energy (Minister) directs the Ontario Power Authority (which was merged with the Independent Electricity System Operator in January 2015) to prepare an Integrated Power System Plan with various goals for Ontario's energy supply. This includes planning for nuclear energy to meet Ontario's base-load energy requirement.
June 2006	The Minister directs Ontario Power Generation (OPG) to conduct feasibility studies on refurbishing its Darlington Nuclear Generating Station (Darlington Station) and Pickering Nuclear Generating Station.
Initiation Phase	
November 2009	OPG completes its economic feasibility assessment business case summary for the Darlington Nuclear Generating Station Refurbishment Project (Project). OPG identifies the refurbishment of Darlington Station's four nuclear reactor units as the recommended option to pursue in part because it would be more economical than other options (such as building new gas generating facilities).
November 2009	OPG's Board of Directors approves \$241 million for further planning of the Project, including planning and partial completion of prerequisite Project work.
Definition Phase	
January 2010	OPG formally establishes the Darlington Refurbishment group with accountability for the Project. This group is led by the Executive Vice President, Refurbishment Project. The group is responsible for the detailed planning of the Project as well as overseeing the Execution Phase of the Project (when refurbishment work on the four nuclear reactor units will occur). Prerequisite project work (that OPG planned to complete before starting to refurbish the actual nuclear reactor units) continues to be overseen by another existing group, Projects & Modifications, which was established in 1999 to maintain and upgrade operational parts in OPG's nuclear generating stations and nuclear waste facility.
March 2010	OPG issues an expression of interest to seven contractors for the largest contract as part of the Project related to the replacement of some of the key components of the nuclear reactor units (such as the replacement of feeder pipes that carry coolant required in each nuclear reactor unit). This results in four contractor consortiums expressing interest in performing the work.
October 2010	Three of the four contractor consortiums interested in performing the work are invited to participate in a prequalification process.
October 2011	OPG submits its Integrated Safety Review (identifying areas where Darlington Station currently does not meet standards and practices, and also any areas that would limit the safe, long-term operation of a nuclear facility) to the Canadian Nuclear Safety Commission.
March 2012	OPG enters into a contract with a joint venture between SNC-Lavalin Nuclear Inc. and AECOM Construction Group Inc. to begin planning the main refurbishment work on Darlington Station's four nuclear reactor units. Once this work is planned, OPG enters into a contract that will pay the joint venture over \$2.7 billion to perform the work.
June 2012	OPG enters into a contract with Black & McDonald for the Heavy Water Storage project (one of the prerequisite projects, which will store radioactive water extracted from the operating nuclear reactor units while the units are being refurbished). See Section 4.6.3 .
February 2013	OPG's Board of Directors retains an advisor to provide external oversight of the Project.
March 2013	Chief Nuclear Officer takes over as the senior corporate officer responsible for the Project after the Executive Vice President, Refurbishment Project, left OPG.
May 2013	Senior Vice President, Nuclear Projects takes over responsibility for the Project.
July 2013	Canadian Nuclear Safety Commission accepts OPG's Integrated Safety Review.
March 2014	OPG builds a nuclear reactor mock-up to help staff practise doing Project work in a replica of a nuclear reactor. The mock-up costs about \$50 million to build.
May 2014	OPG appoints a new Senior Vice President, Nuclear Projects as the senior corporate officer responsible for the Project.

Date	Event
October 2014	OPG terminates its contract with Black & McDonald for the Heavy Water Storage project after OPG believes Black & McDonald's performance on the Project was poor. See Section 4.6.3 .
April 2015	OPG submits its Integrated Implementation Plan (identifying the schedule and work needed to be done to address areas for improvement identified in its Environmental Assessment and Integrated Safety Plan) to the Canadian Nuclear Safety Commission.
July 2015	OPG's Board of Directors appoints a new President and Chief Executive Officer, effective August 21, 2015.
July 2015	OPG enters into a contract with a new contractor (the joint venture between SNC-Lavalin Nuclear Inc. and AECON Construction Group Inc.) to complete the Heavy Water Storage project.
November 2015	OPG's Board of Directors receive and approve the full business case to continue with the Project, including OPG's overall cost and time estimate (which is the basis for the public estimates OPG releases in January 2016). The Project is estimated to cost \$12.8 billion, of which \$2 billion is contingency for risks that may occur throughout the Project's duration. The Board releases \$1 billion to help fund the start of the Execution Phase, including funding for the direct refurbishment work on nuclear reactor Unit 2.
December 2015	Ministry hires an advisor to provide Project oversight on their behalf and keep them informed on the status of the Project.
December 2015	Canadian Nuclear Safety Commission grants a 10-year operating licence to OPG to operate Darlington Station from January 1, 2016, to November 30, 2025.
Execution Phase	
January 2016	OPG publicly announces its decision (with Ministry support) to continue to pursue the Project, which is expected to cost \$12.8 billion and be completed in 2026.
April 2016	OPG establishes a Refurbishment Construction Review Board made up of nuclear industry experts with megaproject experience. The board is expected to provide quarterly reports to OPG senior management to identify improvements that can be made in overseeing and executing the Project.
May 2016	OPG files its rate application with the Ontario Energy Board to determine the rate it can charge for the nuclear electricity it generates between 2017 and 2021. The rate application includes details on OPG's estimates for the cost and timeline of the Project.
October 2016	OPG starts its direct refurbishment work on the first nuclear reactor unit (Unit 2).
November 2017	The Financial Accountability Office of Ontario releases a report that reviews the Province's plan to refurbish nuclear reactors at the Bruce and Darlington Nuclear Generating Stations and to extend the life of the Pickering Nuclear Generating Station. The report discusses how the nuclear refurbishment plan will impact electricity ratepayers and the Province. Overall, the report concludes that the nuclear refurbishment plan is projected to provide electricity ratepayers with a long-term supply of relatively low-cost, low-emissions electricity.
November 2017	The joint venture of SNC-Lavalin Nuclear Inc. and AECON Construction Group Inc. decides to have its staff stop all work on the Project for two days after a safety incident. See Section 4.4.2 .
November 2017	OPG senior management prepare a memorandum at the request of OPG's Board of Directors assessing areas where contractors performing Project work have not performed according to OPG's initial expectation, resulting in OPG incurring additional costs to assist the contractors to improve their performance on the Project. See Section 4.3 .
December 2017	The Ontario Energy Board releases its decision approving OPG's rate application for the 2017–2021 period. Its decision approves \$4.8 billion in costs related to refurbishment of nuclear reactor Unit 2 to be included in OPG's nuclear electricity rate. The decision approves OPG earning rates of 7.8 cents per kilowatt hour in 2017, increasing to 9.0 cents in 2021 on the nuclear energy it generates.
February 2018	The Ontario Government confirms its commitment to begin the refurbishment of Unit 3 at Darlington Station.
March 2018	OPG's Board of Directors releases \$170 million to start detailed planning for the refurbishment of the next nuclear reactor (Unit 3).

Note: See **Figure 3** for the exact timeline and main activities involved in each of the three phases of the Project.

Appendix 4: Audit Criteria

Prepared by the Office of the Auditor General of Ontario

1. Time and cost budgets of the Darlington Nuclear Generating Station Refurbishment Project (Project) should be established based on reliable information and reasonable assumptions with significant risks and issues being identified and addressed.
2. A fair and transparent procurement process should be followed, documented and applied consistently in selecting appropriate and cost-effective contractors for the Project with due regard to economy.
3. A clear accountability framework or structure should be in place to ensure that staff and contractors working on the Project deliver satisfactory services in adherence to contract terms and legislated safety and environmental standards, and that their performance is monitored and appropriately addressed in a timely manner.
4. Timelines and costs of the Project should be managed, monitored and publicly reported on a regular basis to ensure that the intended outcomes are achieved, unforeseen situations are addressed, and corrective actions are taken on a timely basis when issues are identified.

Appendix 5: Description of Prerequisite Work on the Project and Explanations for Cost Overruns and Delays

Source: Ontario Power Generation

Prerequisite Project	Description	Cost		Reason for Overspending on Prerequisite Project
		Above Original Estimate?	Completed Later than Original Estimate?	
Thirteen Prerequisite Projects Included in Total Estimated Project Cost				
1. Additional (3 rd) Emergency Power Generator (see Section 4.6.2)	To be used as a third emergency power generator that can withstand a higher-level seismic event (earthquake) than the station's two existing emergency power generators were designed to withstand	Yes	Yes	<ul style="list-style-type: none"> Overreliance on initial cost estimate provided by contractor without obtaining adequate understanding of the Project's complexity and risks (such as soil contamination)
2. Containment Filtered Venting System (see Section 4.6.1)	To release steam in the event Darlington Station completely loses power in order to prevent a safety event from occurring	Yes	Yes	<ul style="list-style-type: none"> Overreliance on initial cost estimate provided by contractor without obtaining adequate understanding of the Project's complexity
3. Darlington Energy Complex	To house the nuclear reactor unit mock-up, a public information centre, and general training area for new staff	No	Yes	<ul style="list-style-type: none"> N/A – project work completed at lower cost than initially estimated
4. Heavy Water Storage and Drum Handling Facility (see Section 4.6.3) ¹	To store radioactive heavy water (also known as deuterium oxide or D ₂ O) extracted from each nuclear reactor unit safely while that unit is being refurbished	Yes	Yes	<ul style="list-style-type: none"> Overreliance on initial cost estimate provided by contractor without obtaining adequate understanding of the Project's complexity and risks (such as soil contamination) Change of contractors due to poor performance of the contractor initially contracted Changes of the building design made by the new contractor
5. Island Support Annex (See Section 4.6.2)	To provide office and workshop space for OPG and contractor staff during prerequisite work and refurbishment of the four units	Yes	Yes	<ul style="list-style-type: none"> Overreliance on initial cost estimate provided by contractor without obtaining adequate understanding of the Project's complexity and risks (such as soil contamination)
6. Power and Electrical Distribution	To supply electrical power to new buildings such as the Darlington Energy Complex and lighting in new parking lots	Yes	Yes	<ul style="list-style-type: none"> Changes to the construction of the system based on unexpected issues with the existing power system

Prerequisite Project	Description	Cost Above Original Estimate?	Completed Later than Original Estimate?	Reason for Overspending on Prerequisite Project
Thirteen Prerequisite Projects Included in Total Estimated Project Cost				
7. Powerhouse Steam Venting System	To release steam from Darlington Station's powerhouse in the event of piping failure, minimizing the effect of harsh environment on the equipment located in the powerhouse	No	Yes	<ul style="list-style-type: none"> N/A - project work completed at initially estimated cost
8. Refurbishment Project Office	To provide office space, a lunchroom, change rooms and additional parking spaces for additional OPG and contractor staff	Yes	No	<ul style="list-style-type: none"> Overreliance on initial cost estimate provided by contractor without obtaining adequate understanding of the Project's complexity and risks (such as soil contamination) Overtime and other schedule acceleration costs as a result of a decision to open the building earlier than initially estimated
9. Replacement of Buried Piping	To replace a deteriorated underground safety system that supplies cooling water when normal water supplies are unavailable	Yes	Yes	<ul style="list-style-type: none"> Work was more challenging and took longer to perform than was initially estimated
10. Retube Waste Processing Building	To provide a place for processing removed reactor components, which are cut, crushed and placed in shielded storage containers	Yes	Yes	<ul style="list-style-type: none"> Increased project scope due to changes (not initially planned) to the building based on lessons learned from previous nuclear generating station refurbishments
11. Shield Tank Overpressure Protection ¹	To provide additional overpressure protection in each reactor unit installed in order to prevent potential shield tank failure under a severe event	Yes	Yes	<ul style="list-style-type: none"> Work took longer to perform than initially estimated partially as a result of OPG prioritizing other projects over this
12. Vehicle Screening Facility	To provide additional space for screening the increased volume of vehicles before entering and exiting restricted areas during prerequisite work and refurbishment of the nuclear reactor four units	Yes	Yes	<ul style="list-style-type: none"> Changes of the building design to deal with issues related to the ground where the building was built that were not identified during planning
13. Water and Sewer	To replace existing on-site water and sewer system	Yes	No	<ul style="list-style-type: none"> Overreliance on initial cost estimate provided by contractor without obtaining adequate understanding of the Project's complexity and risks (such as poor soil conditions)

Prerequisite Project	Description	Cost Above Original Estimate?	Completed Later than Original Estimate?	Reason for Overspending on Prerequisite Project
Five Prerequisite Projects Not Included in Total Estimated Project Cost²				
14. Auxiliary Heating System (see Section 4.6.1)	To be used as a back-up to the main heating system for safety reasons in case all four nuclear reactor units are shut down in the winter months	Yes	Yes	<ul style="list-style-type: none"> Overreliance on initial cost estimate provided by contractor without obtaining adequate understanding of the Project's complexity and risks (such as soil contamination)
15. Holt Road Interchange Upgrade	To improve the main road from the highway close to Darlington Station to minimize traffic delays and support the increase in vehicular traffic (funded by OPG and executed by the Ontario Ministry of Transportation)	No	No	<ul style="list-style-type: none"> N/A – project work completed at lower cost than initially estimated
16. Operations Support Building Refurbishment	To renovate an existing building that houses maintenance and administrative support, including site security and information technology	Yes	No	<ul style="list-style-type: none"> Work was more challenging and took longer to perform than was initially estimated
17. Retube Waste Storage Building	To build a new storage facility to house removed reactor components	Yes	Yes	<ul style="list-style-type: none"> Construction costs greater than initially estimated partially due to performing execution work in winter rather than during warmer months as the estimates assumed
18. Used Fuel Storage Building	To expand storage space for used fuel from continued operation and also store material waste from execution of the Project	Yes	Yes	<ul style="list-style-type: none"> Costs greater than initially estimated due to materials costing more than estimated and a 10-week delay in the completion of work due to extreme cold weather
Total		15³	14³	
Cost Above Original Estimate (as of June 30, 2018)²		\$727 million³		

1. Since two prerequisite projects have not been completed as of June 30, 2018 (Heavy Water Storage and Drum Handling Facility and Shield Tank Overpressure Protection), the actual total costs and completion dates compared to original estimates are not known. Amounts and completion dates are based on OPG's estimates for each prerequisite project as of June 30, 2018.

2. OPG only included 13 of these 18 prerequisite projects in the total estimated Project cost of \$12.8 billion that it publicly announced in January 2016. This is because OPG reclassified three projects as work not related to the Project prior to its public announcement (Auxiliary Heating System, Operations Support Building Refurbishment and Holt Road Interchange Upgrade) and two projects were funded through segregated funds for waste management (Retube Waste Storage Building and Used Fuel Dry Storage Building). We included these five projects in our review of OPG's prerequisite work because they are required for the continued operation of Darlington Station.

3. These totals are for all 18 prerequisite projects. Eleven of the 13 prerequisite projects included in OPG's total estimated Project cost are now expected to cost more and take longer to complete than was originally estimated. These 13 projects are currently expected to cost \$640 million more than was originally estimated.

Appendix 6: Bid Evaluation Scorecards for Five Project Contracts

Source of data: Ontario Power Generation

Project #	Scorecard ¹										Increase in Project Costs Compared to OPG's Initial Estimate (\$ million) ⁴
	Winning Contractor					Losing Contractor					
	Bid Price ² (\$ million)	Score for Bid Price ²	Technical Criteria ³	Total Score	Total Score	Bid Price ² (\$ million)	Score for Bid Price ²	Technical Criteria ³	Total Score	Total Score	
1 ⁵	66	50/50	32/50	82/100	82/100	93	25/50	49/50	74/100	74/100	400
2	4	45/50	41/50	86/100	86/100	5	35/50	45.5/50	80.5/100	80.5/100	8
3	20	38/40	56/60	94/100	94/100	34	11/40	57/60	68/100	68/100	15
4	42	40/40	30.4/60	70.4/100	70.4/100	50	12.9/40	51/60	63.9/100	63.9/100	61
5	5	40/40	46/60	86/100	86/100	8	19/40	59/60	78/100	78/100	22
Total											505

- OPG uses a scorecard to evaluate each contractor's bid for Project work. The maximum score is 100. The scorecard uses two general categories: a contractor's bid price and a contractor's technical ability to perform the work being contracted out. OPG determines the weighting of scores related to each category; for example, if OPG allocates 40 marks (or 40% of the score) to the contractor's bid price, the remaining 60 marks (or 60% of the score) will be allocated to the contractor's technical ability to perform the project work. In all cases, OPG selects and awards the contract to the contractor with the highest overall score. **Bolded** scores identify the category in which the contractor received the highest score.
- Bid price is one of the criteria that OPG uses to evaluate proposals submitted by contractors. In some cases, this was the full cost of the project being bid on/evaluated. In other cases, this was just the performance fee (or profit) the contractors were expecting to receive if they were contracted to perform the project.
- Technical criteria represents OPG's assessment of each contractor's technical expertise, risk management plans and overall quality of proposal.
- Projects 2, 3 and 4 have been completed; therefore, cost increases are based on OPG's estimates as of June 30, 2018—the actual cost increases may be more or less than currently identified.
- Project 1 is related to work on the Heavy Water Storage and Drum Handling Facility.

Chapter 3

Section 3.03

Health Quality Ontario

1.0 Summary

Health Quality Ontario (HQO) is a government agency funded by the Ministry of Health and Long-Term Care (Ministry) to act as the Province’s advisor on the quality of health care in the province. Its stated mandate is “to continuously improve the quality of health care in Ontario.” In 2017/18, it spent \$44.2 million on its operations and employed the equivalent of 291 full-time staff.

HQO provides various tools (such as clinical care standards and priority indicators for areas in the health-care system requiring improvement) and information (such as performance reporting on the health-care system, and individualized reports to physicians and hospital CEOs) that health-care providers can use to improve the quality of care they provide. This is in line with HQO’s mandate to support quality improvement in the health-care system.

However, despite spending \$240 million over the seven years from the time its mandate was expanded in April 2011 to March 31, 2018, HQO has had difficulty assessing and demonstrating its impact on the quality of health care in Ontario. This is in large part because its recommendations and advice are not required to be implemented by the Ministry or Local Health Integration Networks (LHINs), two parties that provide fund-

ing to and have accountability agreements with health-care providers.

The Ministry, the LHINs, HQO and health-care providers all share responsibility for quality improvement in the health-care sector. However, the focus of the LHINs and health-care providers is to meet their own performance goals, which may not always correspond to the areas that HQO identifies as needing improvement. This is evident as most hospitals are not focusing improvement efforts on areas HQO has identified as provincial priorities (for example, emergency department length of stay and hospital readmission rates), and the Ministry and the LHINs do not ensure that they do so.

Similarly, the Ministry and the LHINs both have the ability to enforce HQO’s clinical care standards, but they are not taking action to do so. (Clinical care standards describe the care patients should be offered by health professionals and health services for a specific medical condition in line with current evidence of best practices.)

Even though HQO does not have the authority to enforce its recommendations in the areas of clinical care standards, and Ministry-accepted medical device and health-care services, it could be doing more to bring about greater impact from its work. It is currently not monitoring the adoption rate of clinical care standards it develops, and Ministry-accepted medical devices and health-care services it recommended. Nor is it assessing what impact its

work, including the annual performance data it publishes, is having on the overall quality of health care.

Some of the specific issues we found are:

- **It is unclear whether HQO's priority performance indicators have served as a catalyst for improvement in the health-care sector.** When performance is measured and monitored, improvement is more likely to occur because people will focus their efforts on improving the performance indicator being measured. We followed up on areas HQO identified as priorities for improvement in the hospital sector and primary care sector over a number of years. We noted that results were mixed. For example, there was improvement in the rate of hospital-acquired infections (hospital-acquired infections from *clostridium difficile* dropped significantly (31%) from 0.35 per 1,000 patient days in 2011/12 to 0.24 per 1,000 patients days in 2016/17). However, access to primary care and hospital readmission rates have not improved. Specifically, a lower percentage of people were able to see their primary care provider or nurse practitioner on the same day or next day when they were sick or had a health concern (45.3% in 2013 compared to 43% in 2016). As well, the rate of unplanned readmissions to hospital within 30 days of a patient being discharged, for either medical or surgical treatment, increased slightly (13.6% in 2012/13 to 13.9% in 2015/16 for a medical treatment).
- **Individualized reports for primary care physicians, long-term-care home physicians and hospital CEOs aimed at improving quality do not include performance data on all key provincial improvement priorities.** In May 2014, HQO began producing individualized reports for primary care physicians, providing them with information on their practice's performance in some priority improvement areas HQO has identified (that is, cancer screening rates, diabetes management, opioid prescribing rates, and health service utilization), comparison with others in the same sector, and ideas on how they could improve quality. However, these reports only include information on four out of HQO's eight priority areas for primary care. Similar reports prepared for long-term-care home physicians (starting in 2015) and hospital CEOs (starting in 2016) only provide data on one of eight, and one of 12, priority improvement areas, respectively.
- **Most physicians are not volunteering to receive individualized reports aimed at improving their practice's performance.** As of July 2018, only 32% of primary care physicians and 23% of long-term-care home physicians (primary care physicians caring for residents of long-term-care homes) had signed up to receive an individualized practice report. Although an HQO promotional campaign in 2017/18 tripled enrolment, participation is still low, in part because physicians would like the report to include specific patient information. Data provided is at the overall practice level, which makes it difficult for physicians to identify which patients they might treat differently. Contrary to individual physicians, 90% of executive directors of community health centres and family health teams have signed up for their organization's individualized report.
- **Accountability for data quality and reliability is not clearly outlined between HQO and data providers.** HQO paid about \$525,000 in 2017/18 to external data providers for collecting data on health performance indicators used for public reporting. However, HQO has not clearly established and documented each provider's responsibility to ensure that the data has been verified and is reliable.
- **HQO could save time and money by collaborating with the federal Canadian Agency for Drugs and Technology Health (CADTH)**

in assessing medical devices and health services to be funded. One of HQO's four core functions is the assessment of medical devices and health-care services to determine whether the Ministry should fund them. For the most part, HQO conducts its own assessments, whereas six other provinces we looked at rely on the CADTH to perform such assessments. In 2017, HQO started collaborating with the CADTH on a limited basis. Greater collaboration has the potential to reduce duplicated efforts and costs.

- **Health-care organizations need more guidance in implementing clinical care standards recommended by HQO.** According to stakeholders, HQO's clinical care standards are not being fully implemented, in part because health-care providers may be overwhelmed by the number of standards being released, along with the many quality statements and recommendations that accompany them. Between May 2015 and September 2018, HQO had publicly released 14 clinical care standards with a total of 166 quality statements and 235 recommendations for implementation. Without guidance on priorities and additional support (for example, local-level training focused on how to implement a standard), health-care providers struggle to implement them.
- **HQO does not currently plan to monitor whether its clinical care standards will have reduced the variation of care across the province.** In 2017/18, HQO published nine clinical care standards aimed at reducing variation in care across the province. The areas of focus included opioids prescribing, dementia, hip fractures and pressure ulcers. Although HQO devoted considerable resources to develop these standards, it was not planning to monitor whether they are being implemented, or, if so, what impact they are having. HQO told us it does not have the resources to do this follow-up monitoring.
- **Care varies across the province but HQO does not set ideal ranges for performance targets.** Although HQO sets priority performance indicators for the different health-care sectors, it does not identify a minimum target for each indicator, nor an ideal target range. Therefore, health-care organizations set their own targets. We found there were large variations in targets set by health-care organizations in their quality improvement plans, meaning that the quality of care patients receive will likely continue to vary widely depending on where they receive their care. For example, for 2015/16, one long-term-care home set a target of 0% of residents to be given antipsychotic medication without a psychosis diagnosis within the seven days preceding their resident assessment, while another set a target of 45%. The home with the more stringent target of 0% achieved better results: 5% vs 26%.
- **Cost savings expected from the consolidation of five entities did not materialize.** With the consolidation of five organizations into Health Quality Ontario in 2011/12, the government expected cost efficiencies that could result in expenditures decreasing from the original organizations' combined budgets of \$23.4 million in 2010/11 to a projected \$18.8 million by 2013/14. However, the Ministry added a further \$13.9 million for what were initially expected to be one-time initiatives, bringing the 2013/14 estimate to \$32.7 million. As of March 31, 2018, however, HQO's annual expenditures had increased to about \$44.2 million (excluding expenditures of the Patient Ombudsman's Office) and staffing had increased from the equivalent of 111 full-time employees to 291. Expenditures increased because HQO's mandate was expanded to include promoting patient relations, HQO increased its spending on governance and support functions, and some quality improvement initiatives were transferred from the Ministry to HQO.

This report contains 12 recommendations, with 29 action items, to address our audit findings.

Overall Conclusion

We found that Health Quality Ontario (HQO) is monitoring and reporting on the quality of health services in Ontario. HQO is also making evidence-based recommendations to the Minister of Health and Long-Term Care on which health-care services and medical devices should be publicly funded, and is developing clinical care standards to reduce variability in patient care and promote better patient outcomes.

However, HQO has had difficulty demonstrating its impact on the health system because the Ministry and Local Health Integration Networks are not ensuring that HQO's recommendation and advice are acted on.

At the very least, HQO should be measuring and reporting on the acceptance and adoption rates of its recommendations on medical devices, health-care services and clinical standards for health-care providers (currently not done); the number of physicians who are requesting individualized reports prepared by HQO (currently tracked); the use by health-care service providers of HQO's prioritized indicators in their quality improvement plans (currently tracked); and the trend in performance results in the health-care system in all of the areas emphasized by HQO through its quality improvement activities (currently not assessed). The trending results would determine if improvement is being made.

HQO is also not preparing adoption strategies or supports to help health-care providers implement its recommendations. As well, it does not follow up with health-care organizations to encourage them to include in their quality improvement plans areas that HQO has identified as priorities for improvement.

Further, since its mandate was expanded, the agency's costs have increased almost 80%, and since 2013/14, its staff size increased by almost

90%. The Ministry needs to assess whether HQO's growth in expenditures and staffing is reasonable in relation to its mandate.

OVERALL HEALTH QUALITY ONTARIO RESPONSE

Health Quality Ontario (HQO) thanks the Office of the Auditor General of Ontario for its comprehensive review of HQO's mandated activities.

HQO generally agrees with the recommendations and acknowledges that they offer useful guidance for the organization's evolution, in alignment with the health-care system's changing priorities.

HQO appreciates that every dollar it has been entrusted with should be spent effectively on initiatives that support the provision of high-quality care for the people of Ontario.

HQO's mandate is broad, and the Auditor General has reviewed key activities under the objectives of her audit. Over the past five years, the initiatives referenced in the audit have grown significantly. As the report observes, initially Quality Improvement Plans were submitted only by hospitals, and today over 1,000 organizations submit annual plans to HQO. Individualized *MyPractice* reports for physicians were made broadly available by HQO in 2014 and are now used by more than 3,400 physicians. The clinical care standards program referenced in the audit was initiated in 2016 and as of November 2018 has completed 16 standards on common conditions.

HQO routinely monitors the reach and usefulness of many of its products. We will evaluate and report publicly on the longer-term impact of our work as programs mature.

HQO commits to delivering on its mandate efficiently and effectively.

We will work with the Ministry of Health and Long-Term Care and other health system partners to ensure that the work we do is relevant and delivering a positive impact on the health outcomes of all Ontarians.

OVERALL MINISTRY RESPONSE

The Ministry of Health and Long-Term Care (Ministry) appreciates the Auditor General's audit and welcomes the Auditor's advice on how the Ministry and Health Quality Ontario (HQO) can ensure HQO is delivering on its mandate of supporting improvement in the quality of health care in Ontario. We acknowledge the recommendations made to HQO and to the Ministry, and are committed to ensuring that the actions we take in response ensure strengthened accountability and value for money, and lead to continued improvements in the quality of health care for all Ontarians.

The Ministry acknowledges HQO's role as a leader and champion of evidence-based care delivery, measuring and reporting on what matters and supporting continuous quality improvements across an increasingly complex health system. The Ministry also recognizes that there are further opportunities to increase the value and impact of HQO's programs and tools, as well as opportunities to work with HQO to build on current efforts. While many of these can be realized through HQO's existing legislative role to, among other things, support continuous quality improvement, the Ministry recognizes that it may be necessary to strengthen accountability across many system partners to bring about a faster pace of change, where appropriate, and will work with HQO to assess those opportunities going forward.

2.0 Background

2.1 Overview

Health Quality Ontario (HQO) is a government agency funded by the Ministry of Health and Long-Term Care (Ministry) to act as the Province's advisor on the quality of health care in Ontario. In

2011, under the authority of the *Excellent Care for All Act, 2010*, the Ontario Health Quality Council was consolidated with two not-for-profit transfer payment agencies and two Ministry programs, which were divested to the organization. The Ontario Health Quality Council assumed the business name Health Quality Ontario in 2011 to reflect the new mandate given to the Council under the Act. For more details, see **Appendix 1**.

2.2 Key Functions

HQO has four key functions:

- Reporting on the provincial health system's performance:** HQO collects health services data and publicly reports on the quality of health care in Ontario (discussed in **Section 4.2**). It produces an annual report, *Measuring Up*, which provides an overview of the state of Ontario's health-care system, and identifies areas where the system is functioning well and areas needing improvement. The 2017 report measures the performance of the health-care system using 56 performance indicators (for example, percentage of patients who saw a family doctor or specialist within seven days of discharge after hospitalization for lung disease or heart failure.) Thirty-two indicators are reported in *Measuring Up* and the remaining 24 indicators are reported on the Ministry's website in a technical supplement. For each indicator in its public reporting, HQO has defined for health-care providers on its website what needs to be measured and how. HQO also produces specialized in-depth reports on significant health issues, and individualized reports, *MyPractice*, for primary care and long-term-care-home physicians (primary care physicians caring for residents of long-term-care homes). These give the physicians data about their practice compared to others, and provide ideas to promote quality improvement. HQO also provides interactive

online reporting that the public can access for information on such matters as hospital safety and wait times for surgeries.

- **Assessing medical devices and health-care services:** HQO assesses the available evidence and makes recommendations to the Minister of Health and Long-Term Care regarding public funding for health-care services and medical devices (discussed in **Section 4.3**). Assessments are conducted by HQO staff, who provide the assessment reports to HQO's Ontario Health Technology Advisory Committee (see **Section 2.4**). Following public consultation, this committee presents its recommendations to HQO's board of directors, which, if it approves them, submits them to the Ministry. From 2011 to September 2018, HQO completed 86 health technology and services assessments and made recommendations on 85 of them. (HQO does not assess drugs; drug reviews are conducted by the federal Canadian Agency for Drugs and Technology in Health).
- **Developing clinical care standards:** HQO assesses the available clinical evidence and makes recommendations on clinical care standards (discussed in **Section 4.4**). Clinical care standards describe the care patients should be offered by health professionals and health services for a specific clinical condition in line with current evidence of best practices. The intent is to help reduce variability in patient care and promote better patient outcomes, regardless of where patients are treated. For each clinical care standard being developed, HQO establishes a one-time, topic-specific Quality Standard Advisory Committee, comprised of specialists in the topic area who, on a volunteer basis, provide advice and feedback in the development of the standards. Their recommendations are presented to HQO's ongoing Ontario Quality Standards Committee (see **Section 2.4**), which reviews them and presents them to HQO's board of

directors for final approval. As of September 2018, HQO had publicly released clinical care standards in 14 clinical areas, such as hip fractures and prescribing opioids.

- **Supporting quality improvement:** Health-care organizations (hospitals, long-term-care homes, home-care teams and primary care teams) are required to develop an annual quality improvement plan and submit it to HQO by April 1 (discussed in **Section 4.4**). This requirement is stipulated in the *Excellent Care for All Act, 2010*, for public hospitals and in accountability agreements for the other types of health-care organizations. Each quality improvement plan is supposed to outline performance indicators (that is, measures) that the entity wants to improve upon, with specified targets and a detailed description of how the entity plans to achieve those targets. Annually, HQO identifies province-wide sector-specific performance indicators (see **Appendix 2**) that it believes should be the focus of quality improvement programs for the upcoming year. HQO compiles all quality improvement plans received from all health-care organizations and summarizes them in a public report, highlighting the key observations at the provincial level and sector level. HQO also offers a number of other programs to support quality improvement (for example, the Ontario Surgical Quality Improvement Network).

2.3 HQO's Responsibilities Handled Differently in Some Other Provinces

Based on our review of six other provinces (Alberta, British Columbia, Saskatchewan, Manitoba, New Brunswick and Nova Scotia), we noted that HQO is unique in its role of conducting health technology and services assessments and developing clinical care standards (see **Appendix 3**):

- Aside from Ontario, all six provinces we reviewed rely on the federal Canadian Agency for Drugs and Technology in Health for their assessment of health technology and services. Alberta and British Columbia also conduct some assessments through other partners.
- Three of the six provinces fund a dedicated agency with a mandate for quality improvement, similar to HQO. The other three provinces have assigned this role to a Ministry department or regional health authority responsible for delivering health care, similar to Local Health Integration Networks (LHINs) in Ontario.
- The role of publicly reporting on health system performance is assigned to a dedicated agency in two other provinces besides Ontario (Saskatchewan and New Brunswick). The other four provinces rely on a Ministry department or regional health authority to report on health performance outcomes.

2.4 Organizational and Accountability Structure

As seen in **Figure 1**, HQO is governed by a board of directors that currently consists of 12 voting members appointed by the Lieutenant Governor in Council. The board is comprised of people with extensive health-care expertise, as well as financial and legal expertise. A Ministry representative (currently an Assistant Deputy Ministry) sits on the board as a non-voting member.

In addition, there are three ongoing committees made up of volunteers external to the board of directors, HQO and the Ministry:

- **The Ontario Health Technology Advisory Committee** makes recommendations about whether the Ministry should publicly fund certain health-care services and medical devices. This committee began in October 2003 and pre-dates the creation of HQO, as noted in **Appendix 1**. It reports directly to HQO's board of directors.

- **The Ontario Genetics Advisory Committee** provides advice to the Ontario Health Technology Advisory Committee on the clinical utility, validity and value for money of new and existing genetic and genomic tests in Ontario. The committee began in March 2017. It reports to the board indirectly through the Ontario Health Technology Advisory Committee.
- **The Ontario Quality Standards Committee** makes recommendations directly to the board concerning quality clinical care standards and related performance measures. This committee began in June 2017.

From time to time, HQO also strikes short-term Quality Standard Advisory Committees, each of which is tasked with developing a particular clinical care standard. These volunteer committees report to the board through the ongoing Ontario Quality Standards Committee.

HQO is accountable to the Ministry, which is responsible for defining expectations and providing oversight of HQO's activities. The Ministry is also responsible for reviewing and considering whether to accept HQO's recommendations regarding public funding of medical devices and health-care services, and developing implementation plans for those recommendations it accepts. As of September 2018, the Ministry has accepted 96% of the 79 recommendations it has completed reviewing.

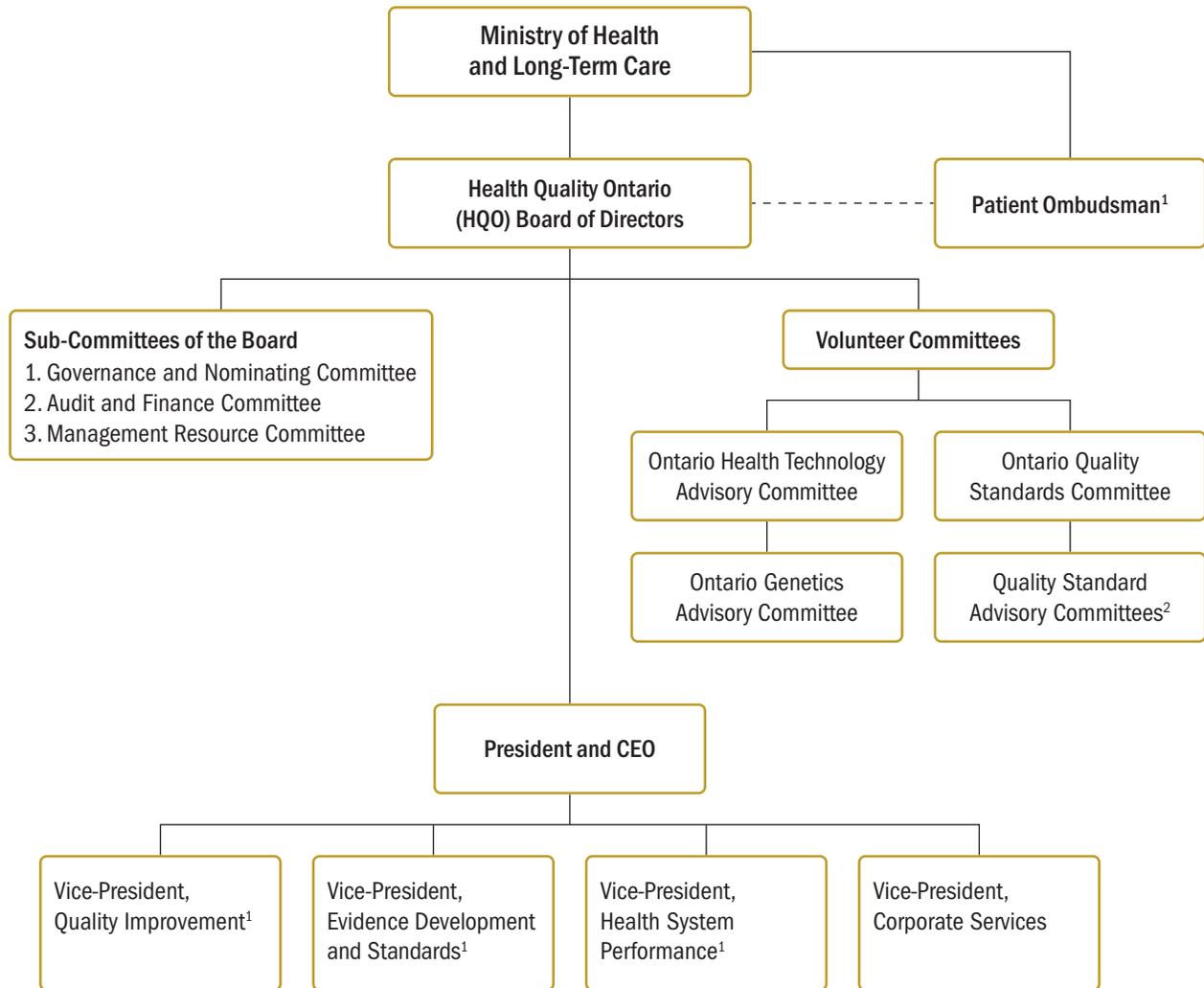
The *Excellent Care for All Act, 2010*, clarifies that HQO acts in an advisory capacity only, and the Minister of Health and Long-Term Care is not required to act on HQO's recommendations regarding funding for health-care services and medical devices, clinical care standards and performance measures.

2.5 Financial and Staffing Information

For the 2017/18 fiscal year, Ministry funding to HQO totalled \$49 million. Of that, \$3 million was to support the Patient Ombudsman's Office.

Figure 1: Organizational Structure of Health Quality Ontario

Prepared by the Office of the Auditor General of Ontario



--- HQO Board only provides administrative support to the Patient Ombudsman; it does not provide oversight over its functions.

1. Mandated function under the *Excellent Care for All Act, 2010*.

2. Each quality standard review has a one-time, topic-specific Quality Standard Advisory Committee.

Expenditures for the year totalled \$47.2 million; any unused funds were returned to the Ministry.

Salaries and benefits accounted for about 70% of the 2017/18 expenditures. In addition, HQO’s four key functions (discussed in **Section 2.2**) accounted for 64% of its expenditures (see **Figure 2**). In that year, HQO employed the equivalent of about 290 full-time staff.

3.0 Audit Objective and Scope

Our objective was to assess whether Health Quality Ontario (HQO) has effective systems and procedures in place to:

- monitor and publicly report on the quality of health services in Ontario including the health status of the population and patient outcomes;

Figure 2: Health Quality Ontario Expenditures by Function, 2017/18

Source of data: Health Quality Ontario

	\$ 000	%
Key Functions	30,025	64
Quality Improvement	16,537	35
Evidence Development and Standards*	7,744	17
Health System Performance	5,744	12
Other	17,161	36
Governance and Operations	13,285	28
Office of the Patient Ombudsman	3,036	6
Patient Engagement	840	2
Total	47,186	100

* This category includes the assessment of medical devices and health-care services, and the development of clinical care standards.

- promote better health care by making recommendations supported by the best available scientific evidence on clinical care standards and the funding of health-care services and medical devices;
- promote continuous quality improvements in health care aimed at substantial and sustainable positive change; and
- assess and report on its effectiveness in meeting its mandate.

In planning for our work, we identified the audit criteria (see **Appendix 4**) we would use to address our audit objective. These criteria were established based on a review of applicable legislation, policies and procedures, internal and external studies, and best practices. Senior management at HQO reviewed and agreed with the suitability of our objectives and associated criteria.

We conducted our audit primarily between January 2018 and August 2018. We obtained written representation from management at HQO and the Ministry of Health and Long-Term Care (Ministry) that, effective November 9, 2018, they had provided us with all the information they were aware of that could significantly affect the findings or the conclusion of this report.

Our audit work was conducted mainly at HQO's office in Toronto, and focused on HQO's four core functions. These functions, along with corporate services, accounted for over 90% of HQO's expenditures in 2017/18. The remaining functions included patient engagement and the Office of the Patient Ombudsman.

Although our audit considered all four health-care sectors with which HQO is involved—hospitals, primary care, home care and long-term-care homes—we placed particular emphasis on the hospital sector. This is because hospitals were the first sector to adopt quality improvement plans, in 2011/12. The other sectors adopted quality improvement plans later: primary care teams in 2013/14; home care in 2014/15; and long-term-care homes in 2014/15. Because there is a lag in the reporting of annualized health-care data, only the hospital sector had at least five years of data for our analysis.

In conducting our audit, we reviewed relevant documents, analyzed data and information, interviewed appropriate HQO and Ministry staff and reviewed key studies and relevant research from Ontario and other jurisdictions. We attended HQO's annual Audit and Feedback Conference that focuses on improving the impact of reporting to health-care providers and physicians.

We contacted other Canadian jurisdictions (British Columbia, Alberta, Saskatchewan, Manitoba, New Brunswick and Nova Scotia) and international jurisdictions (Australia, England and Scotland) to understand how their quality improvement responsibilities are structured and to compare how they perform health technology and services assessments, set clinical care standards, and promote quality improvement.

We contacted and obtained feedback from various stakeholder groups that represent health-care organizations that are required under provincial legislation to submit annual quality improvement plans to HQO or receive individualized practice reports. The stakeholders we met with included the Association of Family Health Teams of Ontario; Ontario College of Family Physicians;

Ontario Hospital Association; Ontario Long-Term Care Association; and Toronto Central Local Health Integration Network. We corroborated the views of stakeholders included in this report, where possible. We also engaged an independent consultant with expertise in the field of quality improvement in the health-care sector to assist us on this audit.

We also contacted four key data providers that HQO relies on for data it uses in its annual system performance report to discuss their internal processes for ensuring the accuracy and reliability of the source data they use. The data providers we contacted were the Canadian Institute for Health Information, Cancer Care Ontario, Institute for Clinical Evaluative Sciences, and the Ministry.

The Patient Ombudsman's Office, which the Ministry funds through HQO, is excluded from the scope of this audit. The HQO's board of directors does not have oversight responsibility over the functions of the Patient Ombudsman.

We conducted our work and reported on the results of our examination in accordance with the applicable Canadian Standards on Assurance Engagements—Direct Engagements issued by the Auditing and Assurance Standards Board of the Chartered Professional Accountants of Canada. This included obtaining a reasonable level of assurance.

The Office of the Auditor General of Ontario applies the Canadian Standards of Quality Control and, as a result, maintains a comprehensive quality control system that includes documented policies and procedures with respect to compliance with rules of professional conduct, professional standards and applicable legal and regulatory requirements.

We have complied with the independence and other ethical requirements of the Code of Professional Conduct of the Canadian Professional Accountants of Ontario, which are founded on fundamental principles of integrity, objectivity, professional competence and due care, confidentiality and professional behaviour.

4.0 Detailed Audit Observations

4.1 Health Quality Ontario's Direct Impact on Health Care Is Difficult to Assess

4.1.1 Health Quality Ontario Provides Tools to Support Improvement in Health Care

Health Quality Ontario (HQO) provides various tools and information that health-care providers can use to improve the quality of care they provide. This is in line with its mandate to support quality improvement in the health-care system. Examples of useful tools include:

- **Identification of priority improvement areas.** In consultation with system partners, HQO identifies areas needing improvement in each health-care sector, and encourages health-care organizations to focus improvement efforts on these priorities and include them in their annual quality improvement plans. In addition, HQO compiles quality improvement plans received from health-care organizations and summarizes them in a public report, highlighting the key observations at the provincial level and health sector level to highlight good initiatives that others can incorporate.
- **Clinical care standards.** The standards outline for medical professionals and patients what high-quality care should look like for specific medical conditions. They also include indicators to help medical professionals and health-care organizations assess the quality of care they are delivering, and to identify gaps and areas for improvement. Each clinical care standard developed by HQO comes with a set of recommendations for adoption geared to specific parties in the health-care system to help them implement the standard.

- **Recommendations on medical devices and health-care services.** HQO makes recommendations to the Minister regarding whether to publicly fund certain health-care services and medical devices based on assessment of available scientific evidence on the effectiveness of the device or service. Topics for assessment are prioritized based on criteria such as the potential clinical benefits and harms, and potential incremental costs or savings.
- **Measuring system performance.** HQO measures and publicly reports on the quality of the health system in Ontario using indicators developed and updated in consultation with health-care experts and health system partners. These indicators are designed to assess whether the health care provided was safe, effective, patient-centred, efficient, timely and equitable. The public reporting of data on a system-wide basis and often regional basis provides transparency. In addition, HQO's individualized reports to primary care physicians and hospital CEOs allow them to assess their own performance in specific areas in relation to the province as a whole to identify areas needing improvement.

Stakeholder feedback indicated that the tools were generally viewed to be useful. However, HQO does not know the extent to which these tools are being used, particularly with respect to the clinical care standards it develops and Ministry-approved health-care services and medical devices it recommends.

4.1.2 Unclear whether HQO Has Been a Catalyst for Improvement in the Health-Care Sector

From April 2011 to March 31, 2018, HQO spent in total around \$240 million. When we attempted to assess whether HQO was having an impact, we noted that the results were mixed.

A Ministry document concerning the expanded mandate of HQO expected that HQO “will serve as

the principal catalyst for driving system-wide adoption of high quality, evidence-based health care” and “ensure future investments [in health-care] get results and improve patient health.” The document also indicated that the Ministry expected HQO to focus on a few new quality improvement initiatives aimed at reducing unnecessary admissions and readmissions to hospitals, and improving quality of mental health services, access to primary care (such that patients can see their health-care provider on the day of their choosing), and appropriateness of referrals to diagnostic services.

We noted that access to primary care and hospital readmission rates have not improved since 2011 when HQO received its mandate. To illustrate:

- The percentage of people who were able to see their primary care provider or nurse practitioner on the same day or next day when they were sick or had a health concern decreased from 45.3% in 2013 to 43% in 2016.
- The number of patients reporting to see their primary care provider within seven days of discharge from hospital for selected conditions (for example, pneumonia, diabetes, stroke, congestive heart failure) improved slightly from 33% in 2013 to 34% in 2016, but still remains an issue, as timely follow-up can help smooth a patient's transition from hospital to home or community.
- The rate of unplanned readmissions to hospital within 30 days of a patient being discharged, for either medical or surgical treatment, also increased slightly (medical: 13.6% in 2012/13 to 13.9% in 2015/16; surgical: 6.9% in 2012/13 to 7.2% in 2015/16).
- The length of stay in the emergency department for admitted patients has increased 3%, from 14.8 hours in 2011/12 to 15.2 hours in 2016/17. However, during the same time period, the number of people going to emergency with severe needs increased by almost 22%.

Other areas HQO focused attention on did show some improvement. For example:

- Hospital-acquired infections from *clostridium difficile* have dropped significantly (31%) from 0.35 per 1,000 patient days in 2011/12 to 0.24 per 1,000 patients days in 2016/17.
- The percentage of Ontario patients who would definitely recommend the hospital they visited to friends and family saw an increase from 73.1% in 2010/11 to 76.2% in 2016/17.

However, HQO cannot be held solely responsible for changes in health-care system performance as it does not have sole responsibility for quality improvement, as discussed in **Section 4.1.5**. It also lacks the authority to enforce the implementation of its recommendations, as described in **Section 4.1.4**.

4.1.3 HQO Not Measuring Its Impact on Quality Improvement

HQO has developed useful measures to monitor and report on the performance of the health-care system as a whole and by region. But it has not done the same for its impact on quality improvement in the health system. Overall, HQO does not evaluate whether the various tools it provides health-care provider organizations are being used and whether they are making a difference to the quality of health care in Ontario.

HQO evaluates its effectiveness by focusing on measures of activities and outreach (for example, the number of views its website receives or the number of times its reports are downloaded); opinions of patients regarding their satisfaction with patient engagement activities; and satisfaction level of participants in quality improvement training sessions.

Specifically, we noted the following shortcomings in its performance reporting:

- For the recommendations HQO makes to the Ministry on medical devices and services, HQO does not report on the rate of acceptance by the Ministry of its recommendations, even though it tracks it. HQO also does not

attempt to measure the rate of adoption of its recommended medical devices and health-care services after the Ministry approves them for public funding.

- For the clinical care standards it develops, HQO does not currently track which clinical care standards or recommendations for adoption have been implemented by health-care organizations. For areas identified as a provincial priority for improvement, HQO does not highlight the performance indicators connected with those priorities and report whether progress has been made in those areas.
- For individualized practice reports developed for physicians and hospitals, HQO does not report the percentage of physicians or hospitals that sign up to receive and use the reports.
- Furthermore, HQO is not measuring whether its standards or recommendations are impacting quality of care and leading to better health outcomes for patients. This would help it assess whether it is effective in supporting continued quality improvement in health care.

4.1.4 HQO's Ability to Effect Positive Change Is Limited as Ministry and LHINs Are Not Ensuring HQO's Recommendations Are Being Implemented

One key factor limiting HQO's impact on the quality of health care is that HQO does not have the authority to ensure that organizations adopt the medical devices and health-care services recommended by HQO and approved by the Ministry, nor the clinical care standards HQO has developed. Moreover, it does not have the authority to ensure that organizations at least take steps toward improvement (in whatever manner they choose) in areas that HQO has identified as priorities. None of HQO's improvement activities are mandatory for the health-care sector, further limiting its effectiveness. For example:

- Family physicians are not required to receive and act on HQO's individualized reports aimed at changing physician behaviour.
- Hospitals are not required to participate in HQO's improvement programs. For example, as of June 2018, only 46 hospitals (including two children's hospitals) were participating in the province-wide surgical quality improvement program, partially funded by HQO. (In 2017/18, these hospitals accounted for about three-quarters of adult surgeries.)

In 2012, a report by the Commission on the Reform of Ontario's Public Services, commonly referred to as the Drummond Report, recommended that HQO "become a regulatory body to enforce evidence-based directives to guide treatment decisions and OHIP coverage." According to the Ministry, it decided not to implement this recommendation because it was not aligned with HQO's legislated mandate.

In the latest Ministry–LHIN Accountability Agreement, effective for the period 2015 to 2018, the Ministry requires that each LHIN work with its health-service providers to support the adoption of evidence-based best practices recommended in, among other things, HQO clinical care standards. However, the Ministry is not monitoring the LHINs' actions or implementation activities in response to these standards. Within the Agreement, there are no financial incentives or penalties that could motivate the LHINs to devote the necessary resources to ensure their local health-service providers implement the standards.

The Ministry also noted in its response to the Drummond Report recommendation that enforcement of standards of practice is more appropriately positioned within Ontario's 26 health-sector regulatory colleges. Examples of regulatory colleges in the health sector include the College of Midwives of Ontario, the College of Nurses of Ontario, and the College of Physicians and Surgeons of Ontario. However, HQO told us that its recommendations are made to encourage best practices, thereby improving the quality of care to levels above those assessed by regulatory colleges.

In contrast, in Scotland, the government entity comparable to HQO—Healthcare Improvement Scotland—has enforcement authority in addition to its quality improvement activities.

4.1.5 Lack of Clear Roles and Responsibilities of Various Parties in Promoting Quality Improvement in the Health-Care Sector

Under the *Excellent Care for All Act, 2010*, HQO has the role of supporting quality improvement and a strategic goal of providing system-level leadership for health-care quality. It shares responsibility for quality improvement in the health-care sector with the Ministry, the LHINs, and health-care provider organizations, such as hospitals and long-term-care homes. The focus of the LHINs, hospitals and other health-care providers is to meet their performance indicators, which may not always correspond to the areas that HQO identifies as needing improvement. This brings with it the potential for overlap and competing priorities. (**Appendix 5** notes the responsible parties in the health sector.)

According to various provincial acts and agreements, the following parties are responsible for certain aspects of health quality:

- **Ministry and LHINs:** The standard agreement between the Ministry and each LHIN recognizes that the Ministry and the LHINs have a joint responsibility to achieve better health outcomes for Ontarians and to effectively oversee the use of public funds in a fiscally sustainable manner. It further states that "both parties will...work with Health Quality Ontario, local clinical leaders, health service providers and other providers to advance the quality agenda and align quality improvement efforts across sectors and the local health-care system."
- **Hospital Boards of Directors:** According to the *Public Hospitals Act*, the boards of directors of hospitals are responsible for the quality of patient care at the hospitals.

- **Quality Committees:** The *Excellent Care for All Act, 2010*, requires all hospitals to establish a quality committee. For other health-care entities, such as long-term-care homes and primary care teams, quality committees are optional. Quality committees are generally responsible for:
 - monitoring and reporting to the organization’s board of directors on quality issues and on the overall quality of services provided in the health-care organization;
 - considering and making recommendations to the board regarding quality-improvement initiatives and policies;
 - ensuring that information about best practices is shared with staff, and monitoring the use of these materials; and
 - overseeing the preparation of annual quality improvement plans.
- **College of Physicians and Surgeons of Ontario:** The College has a legislated mandate to continuously improve the quality of care provided by physicians. The College is responsible for “monitoring and maintaining standards of practice through peer assessment and remediation” and “investigating complaints about doctors on behalf of the public, and conducting discipline hearings when doctors may have committed an act of professional misconduct or may be incompetent.” However, only a small number of physicians are subject to a peer and practice assessment.
- **Public Health Ontario:** The Crown corporation provides scientific and technical advice and support activities, such as population health assessment, public health research, surveillance, epidemiology, and program planning and evaluation to protect and improve the health of Ontarians. It generates public health science and research in communicable diseases, environmental health, and chronic diseases and injuries, and conducts surveillance and outbreak investigations. It also operates Ontario’s public health laboratories.

In addition to HQO, other entities are tracking and providing data about health quality performance to the public or other health-care providers. These entities include the Better Outcomes Registry and Network, the Canadian Institute for Health Information, Cancer Care Ontario, and the Cardiac Care Network and the Ontario Stroke Network, now collectively known as CorHealth Ontario.

In an attempt to streamline health system reporting, the Ministry has recently moved reporting on emergency length of stay, and wait times for surgeries and diagnostic imaging from Cancer Care Ontario’s website, to HQO. However, the issue of multiple parties reporting health performance data remains a concern.

A Ministry-commissioned review of HQO in 2012 also noted the need for a system-wide mapping of who is accountable for quality and what changes may be needed strategically. According to the review, the respective roles of HQO, the Ministry, the LHINs, health-care provider organizations and provincial programs are unclear. Without clear accountabilities and a co-ordinated approach to quality improvement, results have been difficult to achieve as health-care providers are being asked by various organizations to focus efforts toward many different quality improvement areas.

RECOMMENDATION 1

To help bring about continuous quality improvement in health care, we recommend that the Ministry of Health and Long-Term Care clarify the respective roles and responsibilities of key parties in the health-care system—including Health Quality Ontario (HQO), Local Health Integration Networks and hospitals—with respect to requiring the adoption of recommendations made by HQO and the use of quality improvement tools made available by HQO to health-care providers.

MINISTRY RESPONSE

The Ministry of Health and Long-Term Care supports this recommendation and will clearly articulate the various roles and responsibilities of key parties in the health-care system in this regard. It will do so using the most appropriate existing accountability mechanisms (for example, accountability agreements, agency mandate letters, legislative powers) and will select these mechanisms based on how they will best support the adoption of recommendations made by HQO and the use of quality improvement tools made available by HQO to health-care providers.

RECOMMENDATION 2

To determine whether Health Quality Ontario (HQO) is effectively supporting quality improvement, we recommend that HQO measure and publicly report on:

- the rate of acceptance of its recommendations to the Ministry on medical devices and health-care services for funding;
- the rate of implementation/adoption of its clinical care standards;
- the rate of implementation/adoption of its recommendations to the Ministry on medical devices and health-care services for funding;
- the number and percentage of physicians who sign up for individualized practice reports; and
- the impact its activities (such as clinical care standards and priority indicators for quality improvement plans) are having on the quality of health care in the province.

HEALTH QUALITY ONTARIO RESPONSE

Health Quality Ontario (HQO) supports this recommendation and will increase the amount of information in our annual report that describes how effectively we are supporting quality improvement.

As noted in the report, we currently track the rate of acceptance of the recommendations to the Ministry of Health and Long-Term Care (Ministry) regarding medical devices and health-care services for funding and will report this publicly in the next annual report.

The audit report also notes that we monitor the number and percentage of physicians who sign up for their practice report and will also report this publicly in HQO's next annual report.

The implementation and adoption of clinical care standards and medical devices and health-care services involves many partners (for example, frontline health-care providers, organizational leadership, patients, professional societies and the Ministry). The contribution of each is crucial to improvement. Further, it can be challenging to measure implementation/adoption where the data is not captured through billing codes. It may also take time for improvements to be reflected in provincial data. We will build upon our current efforts in order to measure the implementation and adoption rates of clinical care standards as well as the recommendations on medical devices and health-care services, and will publicly report the information.

We will also track and publicly report on the indicators related to the impact that key activities are having on the quality of health care in the province, such as indicators related to clinical care standards and in quality improvement plans.

4.2 HQO'S Reporting on Health System Performance Not Clearly Effecting Quality Improvement

4.2.1 Annual Report Measures Performance of the Health System, but Stakeholders Not Using It for Improvement

HQO produces an annual report on health system performance, *Measuring Up*, the purpose of which is to improve the transparency and accountability of the health system, inform the public and those

leading and working in the health system, and stimulate quality improvement at the system level by highlighting areas for improvement. This is in line with the legislative requirement in the *Excellent Care for All Act, 2010* that HQO monitor and report on the quality of the health system in Ontario, including the health status of the population and patient outcomes.

The annual report is a useful tool for identifying areas that need improvement in the health-care system. The transparent measurement of key performance metrics stresses the need for improvement that can be used by the Ministry and health-care providers to drive change in the system.

In the most recent annual performance report available at the time of our audit, the *Measuring Up* released in October 2017, two-thirds of the 32 performance indicators discussed in the document were reported at the provincial level (these included such indicators as time patients spent in the emergency department, and percentage of people who obtained same- or next-day appointments with a primary care provider). The remaining one-third of indicators were reported at the LHIN level (these included such indicators as readmission rates for mental illness patients and wait times for cancer surgery). On HQO's website, a technical supplement to the annual health system performance report provides a regional breakdown of results by LHIN for every indicator in the report.

HQO stated that issues identified in the annual performance report help the Ministry in its policy decisions on health-care spending. The Ministry told us, however, that it does not take specific actions related to the annual system performance report, but that the findings in the report help inform a range of provincial policy and strategy decisions.

A 2017 consultant's report commented on how public reporting on the health-care system could be made more useful. It recommended that HQO focus on providing a greater level of detail in its public reports. The consultant noted that entity-level data should be publicly reported, with specific organiza-

tions named, unless there are data limitations that would unfairly categorize performance. (The data limitation could be due to insufficient or unreliable data or the data not being comparable due to different methodologies or definitions being used for the same indicator by the entities being compared. For example, one entity might measure wait time from when the patient enters the emergency department while another measures from triage.)

One stakeholder told us that *Measuring Up* is good for public health data and to flag where things could go wrong in the health system, but that there is not enough advice on how to act on the data. The stakeholder also noted that there are other good reports to identify system-wide problems (such as reports produced by Cancer Care Ontario or the federal Canadian Institute for Health Information).

Another stakeholder told us that the annual health system performance report is not critical to quality improvement—it is a resource for considering high-level provincial health outcomes, but could be further strengthened if it were to help advance quality improvement at the entity level (for example, by hospital or long-term-care home). The lack of information at the entity level limits organizations' ability to fully understand their own performance and focus their quality improvement efforts.

4.2.2 Individualized Reports for Physicians and Hospital CEOs Do Not Address Many of HQO's Key Provincial Priorities for Improvement

For 2016/17, HQO identified priority improvement areas for different health-care sectors in consultation with health-sector partners: eight priority improvement areas for primary care; eight for long-term-care homes; and 12 for hospitals. In its individualized reports to physicians and hospital CEOs, however, HQO reports on their practice's or organization's performance with respect to only some of these improvement areas. Practice reports for primary care physicians provide information on four of eight improvement areas; practice reports

for physicians providing medical care to residents of long-term-care homes report on one of eight; and hospital CEO reports provide data on only one of 12 improvement areas. By not providing comparator data on all provincial priority improvement areas, HQO is missing an opportunity to help drive improvement in those areas. For excerpts of individualized reports for primary care physicians see **Appendix 6**, for physicians providing medical care to residents of long-term-care homes see **Appendix 7**, and for hospital CEOs see **Appendix 8**.

Physician: Physician practice reports for primary care physicians were first made available in May 2014 and were provided annually until 2016/17, when the reports became available semi-annually. The 2017 physician practice report for primary care physicians provides data on the physician's performance in the areas of cancer screening rates, diabetes management, opioid prescribing rates and health-service utilization (e.g., rate of emergency department visits). However, it does not provide data on whether patients were able to access care on the same or next day when they were sick or had a health concern, even though this has been a provincial improvement priority every year since 2011.

Long-term-care home physicians: Physician practice reports for physicians providing medical care to residents of long-term-care homes began in September 2015. They focus on the priority area of reducing the prescribing of antipsychotic medication and benzodiazepine (for insomnia and anxiety) to long-term-care home residents. However, the individualized report for long-term-care home physicians does not report on the physician's performance with respect to other key provincial priorities, such as rate of residents' visits to hospital emergency departments for conditions that are potentially preventable, such as injuries from falls.

Hospital CEOs: In September 2016, HQO issued its first individualized hospital performance report, for the period 2010/11 to 2014/15, to each hospital CEO, to be shared with the hospital administrator, physicians, nurses and the quality improvement

specialist. Since then, it has issued the report twice: in February and December 2017. The report was created in collaboration with Choosing Wisely Canada, a national organization focused on reducing unnecessary tests, treatments and procedures, and minimizing unnecessary pre-operative testing before low-risk surgeries. The report provides individual hospitals with data on their own performance compared to other Ontario hospitals on the use of pre-operative tests. However, HQO has identified a number of other provincial priorities for hospitals (such as rate of patients being readmitted within 30 days, and days patients spend in hospital while waiting for a long-term-care bed or home care) that it does not include in the hospital performance report. To get maximum benefit from these individualized reports, HQO could provide hospitals with performance results for all identified provincial improvement priorities.

Although there has been interest from hospitals and Choosing Wisely Canada to continue the report, at the time of our audit, HQO had not committed to releasing another hospital performance report. HQO informed us that it wants to focus its efforts instead on expanding physician practice reports into the hospital sector.

HQO told us that the improvement areas it provides physician information on in the individualized reports is based on a determination of where individual physicians can most influence the priority improvement area and where physician-level data is available. With respect to individualized reports to hospital CEOs, hospitals have access to significant amounts of hospital data from other sources.

4.2.3 Physicians Not Required to Receive Individualized Reports, Thereby Reducing the Potential Overall Effectiveness of These Reports

HQO is attempting to drive quality improvement through individualized reports for primary care and long-term-care home physicians. However, physicians are not required to receive these reports,

and HQO cannot provide them unless the physician has signed up voluntarily. HQO had some success in 2017/18 with a promotional campaign directed at primary care physicians: the number of such physicians receiving the reports increased from 784 participants in 2016/17 to 2,729 in 2017/18. But the majority of physicians (about 70%–80%) still do not receive the report.

Specifically, as of July 2018, only 23% of long-term-care home physicians and 32% of primary care physicians who are not part of a community health centre had signed up to receive the reports. Physicians who work within a community health centre are not able to receive individualized reports because patients are not assigned to a particular physician but can see any available physician within the centre. The executive directors of community health centres and family health teams can sign up for aggregated reports at the centre or team level. As of July 2018, 90% of these executive directors had signed up for the organizational-level reports.

Based on our discussions with HQO staff, we noted that HQO believes that it should not be optional for physicians to receive confidential individualized data focusing on improvement for their practice. However, HQO cannot simply send such reports to all physicians because neither it nor the Ministry has direct access to a valid email address for physicians that is linked to their College of Physician and Surgeons of Ontario number (which is required to ensure confidential data is provided to only the appropriate physician).

We discussed with stakeholder groups the reasons why some physicians are reluctant to sign up for individualized reports. Some stakeholders expressed the opinion that the reports' usefulness is limited because the data provided does not identify for the physician the specific patients referred to. Examples of such feedback include:

- Without patient-level data, physicians are required to search through their medical records to identify the relevant patients. This would be a time-consuming process that takes away from the physician's time seeing patients.

- Some family physicians feel that signing up may lead to physician data being used for punitive purposes.
- Few physicians may be signing up for the report because there are no consequences if a physician does not volunteer to receive the reports.

Neither the *Personal Health Information Protection Act, 2004* nor the *Excellent Care for All Act, 2010* allows HQO to access individuals' personal health records for the purpose of producing reports for physicians. Therefore, HQO is not able to identify in the physician practice reports the specific patients who may not have been treated correctly.

A 2017 consultant's report to HQO recommended that "HQO should commission an independent assessment to better delineate both strategic and technical considerations of holding personal health information in order to better meet its legislative mandate." Eight of the 11 data providers HQO used to produce its 2017 annual report on health system performance have access to patient-level data. At the time of our audit, HQO had not commissioned an independent study as recommended by the consultant.

In March 2018, HQO requested from the Ministry the ability to provide to physicians confidential and secure patient-level data about their prescribing of opioids, using available data from data providers that are currently able to hold patient-level information. The Ministry told us that it is open to considering HQO's request for increased access to personal health information, but legislative and/or regulatory changes would be required to authorize this. Approvals from the government and consultation with the Information and Privacy Commissioner of Ontario would also be required before additional access is granted to HQO. In addition, the Ministry indicated that it would first need to assess if providing HQO with access to patients' personal information would support quality improvements in health-care delivery and improvements in health-care experience for patients and caregivers.

We contacted three provincial organizations (Health Quality Council of Alberta, Saskatchewan Health Quality Council, and New Brunswick Health Council) with a similar mandate for publicly reporting on health system performance and found that all three had the legislative ability to access patient-level data. However, only Alberta was providing to physicians patient-level data on prescribing opioids; it was being provided through the College of Physicians and Surgeons of Alberta.

RECOMMENDATION 3

We recommend that the Ministry of Health and Long-Term Care assess whether it is necessary to provide Health Quality Ontario with access to patient-level data in order for it to better meet its mandate of supporting continuous quality improvement.

MINISTRY RESPONSE

The Ministry of Health and Long-Term Care (Ministry) will assess where it would be necessary for Health Quality Ontario (HQO) to have access to patient-level personal health information in order to fulfill its statutory mandate (for example, for the purpose of including patient-level data in its confidential practice reports). Any Ministry decision in this regard would involve an assessment of the value that patient-level data would bring to HQO's activities and consultation with impacted parties, including the Information and Privacy Commissioner.

4.2.4 HQO Has Not Fully Evaluated Effectiveness of Individualized Performance Reports

It would seem that physician practice reports should be more useful to physicians than the annual system performance report, because they provide performance information specific to the physician's practice. In addition, the reports provide ideas to help drive quality improvement. For example, in the

case of patients taking opioids for the management of chronic pain, the report directs physicians to HQO's clinical care standards for opioid prescribing for chronic pain and links to professional development courses designed to assist physicians in helping their patients with pain management. The individualized report for hospital CEOs also provides ideas to help reduce the hospital's rate of use of unnecessary tests by providing a direct link to relevant Choosing Wisely Canada recommendations, tools and pre-operative guidelines.

While such specific practical information intended to effect quality improvement is in line with what some stakeholders have been recommending, HQO has limited information on whether these reports are achieving the intended result. And, at the time of our audit, HQO had not fully evaluated how effective these reports have been in changing physician behaviour and improving health-care outcomes.

We noted only one review conducted by HQO to evaluate the effectiveness of its individualized practice reports. That review occurred in 2017 and was conducted on long-term-care home physicians who signed up for individualized practice reports. The review found a modest improvement in the rate of use of anti-psychotic medication by the long-term-care home residents for whom they were prescribing. Specifically, it noted a 3% reduction in the percentage of days long-term-care residents were on anti-psychotic medication, compared to a 2% reduction by physicians who had not signed up for the physician practice reports.

RECOMMENDATION 4

To maximize the likelihood that organizations and physicians receive individualized performance reports focused on targeted quality improvement and can readily act on the information provided, we recommend that Health Quality Ontario in collaboration with the Ministry of Health and Long-Term Care:

- explore opportunities to increase the participation rate of primary care physicians

and long-term-care home physicians receiving individualized practice reports, and consider making receipt and use of these reports mandatory;

- work toward having physicians receive patient-level data for their own patients, to better target their quality improvement efforts;
- provide improvement ideas on all applicable provincial priority improvement areas in reports to physicians and hospital CEOs; and
- evaluate the effectiveness of physician practice reports in changing physician behaviour and improving health-care outcomes.

HEALTH QUALITY ONTARIO RESPONSE

We support this recommendation. Health Quality Ontario (HQO) acknowledges the current barriers to ensuring that all physicians receive an individualized practice report and look forward to working with the Ministry of Health and Long-Term Care to ensure that all physicians are eventually able to receive and use the reports. We will continue to explore opportunities for marketing and promoting the reports to physicians.

Over the coming years, we envision all family physicians, and physicians in other specialties, receiving and using individualized practice reports. We will work with our relevant health system partners to advance this goal, including working with the Ministry of Health and Long-Term Care on including patient-level data in the reports, which may make the reports more useful to physicians.

As practice reports are developed or refined, HQO will ensure that they reflect improvement ideas on applicable provincial priority improvement areas.

We will also work with evaluators to ensure that the individualized practice reports and accompanying supports reflect growing and changing evidence of how best to support practice improvement, and to evaluate the effect-

iveness of the practice reports in supporting physicians in improving health-care outcomes. This includes monitoring and publicly reporting on trends in the practice report indicators over time.

MINISTRY RESPONSE

The Ministry of Health and Long-Term Care (Ministry) supports this recommendation.

The Ministry will work with HQO and consult with impacted parties to explore opportunities to increase the participation rate of physicians receiving individualized practice reports and to consider making the receipt of the reports mandatory.

The Ministry is open to exploring opportunities to expand HQO's access to personal health information where that access is demonstrably necessary for HQO to fulfill its statutory mandate.

The Ministry will work with HQO to help determine which provincial priority improvement areas would be of most value to highlight for each respective sector receiving reports (for example, primary care physicians, long-term-care home physicians).

The Ministry supports HQO's continued evaluation of the impact and effectiveness of physician practice reports.

4.2.5 HQO Has Not Always Determined the Quality and Reliability of Data Used in Its Reporting, and Data Errors May Go Undetected

HQO paid about \$525,000 in 2017/18 to external data providers for data on health performance indicators used in HQO's reporting. However, it has not always clearly established and documented the provider's responsibility to ensure that the data has been verified and is reliable.

For the purposes of producing its 2017 *Measuring Up*, HQO obtained data from 11 data providers (see **Figure 3**). However, it has contractual

agreements with only five of these data providers. Only one of these agreements—with Cancer Care Ontario—outlines the quality-assurance measures the data provider will undertake to ensure the reliability of the data provided.

We spoke to the four data providers, including Cancer Care Ontario, that provide the data for 70% of the health system indicators HQO reports on. All four data providers have internal processes to ensure data reliability, but HQO has not, with the exception of Cancer Care Ontario, established or documented with them their clear responsibility for data reliability. Only two—the Canadian Institute for Health Information and the Institute for Clinical Evaluative Sciences (ICES)—told us that they verify data on a sample basis against source records maintained at health-care organizations.

Also, our audit found that HQO does not specify procedures staff conducting data reliability reviews should use. Each of the nine HQO staff conducting

such reviews use their own technique to assess data quality. Although staff present management with comparison data by year and by LHIN, we found little evidence that management reviews their work to ensure consistency and accuracy. In addition, HQO has not clearly defined unusual results in the data that require further discussion with data providers.

In June 2018, HQO discovered that one of its data providers, Better Outcomes Registry and Network Ontario, had made an error in reporting to HQO data on caesarean birth rates among low-risk pregnancies, which HQO included in its annual report on health system performance. HQO is planning for a public release to correct the error. In order to limit the risk of future errors, HQO plans to implement an internal standardized data request form; develop a standardized process for documenting and addressing errors; and request documentation from data providers on their data quality and assurance process.

Figure 3: Details of Data Providers Health Quality Ontario Used for Its 2017 Annual Report on Health System Performance (*Measuring Up*) and Technical Supplement

Source of data: Healthy Quality Ontario

Data Provider	# of Data Components* for Which It Provided Data	% of All Data Components	Agreement in Place with Data Provider?	Agreement Includes Measures to Ensure Data Quality?
Institute for Clinical Evaluative Sciences	16	23	Yes	No
Cancer Care Ontario	12	17	Yes	Yes
Ministry of Health and Long-Term Care	11	16	No	n/a
Canadian Institute for Health Information	10	14	Yes	No
Statistics Canada	10	14	No	n/a
CorHealth Ontario (previously known as Cardiac Care Network of Ontario)	3	4	Yes	No
Better Outcomes Registry and Network Ontario	2	3	No	n/a
Ontario Hospital Association	2	3	No	n/a
Public Health Ontario	2	3	No	n/a
Commonwealth Fund International Health Policy Surveys	1	1.5	Yes	No
Health Shared Services (previously known as Ontario Association of Community Care Access Centres)	1	1.5	No	n/a
Totals	70	100		

* The 2017 report has 56 performance indicators. The 56 indicators comprise 70 distinct data components.

n/a: Not applicable since this data provider did not have an agreement with Health Quality Ontario.

RECOMMENDATION 5

To improve the accuracy and reliability of publicly reported data on the health-care system, we recommend that Health Quality Ontario:

- enter into a data-sharing agreement with each data provider that clearly defines the provider's responsibility for data reliability and the verification procedures to be undertaken by the provider;
- implement a standardized verification process for data used for each indicator, with consistent management oversight; and
- develop a process to centrally track all discrepancies and errors, and the corrective measures taken to address them.

HEALTH QUALITY ONTARIO RESPONSE

Health Quality Ontario (HQO) supports this recommendation. As the audit report describes, HQO does not currently have the authority to collect personal health information and instead relies on trusted partners who have the legal authority to do so. HQO will amend its agreements with the providers to strengthen provisions around reliability and will improve its existing processes to detect and correct errors in the data and track this information.

4.3 HQO Missing Opportunity to Save Time and Money through Collaboration on Assessments of Health Technology and Services

4.3.1 HQO Does Not Collaborate with Other Jurisdictions or Rely on Similar Work Already Completed for Its Health Technology and Services Assessments

HQO could potentially reduce the time taken and money spent to complete an assessment of medical devices or health-care services by collaborating with other jurisdictions or relying on similar work already done in other provinces or by the Canadian

Agency for Drugs and Technologies in Health (Agency). However, HQO does not have a method for collaborating with other jurisdictions on assessments and does not investigate what other jurisdictions are working on.

HQO makes evidence-based recommendations to the Minister regarding public funding for health-care services and medical devices. According to HQO, the goal of the assessments is to identify new and existing health-care services and medical devices that can best improve the quality of health care in Ontario cost effectively. An example of a health-technology assessment recently completed by HQO is the assessment of a portable ultraviolet-light device to disinfect surfaces and thereby reduce hospital-acquired infections. An example of a recent health-care services assessment is the assessment of individual or group psychotherapy provided by trained non-physicians for major depression and generalized anxiety disorder.

HQO informed us that when it commences an assessment, it is very rare that another province or the Agency has started or completed an assessment on the same topic. We looked at assessments completed by HQO over the last three years and compared them to assessments completed in other jurisdictions. We found four assessment topics (robot-assisted prostate surgery, depression therapy, uterus tumour treatment and cell transplantation for type 1 diabetes) that had been recently assessed by another jurisdiction. Of these, three had been completed by the province of Alberta; the other had been completed by the Scottish government agency, Healthcare Improvement Scotland.

For three of these four assessments, HQO came to the same conclusion as the other jurisdiction as to whether the technology or service was effective. The exception was on the topic of robot-assisted prostate surgery: Alberta partially supported it, but HQO did not. For the three assessments completed by Alberta, HQO was aware of them but only relied on one. According to HQO, this reliance probably saved it time and costs, but it could not quantify the savings. When it began its assessment on the topic

that Healthcare Improvement Scotland was in the process of assessing, HQO was not aware that this work was under way.

Most other jurisdictions in Canada rely on the assessments for medical devices and health-care services prepared by the Agency (see **Appendix 3**), which was created in 1989 by Canada’s federal, provincial and territorial governments to focus on a co-ordinated approach to conducting assessments.

According to HQO, similar assessment topics may have already been adopted elsewhere, but depending on the type of device or service being assessed, it needs to ensure that the assessment takes into account the way health services are provided in Ontario and the particular needs of the Ontario population. As well, the economic component of an assessment generally needs an Ontario (or, at least, Canadian) perspective because costs are almost always jurisdiction-specific. HQO consults with clinicians in Ontario to understand how the health-care service or medical device will be used in Ontario.

Nevertheless, in January of 2017, HQO began formal discussions with the Agency about collaborating on assessments. As of July 2018, the two parties were working jointly on three assessments, with HQO as the lead for two of them. These three assessments are on minimally invasive glaucoma surgery, Internet-delivered cognitive behavioural therapy and flash glucose monitoring. Each of these assessments has its own project charter agreement defining the responsibilities of each party and timelines for completion.

Ministry and Stakeholders Support More Collaboration to Expedite Assessments

According to HQO guidelines, the time taken to perform an assessment and have it approved by the HQO board of directors should be from 48 to 52 weeks. For the last three fiscal years (2015/16 to 2017/18), this process has ranged from 37 to 93 weeks (see **Figure 4**). More than 40% of that time is spent performing the assessment; the rest of the time is taken by the Ministry performing an initial review and public consultation, and editing the report. In 2017/18, HQO spent \$4.7 million in total (\$4.2 million in 2016/17) conducting assessments with the use of the equivalent of 34 full-time staff.

A typical assessment of a medical device includes a clinical review of all relevant published evidence about the benefits and harms of the technology; an economic valuation to determine the costs and potential budget implications for the Province; and a patient engagement plan to consider patient preferences and values related to the technology. HQO told us that the economic aspect of an assessment, particularly the budget impact, must be province-specific.

The Ministry informed us that it has had discussions with HQO about HQO performing assessments more quickly where clear evidence exists on the effectiveness of the technology. A 2018 consultant report on HQO’s health technology assessment program stated that the “majority of the stakeholders consulted would like the overall turnaround of HQO recommendations to be quicker to make the program more adaptable to the evolving health technology landscape. Some suggested

Figure 4: Time Taken to Complete a Health Technology or Services Assessment During the Last Three Years

Source of data: Healthy Quality Ontario

	# of Health Technology Assessments Completed	Shortest Time (Weeks)	Longest Time (Weeks)	Median (Weeks)
2015/16	10*	46	87	68
2016/17	11	49	88	70
2017/18	12	37	93	65

* Twelve assessments were completed in total, but only 10 were tracked, as the tracking tool was first introduced during this year.

approaches such as introducing an expedited review methodology by collaborating with other similar organizations.” The stakeholders also noted that “collaboration with other health technology assessment programs to develop collective guiding principles and processes [...] would allow for a joint review process for specific technologies that have been identified as priority. This could help reduce duplication of effort for the assessment process.”

One key stakeholder group we spoke with felt that a central technology assessment organization for all of Canada with a centralized database that collects assessments from all jurisdictions would streamline efforts and reduce duplication. The stakeholder also felt that, if a technology is being used successfully in another jurisdiction, HQO should be able to make use of the work already completed in that jurisdiction, thereby cutting back on the time and expense required to complete an assessment. In the stakeholder’s view, HQO must still complete a due diligence review of the other jurisdiction’s assessment to ensure the research used for the assessment was of high quality, and must develop an economic model for Ontario, but there could still be large savings in time and expense.

We noted that organizations in countries such as Australia, England and Scotland are also conducting health technology and services assessments. Potential opportunity also exists for HQO to collaborate with such organizations, or rely on assessments conducted in other countries.

In 2016, the European Union started an initiative toward increasing co-operation among its member countries on conducting health technology assessments. The goal of the proposed co-operation is to “remove some of the existing divergences in the internal market for health technologies caused by procedural and methodological differences in clinical assessments carried out in member states along with the considerable duplication of such assessments across the European Union.”

RECOMMENDATION 6

To complete health technology and services assessments in a more efficient and timely manner, we recommend that Health Quality Ontario:

- streamline the process for health technology and service assessment where other jurisdictions have already successfully implemented the medical technology or health-care service under consideration; and
- evaluate whether it would be more timely and cost-effective to adopt, where appropriate, the results of assessments performed by the Canadian Agency for Drugs and Technologies in Health or to jointly work on health technology and services assessments for Ontario.

HEALTH QUALITY ONTARIO RESPONSE

We support this recommendation.

In the spring of 2018, Health Quality Ontario (HQO) began developing a streamlined process that will be used when other jurisdictions have already assessed and implemented the medical technology or health-care service under consideration. A high-level process map has been developed, and at least one topic will be started through this expedited process by the end of this fiscal year.

Over the last year, HQO developed a partnership agreement with the Canadian Agency of Drugs and Technologies in Health. This agreement was formally signed in September 2018, and as noted in the report, we have already begun working jointly on three assessments.

4.3.2 Assessments of Health Technology and Services Cost almost \$5 Million in 2017/18, but HQO Does Not Monitor If They Are Used

The average cost of a health technology and services assessment completed in 2017/18 was \$380,000. HQO completed 12 assessments that

fiscal year at a total cost of about \$4.7 million. However, neither HQO, the Ministry nor the LHINs is actively monitoring whether medical devices and health-care services recommended by HQO and accepted or endorsed for use by the Ministry are being used by individual health-care service providers. Without measuring the actual adoption rate of the HQO-recommended technology or service by health-care providers, and linking the use of the device or service to appropriate health system performance measures, HQO cannot determine whether its assessments have had any real impact on the quality of health care.

HQO projected the 12 assessments completed in 2017/18 could affect over 300,000 Ontarians annually. Of these 12 assessments, seven led to HQO recommending the government fund the device or service. Doing so could cost the Province between \$40 million and \$115 million per year. For four of the remaining five assessments, HQO recommended the government not fund the medical devices or services assessed; one assessment did not lead to a recommendation due to poor evidence. Despite the significant actual costs to conduct the assessments, and the projected costs and benefits, neither the Ministry, the LHINs nor HQO is monitoring the actual adoption of, or measuring the financial and health impact of, the recommended medical device or health-care service. The latest program review, in 2018, by an external consultant, made similar observations about the lack of monitoring of the impact of recommendations.

HQO's position is that it does not have the resources necessary to monitor actual adoption of the recommended device or service approved by the Ministry.

On the other hand, the Ministry has the ability to track the implementation of Ministry-accepted HQO-recommended health services by setting up fee-for-service billing codes. However, the Ministry does not track this, and told us that it could not definitively provide the financial impact of HQO recommendations it had implemented.

The Ministry is not always able to track implementation of Ministry-accepted HQO recommendations related to medical devices and equipment because it does not fund health-care service providers directly for these. Instead, health-care service providers, such as hospitals, receive funding from the LHINs for their overall operations, from which they may choose to purchase medical equipment. To measure whether health-care providers have followed the Ministry-accepted HQO recommendation and purchased the equipment would require contacting them directly. Neither the Ministry nor the LHINs (which fund the health-care providers) nor HQO are following up with health-care service providers.

In 2009, prior to the expansion of HQO's mandate in 2011, the Ministry and the then Ontario Health Technology Advisory Committee (see **Appendix 1**) produced a report that tracked the adoption of certain recommendations made by the committee, where data was available, by monitoring the use of the device or service over time and by region. HQO also produced a similar tracking report in both 2013 and 2014, but it stopped because, it told us, the report was resource-intensive and did not provide significant value, as it was difficult to tell with the data available whether health-care services and medical devices were being used appropriately.

Based on our discussions with the Ministry, HQO and other stakeholders, we noted that there is no party currently responsible for ensuring implementation of recommended medical devices or health-care services at the service-provider level. It is up to each individual organization to implement the use of approved medical devices, technologies or health-care services.

Furthermore, HQO does not prepare adoption strategies or supports to help health-care providers implement the approved devices or services it recommended. In contrast, HQO prepares adoption strategies for the clinical care standards it develops (referred to as recommendations for adoption).

RECOMMENDATION 7

To increase implementation of recommendations regarding medical devices and health-care services made by Health Quality Ontario (HQO) and accepted by the Ministry of Health and Long-Term Care, we recommend that HQO provide the guidance and supports required to assist health-care providers to implement the recommended devices and services in cases where the adoption rate is found to be low.

HEALTH QUALITY ONTARIO RESPONSE

Health Quality Ontario (HQO) is keen to help ensure that its evidence-based recommendations about what health-care services and medical devices are publicly funded are implemented and lead to meaningful improvement in health outcomes for Ontarians.

Determining whether an adoption rate is too low, too high or approximately right is difficult, and in itself can be a resource-intensive task. Where evidence indicates that adoption rates are too low, HQO will provide guidance and supports to assist with implementation in a variety of ways. The nature of the support will depend on the specific device or service, and also on whether or not there is a partner organization that may also be well-placed to support implementation. We will work with the Ministry of Health and Long-Term Care and other partners to ensure that the right organization is providing support to health-care providers in cases where adoption rates are found to be low.

4.4 Clinical Care Standards Recommended and Improvement Areas Identified by HQO Not Followed

4.4.1 Health-Care Organizations May Need More Guidance in Implementing Clinical Care Standards Recommended by HQO

In 2017/18, HQO published nine clinical care standards (see **Figure 5**) that it estimates could affect between 13,000 and 4.3 million patients. The clinical care standards focus on conditions or topics where there are large variations in how care is delivered, or where there are gaps between the care provided in Ontario and the care patients should receive. As an example of the variations in care that occur: in 2014/15, the percentage of patients who waited longer than 48 hours for surgery due to a hip fracture ranged from 2% to 45% by hospital.

For each clinical care standard, HQO sets out multiple quality statements and recommendations for adoption. For example, for the hip fracture clinical care standard released in October 2017, there were 15 quality statements meant to guide and educate both clinicians and patients on what high-quality care looks like for a hip fracture patient. As an example, one of the 15 quality statements outlines that patients with a hip fracture should have surgery within 48 hours of arrival at a hospital. In addition, HQO develops recommendations for adoption that are meant to assist the health-care sector in implementing the standard. The hip fracture clinical care standard had 18 recommendations. HQO identifies which parties in the health-care system are responsible for taking action on each recommendation. These include the Ministry, the LHINs, system partners (regulatory associations and advocacy and education programs), hospitals, long-term-care homes and other health-care organizations and providers.

Between May 2015 and September 2018, HQO publicly released 14 clinical care standards with a total of 166 quality statements and 235 recommendations for implementation (see **Figure 5**).

Figure 5: Clinical Care Standards, Quality Statements and Recommendations for Implementation Developed by Health Quality Ontario, May 2015–September 2018

Source of data: Healthy Quality Ontario

	Date Launched	Clinical Care Standard	# of Quality Statements	# of Recommendations for Implementation
1	October 2016	Behavioural Symptoms of Dementia	14	11
2	October 2016	Major Depression	12	14
3	October 2016	Schizophrenia (Acute Care)	11	7
4	October 2017	Heavy Menstrual Bleeding	14	11
5	October 2017	Hip Fracture	15	18
6	December 2017	Diabetic Foot Ulcer	12	18
7	December 2017	Venous/Mixed Leg Ulcers	13	20
8	December 2017	Pressure Injuries	13	18
9	March 2018	Dementia (Community)	10	19
10	March 2018	Opioid Use Disorder	11	27
11	March 2018	Opioid Prescribing Acute	9	17
12	March 2018	Opioid Prescribing Chronic	10	18
13	April 2018	Palliative	13	23
14	April 2018	Vaginal Birth after Caesarean	9	14
Total			166	235

About one-quarter of the recommendations made in 2017 and 2018 were aimed at multiple health-care organizations.

According to stakeholders we spoke with, stakeholders would welcome more guidance on implementing standards. HQO does not currently assess the training and potential resources required by health-care providers to implement a clinical care standard.

One stakeholder noted that, with so many clinical care standards already released by HQO, and with many more coming, there is a need for action plans and supports for hospitals, community care and primary care physicians to guide the implementation of these standards. The stakeholder also noted that it would be helpful to know what Ontario's improvement strategies are and which standards are a priority, as health-care providers cannot work on implementing them all at once. It further suggested that the Ministry should be taking a leadership role in helping the sectors adopt the new standards.

HQO informed us that the clinical care standards it had released or was developing, although designed to apply consistently regardless of the setting in which patients receive care, would not affect all sectors to the same extent. They would also not necessarily apply equally to all health-care providers in the same sector. However, HQO noted that for each newly developed standard of care, it has not mapped in detail how each quality statement applies to a particular sector. This may be contributing to organizations feeling overwhelmed because there is an assumption that all the statements apply to them. HQO plans to address stakeholder feedback.

RECOMMENDATION 8

To have health-care providers implement clinical care standards on a timely basis and to reduce the variation of care across Ontario, we recommend that Health Quality Ontario, in conjunction with the Ministry of Health and Long-Term Care:

- prepare training and support material for each clinical care standard, where appropriate; and
- assess the potential benefits of enforcing the use of clinical care standards through the Local Health Integration Networks.

HEALTH QUALITY ONTARIO RESPONSE

We support this recommendation. Health Quality Ontario (HQO) agrees that appropriate supports are important for helping providers implement and adopt clinical care standards. We currently provide guidance to accompany the quality standards that health-care provider organizations and other partners can use to help make it easier for them to use the quality standards for evidence-based quality improvement (that is, recommendations for adoption). We agree that additional training and support may be helpful and will consider what we can do here in collaboration with the Ministry of Health and Long-Term Care (Ministry) and other health system partners.

HQO will work with the Ministry to assess the benefits of enforcing clinical care standards. Our assessment will explore what other comparable jurisdictions have done to support the timely adoption of clinical care standards.

MINISTRY RESPONSE

The Ministry of Health and Long-Term Care (Ministry) supports this recommendation. The Ministry will encourage HQO to continue using tools and resources to support providers in using the clinical care standards, and explore the potential development of more targeted training and support materials where there is an identified need. The Ministry also agrees to explore opportunities to strengthen the uptake and adoption of HQO's clinical care standards through the Local Health Integration Networks.

4.4.2 Hospitals Risk Underperforming by Not Focusing Improvement Efforts on Priority Areas

Some hospitals are not incorporating HQO indicators relating to priority improvement areas into their quality improvement plans. Some of these hospitals are underperforming relative to other hospitals. All public hospitals and long-term-care homes in Ontario, as well as all inter-professional team-based primary care groups (such as family health teams and community health centres) and all LHINs (as this relates to their home-care function) must develop and submit their quality improvement plan to HQO on or before April 1 of every year. For 2017/18, HQO received about 1,070 quality improvement plans from across all health-care sectors.

Other sectors listed in **Appendix 5** (such as mental health and addictions, land ambulance and assisted living) are not required to complete an annual quality improvement plan that identifies areas of focus for improvement along with performance targets that hold the entity accountable for its improvement goals.

In the guidance documents for preparing quality improvement plans, HQO encourages health-care organizations to assess their performance and, where relevant, to incorporate in their plans improvement areas that HQO has identified as being a priority. However, health-care organizations are not required to select the improvement areas identified by HQO, and HQO does not follow up with them to ensure that they do so. HQO told us that it does not do so because responsibility for the selection of priorities lies with the boards of the organizations.

Through extensive consultation with stakeholders, HQO annually identifies priority improvement areas for each of these four sectors: hospitals, long-term care, primary care and home care. (Priority improvement areas for the last three fiscal years are included in **Appendix 2**.) In certain cases, as highlighted in **Appendix 2**, HQO has removed improvement areas from the list of priorities due

to stakeholder feedback or poor participation by the sector. In these cases, HQO did not consider whether the area of focus had shown sufficient improvement and was eligible for removal based on performance improvement.

The use of HQO priority indicators varies by sector. Based on our analysis, primary care teams and home-care organizations were most likely to select priority indicators developed by HQO for inclusion in their quality improvement plan (see **Figure 6**).

Hospitals were least likely to select priority indicators developed by HQO for their quality improvement plans, even in cases where they were performing below the provincial average. For example, 29 hospitals (21%) that were performing below the provincial average in 2015 on the indicator that measures the “risk-adjusted 30-day all cause readmission rate for patients with congestive heart failure” did not select that indicator for their quality improvement plan in 2017/18. (Because of a lag in reporting times, at the time the hospitals were submitting their annual improvement plans for 2017/18, the latest results available for these two indicators were for the 2015 calendar year.) Similarly, 21 hospitals (15%) that were performing below the provincial average in 2015 on the indica-

tor that measures the “30-day readmission rate for patients with stroke” did not select that indicator for their quality improvement plan in 2017/18.

These indicators help identify cases of early discharge from hospital or discharge without proper support that result in the patient being readmitted to hospital. As a result of not including these priority areas in their quality improvement plans, these hospitals may not be focusing on these areas and may continue to underperform in these areas relative to other hospitals.

One stakeholder told us that the hospital sector would prefer a small number of priority improvement areas that focus on provincial issues, and that hospitals would like the autonomy to focus on additional local and regional priorities when selecting indicators for quality improvement plans.

4.4.3 Hospital Executives Choose Which, if Any, Improvements in Quality Are Tied to Their Compensation

According to the *Excellent Care for All Act, 2010*, public hospitals are required to tie executive compensation to the achievement of targets set in the organization’s quality improvement plans.

Figure 6: Rates of Adoption of Health Quality Ontario’s Priority Areas in Quality Improvement Plans, by Health-Care Sector, 2017/18 and 2016/17

Prepared by the Office of the Auditor General of Ontario

	Sector			
	Hospital (Acute Care)	Long-Term Care	Primary Care	Home Care
# of HQO priority indicators for 2017/18	11	5	3	6
% that selected 100% of priority indicators	13	57	88	93
% that selected ≥ 50% and <100% of priority indicators	25	22	6	7
% that selected >0% and <50% of priority indicators	47	17	2	0
% that selected 0% of priority indicators	15	4	4	0
Total	100	100	100	100
# of HQO priority indicators for 2016/17	12	8	8	6
% that selected 100% of priority indicators	8	28	92	93
% that selected ≥ 50% and <100% of priority indicators	25	38	6	7
% that selected >0% and <50% of priority indicators	48	32	1	0
% that selected 0% of priority indicators	19	2	1	0
Total	100	100	100	100

However, hospitals are free to select the indicators that will be tied to executive compensation, and they are not required to select priority indicators identified by HQO or their LHIN. Since the indicators are selected by executives, with the approval of their board of directors, there is a risk that they would not select indicators in areas where the hospital is performing poorly, as this could negatively impact their compensation. We found instances where hospitals did not select indicators in areas where they were performing poorly.

We looked at five priority indicators for 2017/18, and identified hospitals that had both performed below the provincial average for the indicator (based on the latest available results in April 2017) and did not select it as an area of focus in their 2017/18 quality improvement plans. These ranged from 15% to 24% of hospitals depending on the priority indicator. Given these priority indicators were not included in these hospitals' quality improvement plans, it is unlikely that these hospitals would focus efforts in these areas in which they were performing poorly. Yet it is possible the executive teams at these hospitals received additional compensation even though they did not focus on these areas needing improvement. HQO did not have information on how much additional compensation relating to quality improvement the executives at these hospitals received for 2017/18.

HQO has not analyzed whether tying a priority indicator to executive compensation results in greater improvement in that indicator compared to other indicators.

RECOMMENDATION 9

To improve the effectiveness of the quality improvement plan initiative, we recommend that:

- the Ministry of Health and Long-Term Care (Ministry) require that all health-care organizations that are performing below the provincial average on a priority indicator identified by Health Quality Ontario (HQO) include the indicator in their quality

improvement plans and tie those indicators to their executives' compensation;

- the Ministry assess whether other health-care sectors (such as mental health providers and land ambulance operators) should be required to submit quality improvement plans to HQO; and
- HQO remove improvement areas from the list of provincial priorities only when there is evidence of sustained improvement over several years.

HEALTH QUALITY ONTARIO RESPONSE

We will work with the Ministry of Health and Long-Term Care to ensure that quality improvement plans continue to be effective tools for organizations to focus their efforts on their most important priorities. We agree that sustained focus is required to produce lasting improvement and that improvement areas should be removed from the list of provincial priorities for quality improvement plans only after careful consideration. To ensure transparency in the decision to remove improvement areas, Health Quality Ontario commits to publicly reporting on the rationale for such changes through the guidance materials for preparing quality improvement plans.

MINISTRY RESPONSE

The Ministry of Health and Long-Term Care (Ministry) will investigate options to require the inclusion of indicators where performance is below the provincial average in quality improvement plans. The Ministry will also explore options to require all health-care organizations that submit quality improvement plans to HQO to tie executive compensation to those priority indicators.

The Ministry and HQO are working with the community mental health and addictions sector to prepare it for the submission of quality improvement plans. Full rollout in this sector is

contingent on sector readiness and when data systems are in place to support data collection and reporting. The Ministry will investigate options for requiring other health-care sectors, such as land ambulance operators, to provide HQO with a quality improvement plan.

4.4.4 Care Varies Across the Province, but HQO Does Not Set Ideal Range for Performance Targets

We found that although HQO sets priority areas where quality improvement is needed, it does not identify specific targets—or even a target range—that health-care organizations should meet according to best practices, nor does it set minimum targets. Health-care organizations set their own targets, which can create or perpetuate variations in the standard of care Ontarians receive in different parts of the province.

We noted large variances in targets set for the same indicator by different organizations that may affect the quality of patient care. For example, in 2015/16:

- One long-term-care home set a target of 0% of residents to be given antipsychotic medication without a psychosis diagnosis within seven days preceding their resident assessment, while another long-term-care home set a target of 45%. Ideally, the target for this should be extremely low. For the long-term-care home that set a target of 0%, the actual percentage of residents given antipsychotic medication without a psychosis diagnosis was actually 5% for the 12-month period ending in September 2016, while the other home achieved actual results of 26% over the same 12-month period. In this example, only the second long-term-care home met its target; however, it performed worse than the first home.
- One primary care team set a target of 97% of patients being able to see a doctor or nurse-practitioner on the same day or next

day, when needed, while another set a target of 41%. At the first primary care team, in 2015/16, 96% of patients were seen by a doctor or nurse-practitioner on the same day or next day, when needed, while at the other, only 44% of patients were seen on the same day or next day.

In 2016/17 and 2017/18, there were health-care organizations that set improvement targets in their quality improvement plans that were worse than the latest available performance for that indicator. These are called retrograde targets. HQO does not regularly follow up with organizations that set retrograde targets. However, when submitting their quality improvement plans to HQO online, organizations receive a system prompt when they enter a retrograde target suggesting they consider adjusting it.

The only instance where HQO follows up with organizations regarding retrograde targets is when multiple organizations in a sector set retrograde targets for a particular performance indicator. HQO publicly reported on the issue in its 2016/17 summary report of quality improvement plans and has consistently provided guidance against the use of retrograde targets. However, the number of health-care organizations setting a retrograde target for at least one priority indicator increased from 12% of organizations in 2016/17 to 16% in 2017/18. We also noted the issue of significant variation in target-setting in our 2015 audit of Community Care Access Centres—Home Care Program and our audit of Community Health Centres in 2017.

RECOMMENDATION 10

In order to support continuous quality improvement and reduce variation in care across the province, we recommend that Health Quality Ontario:

- establish ideal ranges for performance targets;
- investigate all significant variances in target-setting for priority indicators among providers in the same sector; and

- in consultation with the Ministry of Health and Long-Term Care and the Local Health Integration Networks, ensure all organizations are setting targets toward improvement in health quality and that the targets are for better than current performance (not retrograde targets).

HEALTH QUALITY ONTARIO RESPONSE

We concur that effective target-setting is an important component of quality improvement. Setting aspirational yet realistic targets for quality improvement can be challenging for organizations, particularly for indicators where there is no single ideal range that would apply across all health-care provider organizations. One of the most frequent requests the Quality Improvement Plan program receives from organizations is about setting appropriate targets in their quality improvement plans.

Health Quality Ontario (HQO) will establish ideal ranges for quality improvement performance targets and communicate this through the guidance documents for preparing quality improvement plans.

HQO will also analyze variances in target-setting for priority indicators. We will also work with the Ministry of Health and Long-Term Care and the Local Health Integration Networks to advance appropriate target-setting.

MINISTRY RESPONSE

The Ministry of Health and Long-Term Care (Ministry) agrees that organizations should set aspirational, rather than retrograde, targets, and that this would help strengthen quality improvement efforts and achieve better outcomes. The Ministry will work closely with HQO and the Local Health Integration Networks to support organizations in setting appropriate quality improvement plan indicator performance targets.

4.4.5 No Assessment of Whether Quality Improvement Initiatives Are Being Completed

HQO is unable to determine whether initiatives reported by health-care organizations to help bring about improvement are being completed and are having a positive impact.

For each performance indicator selected by a health-care organization in its quality improvement plan, it is expected to outline a “change idea” that will help the organization achieve its improvement goals. For example, in the hospital improvement plans we reviewed for 2015/16, one hospital selected the indicator of “90th percentile emergency department length of stay” (that is, the maximum amount of time that nine out of 10 patients are expected to complete their emergency department visit) and set a target of 25 hours (based on its actual performance of 30 hours for the 2014 calendar year). We noted that the hospital self-reported that it had implemented 13 out of the 17 change ideas between April 1, 2015, and March 31, 2017, including initiatives like matching physician hours of coverage to the volume of patients in the emergency room and investigating discharge delays. As a result, the hospital was able to reduce the length of stay in the emergency department for nine out of 10 patients to 9.8 hours in the 2016 calendar year.

HQO does request organizations to self-report in the following year whether the change ideas have been implemented. As well, due to the limitations of its current information system, HQO is not able to summarize the data or analyze the relationship between the implementation of the change idea and its impact on quality improvement. As a result, HQO is unable to determine the percentage of change ideas implemented and whether or not the implementation improved performance. In turn, HQO is unable to identify and share with other organizations in the sector any best practices resulting from the change ideas reported.

RECOMMENDATION 11

To maximize the impact of quality improvement plans on health-care quality, we recommend that Health Quality Ontario, in collaboration with the Ministry of Health and Long-Term Care and the Local Health Integration Networks (LHINs):

- track whether health-care organizations are implementing the change ideas included in their improvement plans and whether the ideas have resulted in positive improvement;
- follow up with and encourage organizations that are not showing improvement in their performance to implement the change ideas; and
- share effective change ideas put forth by health-care organizations as part of their quality improvement plans that may benefit other health-care organizations.

HEALTH QUALITY ONTARIO RESPONSE

To date, Health Quality Ontario (HQO) has undertaken a limited analysis of the change idea data to determine impacts of collective effort on improvement. HQO agrees that we could learn more about what is required to achieve improvements in care through a more rigorous analysis of organizations' practices in implementing change ideas. We will therefore look at enhancing our capacity to track whether organizations are implementing the change ideas included in their plans and whether those change ideas are having a positive impact, and to follow up with organizations on their use of change ideas when they are not showing improvement. To encourage the sharing of best practices, HQO will share effective change ideas through the Quality Improvement Plan Insights Reports or on HQO's online quality improvement community of practice, Quorum.

MINISTRY RESPONSE

The Ministry of Health and Long-Term Care agrees that change ideas are a rich opportunity for quality improvement and will work with HQO and the LHINs to:

- develop options for tracking the implementation of change ideas set out in quality improvement plans;
- measure the impacts of implemented change ideas;
- follow up to encourage organizations that are not showing improvement in their performance on a particular indicator, and have not implemented relevant change ideas in their quality improvement plans, to implement those ideas; and
- share effective change ideas.

4.5 Cost Savings Expected from Consolidation of Five Organizations Did Not Materialize

The government expected to reduce operational costs and maintain or reduce staffing when it consolidated five quality-improvement organizations or programs with HQO in 2011 (see **Appendix 1**). However, funding and staffing have doubled over the last seven years as HQO's mandate expanded.

With the consolidation in 2011, the government expected cost efficiencies to reduce the original combined budgets of the five organizations of \$23.4 million in 2010/11 to \$18.8 million in funding for HQO by 2013/14. The Ministry also planned to provide additional one-time project funding ranging from \$10.4 million to \$13.9 million per year over the three years ending 2013/14. Including the one-time project funding, HQO's spending was expected to be around \$32.7 million in 2013/14. The focus of the one-time project funding was expected to include quality improvement initiatives aimed at reducing unnecessary admissions and readmissions to hospitals, and improving the quality of mental health services, access to primary

care (such that patients can see their health-care provider on the day of their choosing), and appropriateness of referrals to diagnostic services.

According to Ministry documents, the Ministry did not expect to increase the staffing complement above 111 full-time equivalent (FTE) employees, which was the total staff for the five organizations combined in 2011. Instead, there was an expectation that the staffing level could be reduced through operational and administrative efficiencies, especially by consolidating senior management positions.

As of March 31, 2018, HQO's annual expenditures had increased to about \$44.2 million (see **Figure 7**) (including the cost of time-limited projects but excluding expenditures of the Patient Ombudsman's Office), with 291 FTEs (see **Figure 8**).

Expenditures increased partially because HQO's mandate was expanded beyond what was originally envisioned: to monitor and publicly report on the health system's performance, to make recommendations to the Minister on whether to publicly fund

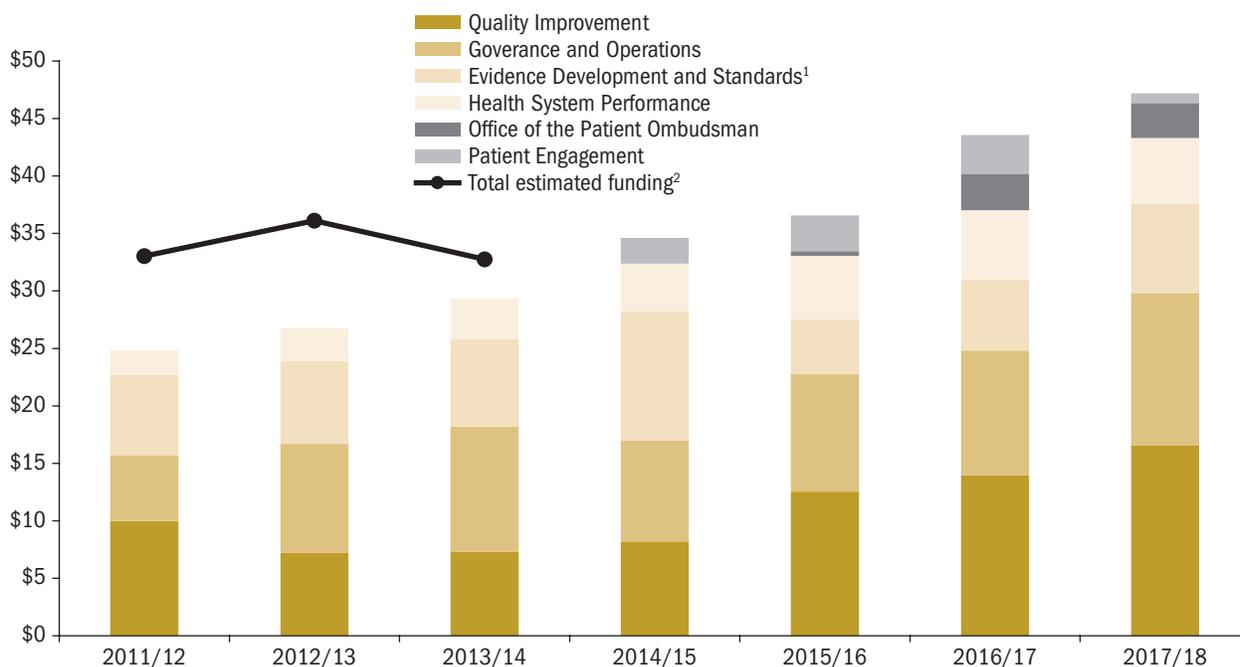
health-care services and devices, to make recommendations on standards of care to health-care organizations, and to support continuous quality improvement. In December 2014, the *Excellent Care for All Act, 2010*, was amended to add patient relations and Patient Ombudsman responsibilities to HQO. These two new functions increased expenditures by \$840,000, and \$3 million respectively, by March 31, 2018. However, these additional responsibilities do not account for the entire increase in expenditures and staffing.

Other significant increases were mainly due to the following:

- Corporate Services grew more than 150%, or 44 FTEs, from 2013/14 to 2017/18 to become the largest division in HQO, with 73 FTEs. The functions in this area include finance, human resources, information technology, digital product design and development, and project management. The last two functions account for 30 FTEs who work primarily delivering the four core mandated functions.

Figure 7: Health Quality Ontario's Expenditures by Function, 2011/12–2017/18 (\$ million)

Source of data: Health Quality Ontario



1. Evidence Development and Standards includes health technology and service assessments, and development of clinical standards.

2. Total estimated funding for these three years was according to Ministry of Health and Long-Term Care documents.

Figure 8: Number of Health Quality Ontario's Full-Time Equivalent Staff, by Function, 2013/14–2017/18

Source of data: Health Quality Ontario

	2013/14 ¹	2014/15 ¹	2015/16	2016/17	2017/18	5-Year Change	
						#	%
Communications and Patient Engagement	6	9	18	21	25	19	317
Corporate Services	29	35	37	50	73	44	152
Evidence Development and Standards ²	46	21	45	57	60	14	30
Health System Performance	29	32	46	45	49	20	69
Strategic Partnerships (leads external projects)	12	4	5	5	6	(6)	(50)
Quality Improvement	31	48	62	64	69	38	123
Other	1	2	7	9	9	8	800
Total	154	151	220	251	291	137	89

1. The employee information for 2013/14 and 2014/15 is based on total number of employees—full-time and part-time—because full-time equivalent data was not available. It therefore may not be comparable to staffing levels in later years.

2. Evidence Development and Standards includes health technology and service assessments (performed since 2011), and development of clinical standards (performed since May 2015).

The consolidation of five organizations in 2011 was expected to produce savings in overhead, thereby leading to greater focus on health-care improvement; the growth in Corporate Service staff has not helped in achieving that goal.

- The Quality Improvement division had a \$9 million (130%) increase in expenditures and a 123% increase in staff (38 FTEs) from 2013/14 to 2017/18. The division has taken on more quality improvement initiatives, with the number of initiatives increasing from six to 18 during this period. Examples of new initiatives include clinical quality leads for each Local Health Integration Network, holding provincial round tables focusing on quality improvement and developing recommendations for adoption for clinical care standards. In addition, the Ministry transferred quality improvement initiatives projects to HQO, which in total cost around \$5 million per year.

RECOMMENDATION 12

To support Health Quality Ontario in using its resources efficiently, we recommend that the Ministry of Health and Long-Term Care assess whether the agency's growth in expenditures and staff size is reasonable in relation to its current mandate.

MINISTRY RESPONSE

The Ministry of Health and Long-Term Care (Ministry) supports this recommendation. The Ministry will review and assess Health Quality Ontario's growth, expenditures and activities, taking into account the current context of the health-care system as well as the government's health system priorities.

Appendix 1: Creation of Health Quality Ontario

Prepared by the Office of the Auditor General of Ontario

The Ontario Health Quality Council was the precursor organization to Health Quality Ontario (HQO). The Council was created on September 12, 2005, under the *Commitment to the Future of Medicare Act, 2004*. Its original function was to monitor and publicly report on health-care quality in Ontario. Under the *Excellent Care for All Act, 2010 (Act)*, the Council's mandate was expanded to also include the development of standards for care and to promote quality improvement.

The Act also merged the following organizations or programs with the Council, because they had overlapping mandates:

- **Medical Advisory Secretariat:** a branch of the Ministry of Health and Long-Term Care (Ministry) that specialized in conducting evidence-informed analyses of health technologies being considered for use in Ontario.
- **Ontario Health Technology Advisory Committee:** an expert committee with members appointed by the Deputy Minister of Health

and Long-Term Care, created to make recommendations to the Ontario health-care system and the Ministry about emerging health-care technologies.

- **Quality Improvement and Innovation Partnership:** a Ministry-funded organization that was responsible for providing quality improvement supports to the primary health-care sector.
- **Centre for Healthcare Quality Improvement:** a Ministry-funded program at the Change Foundation, an independent health policy research organization, that provided quality improvement supports to Local Health Integration Network-funded providers, particularly hospitals and Community Care Access Centres.

HQO, in its new form, began operations on April 1, 2011, in Toronto.

Appendix 2: Health Quality Ontario's Priority Performance Indicators for 2015/16–2017/18

Prepared by the Office of the Auditor General of Ontario

Below is a list of performance indicators, by health-care sector, set by HQO to be considered for inclusion by health-care organizations in their quality improvement plans for 2015/16, 2016/17 and/or 2017/18.

Hospital (Acute Care)	2015/16	2016/17	2017/18	
<i>Clostridium difficile</i> infection	✓	✓		1
90 th percentile emergency department length of stay for complex patients	✓	✓	✓	
Medication reconciliation at admission	✓	✓	✓	
Medication reconciliation at discharge			✓	
Readmission within 30 days for selected health-based allocation model inpatient group (e.g., pneumonia or diabetes)		✓		2
Risk-adjusted 30-day all-cause readmission rate for patients with congestive heart failure		✓	✓	
Risk-adjusted 30-day all-cause readmission rate for patients with chronic obstructive pulmonary disease		✓	✓	
Risk-adjusted 30-day all-cause readmission rate for patients with stroke		✓	✓	
Total number of alternate level of care (ALC) days contributed by ALC patients	✓	✓	✓	
% of patients responding positively to "Overall, how would you rate the care and services you received at the emergency department?"	✓	✓		3
% of patients responding positively to "Overall, how would you rate the care and services you received at the hospital?"	✓	✓		3
% of patients responding positively to "Would you recommend this emergency department to your friends and family?"	✓	✓	✓	
% of patients responding positively to "Would you recommend this hospital to your friends and family?"	✓	✓	✓	
Readmission within 30 days for selected case mix groups	✓			3
% by which total revenues exceed or fall short of total corporate expense	✓			4
% of palliative care patients discharged home from hospital with the discharge status "home with support"			✓	
% of patients responding positively to "Did you receive enough information from hospital staff about what to do if you were worried about your condition or treatment after you left the hospital?"			✓	
Long-Term Care				
Number of emergency department visits for modified list of ambulatory care-sensitive conditions (potentially avoidable emergency department visits for long-term-care residents)	✓	✓	✓	
% of residents responding positively to: "What number would you use to rate how well the staff listen to you?"	✓	✓	✓	
% of residents who fell during the 30 days preceding their resident assessment		✓		5
% of residents who responded positively to the question: "Would you recommend this nursing home to others?/Would you recommend this site or organization to others?"	✓	✓	✓	
% of residents who responded positively to the statement: "I can express my opinion without fear of consequences"	✓	✓	✓	
% of residents who were given antipsychotic medication without psychosis diagnosis	✓	✓	✓	
% of residents who were physically restrained	✓	✓		5

Long-Term Care (continued)	2015/16	2016/17	2017/18	
% of residents who had a pressure ulcer that recently got worse	✓	✓		5
% of residents who had a recent fall (in the last 30 days)	✓			3
% of residents with worsening bladder control during a 90-day period	✓			5
Primary Care				
% of patients who stated that when they see the doctor or nurse practitioner, they or someone else in the office (always/often) spend enough time with them	✓	✓		6
% of patients who stated that when they see the doctor or nurse practitioner, they or someone else in the office (always/often) involve them as much as they want to be in decisions about their care and treatment	✓	✓	✓	
% of patients/clients who saw their primary care provider within seven days after discharge from hospital for selected conditions	✓	✓	✓	
% of respondents who responded positively to the question: "When you see your doctor or nurse practitioner, how often do they or someone else in the office give you an opportunity to ask questions about recommended treatment?"	✓	✓		6
% of patients and clients able to see a doctor or nurse practitioner on the same day or next day, when needed	✓	✓	✓	
% of patients with diabetes, aged 40 or over, with two or more glycosylated hemoglobin (hba1c) tests within the past 12 months		✓		5
% of screen eligible patients aged 50 to 74 years who had a test for traces of blood in stool within the past two years, other investigations (e.g., flexible sigmoidoscopy) within the past 10 years or a colonoscopy within the past 10 years		✓		5
% of women aged 21 to 69 who had a papanicolaou (pap) smear within the past three years		✓		5
Home Care				
Five-day wait time—nursing visits: % of patients who received their first nursing visit within five days of the service authorization date	✓	✓	✓	
Five-day wait time—personal support for complex patients: % of complex patients who received their first personal support service within five days of the service authorization date	✓	✓	✓	
% of home-care clients who responded "good", "very good" or "excellent" on a five-point scale to any of the client experience survey questions:				
• overall rating of home-care services	✓	✓	✓	
• overall rating of management/handling of care by care co-ordinator				
• overall rating of service provided by service provider				
% of adult long-stay home-care clients who have a documented fall on their follow-up assessment	✓	✓	✓	
% of home-care clients who experienced an unplanned readmission to hospital within 30 days of discharge from hospital	✓	✓	✓	
% of home-care clients with an unplanned, less-urgent emergency department visit within the first 30 days of discharge from hospital	✓	✓	✓	

Reasons why indicators were removed:

1. Indicator has shown improvement.
2. Indicator was retired because few organizations were selecting it for their quality improvement plans.
3. Indicator was replaced by a new indicator.
4. Indicator was not relevant for quality improvement.
5. Indicator was changed from a priority indicator to an optional indicator to streamline the indicators.
6. Indicator was retired because it was similar to another existing indicator.

Appendix 3: How Various Jurisdictions Deliver Key Functions Performed by Health Quality Ontario

Prepared by the Office of the Auditor General of Ontario

Jurisdiction	Public Reporting of Health System Performance	Conducting Health Technology Assessments	Developing Clinical Care Standards	Promoting Quality Improvement
Ontario	Provincial Agency (HQO)	Provincial Agency (HQO)	Provincial Agency (HQO)	Provincial Agency (HQO)
British Columbia	Ministry Department and Health Authorities ¹	Independent Federal Agency (CADTH) BC Ministry of Health contracts health technology assessments-producing institutions to prepare assessments on its behalf	Other Provincial Body (College of Physicians and Surgeons of British Columbia)	Provincial Agency (BC Patient Safety and Quality Council)
Alberta	Alberta Health and Alberta Health Services ¹ Provincial Agency (Health Quality Council of Alberta)	Independent Federal Agency (CADTH) Alberta also partners with: <ul style="list-style-type: none"> • Alberta Health Services¹ • The Institute of Economics • University of Alberta • University of Calgary 	Alberta Health Services ¹	Provincial Agency (Health Quality Council of Alberta) Alberta Health Services ¹ Other Provincial Body (Alberta Medical Association) College of Physicians and Surgeons of Alberta
Saskatchewan	Provincial Agency (Saskatchewan Health Quality Council) ² Ministry of Health	Independent Federal Agency (CADTH)	Ministry Department and Saskatchewan Health Authority ¹	Provincial Agency (Saskatchewan Health Quality Council) Ministry of Health
Manitoba	Ministry Department (Health, Seniors and Active Living)	Independent Federal Agency (CADTH)	Ministry Department (Health, Seniors and Active Living)	Ministry Department (Health, Seniors and Active Living)
Nova Scotia	Ministry Department (Health and Wellness)	Independent Federal Agency (CADTH)	Nova Scotia Health Authority ¹	Ministry Department (Health and Wellness) and Nova Scotia Health Authority ¹
New Brunswick	New Brunswick Health Council	Independent Federal Agency (CADTH)	Regional Health Authorities ¹	Regional Health Authorities ¹
Canada	Independent Federal Agency (CIHI)	Independent Federal Agency (CADTH)	Independent Federal Agency (Health Standards Organization)	Independent Federal Agency (CFHI)

Jurisdiction	Public Reporting of Health System Performance			
	Public Reporting of Health System Performance	Conducting Health Technology Assessments	Developing Clinical Care Standards	Promoting Quality Improvement
Scotland	Healthcare Improvement Scotland	Healthcare Improvement Scotland	Healthcare Improvement Scotland	Healthcare Improvement Scotland
England	Public Health England	National Institute for Health and Care Excellence	National Institute for Health and Care Excellence	National Health Service (NHS) Improvement

	Ministry Department or Provincial Health Authority overseeing the health system
	Dedicated Agency for Quality Improvement
	Independent Federal Agency
	Regulatory Agency

HQO – Health Quality Ontario

CADTH – Canadian Agency for Drugs and Technology in Health

CIHI – Canadian Institute for Health Information

CFHI – Canadian Foundation for Healthcare Improvement

1. Provincial and Regional Health Authorities and Health Services are similar to Local Health Integration Networks (LHINs) in Ontario.
2. New mandate added through a review in December 2016. Saskatchewan previously relied on the Canadian Institute for Health Information for health system performance.

Appendix 4: Audit Criteria

Prepared by the Office of the Auditor General of Ontario

1. Effective governance and accountability structures are in place to ensure Health Quality Ontario meets its legislative mandate of supporting health system improvement in Ontario cost effectively.
2. Health system performance indicators monitor all characteristics of good quality health care (i.e., that the care is safe, effective, patient-centred, timely, efficient and equitable). Measures are in place to provide assurance on the quality and comparability of the data used by Health Quality Ontario to monitor and report on health system performance.
3. Health Quality Ontario makes timely, evidence-based recommendations to the Ministry of Health and Long-Term Care on public funding for health-care services and medical devices. The impact of implemented recommendations is periodically evaluated to determine whether desired benefits are being achieved.
4. Health Quality Ontario makes timely, evidence-based recommendations to the Ministry, health-care organizations and other entities concerning clinical care standards. Sufficient support is provided to organizations to implement clinical care standards recommended by Health Quality Ontario, and the impact of recommendations is periodically evaluated to determine whether desired benefits are being achieved.
5. Processes are in place to support health-care organizations in developing quality improvement plans with specific targets that focus on provincial priorities. Sufficient support is provided to the organizations in implementing the plans.
6. Processes are in place to ensure resources are managed with due regard for economy and efficiency and used for the purposes intended.
7. Performance measures and targets are established, monitored and compared against actual results and publicly reported to ensure that the intended outcomes of Health Quality Ontario's activities are achieved and corrective actions are taken on a timely basis when issues are identified.

Appendix 5: Parties with Responsibilities for Health-Care Quality Improvement in Ontario

Prepared by the Office of the Auditor General of Ontario

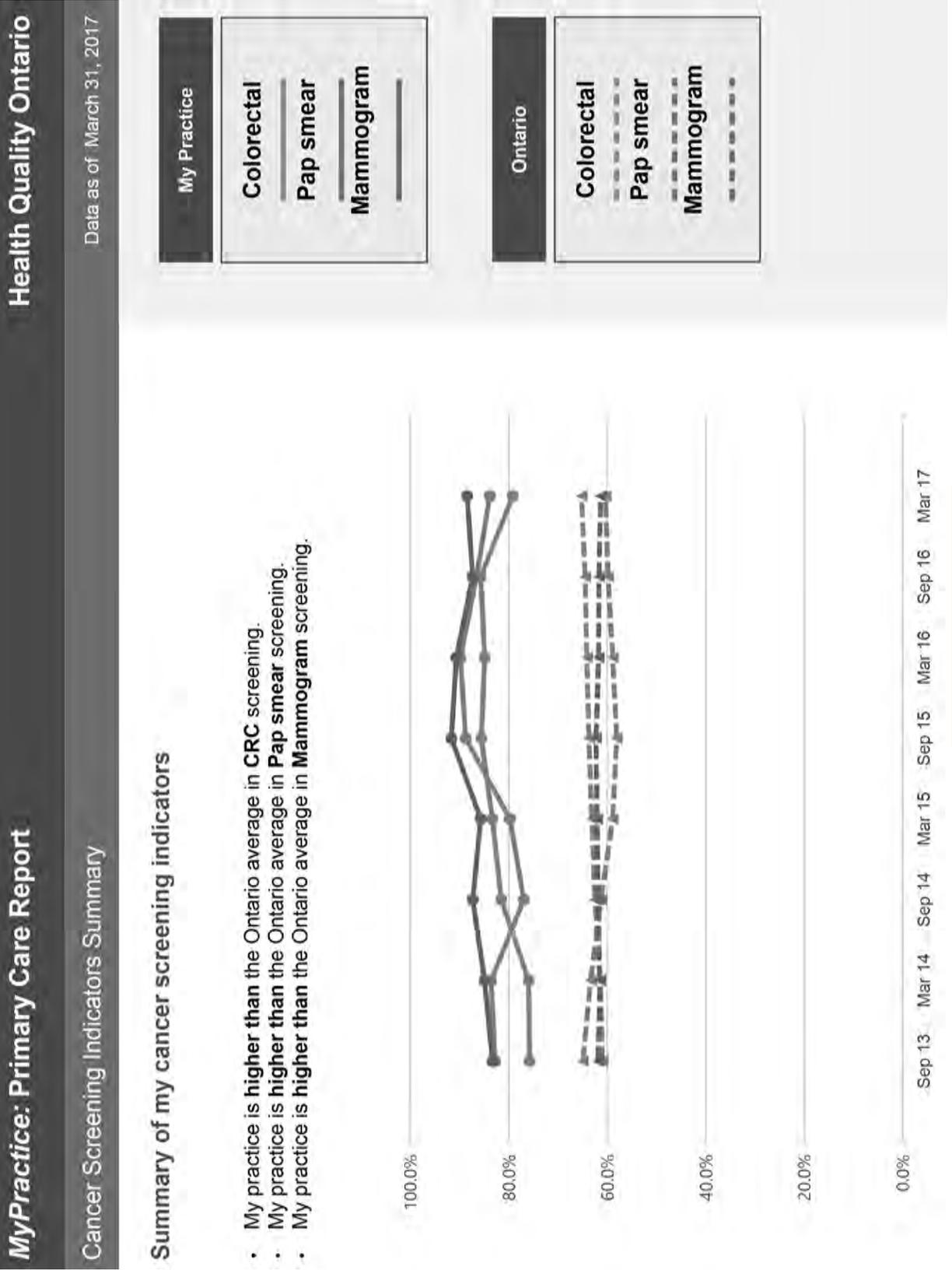
Parties Involved in the Health-Care System	Funding Provider	Accountability Arrangements	Who Has Oversight Responsibility for Quality?	Required to Prepare and Submit Quality Improvement Plans to Health Quality Ontario	2017/18 Overall Expenditures (\$ million)
Hospitals	Ministry of Health and Long-Term Care (Ministry) through Local Health Integration Networks (LHINs)	Hospital Service Accountability Agreement with the LHIN (HSAA) and Individual Hospital Board of Directors	<ul style="list-style-type: none"> LHIN through the assessment of the performance indicators set by the hospital Hospital Board of Directors Quality Care Committee of Hospital Board (mandatory) 	Yes—All, including psychiatric hospitals	17,967
Physicians (excludes physicians employed by Community Health Centres)	Ministry	<p>For fee-for-service physicians: Physician Services Agreement between the Ontario Medical Association and the Ministry (refers to the Schedule of Benefits) or</p> <p>For physicians paid through alternative payment plans: Contracts between the physician groups, the Ministry, and the Ontario Medical Association</p>	<ul style="list-style-type: none"> College of Physicians and Surgeons of Ontario Primary care team boards Quality Committees of the primary care teams (optional) 	Yes—only interdisciplinary primary health care models/teams (e.g., Family Health Teams)	14,940
Long-Term-Care Homes	Ministry through LHINs	Long-Term Care Home Service Accountability Agreement with the LHIN (LSAA) and Board of Directors of individual long-term-care homes	<ul style="list-style-type: none"> LHIN through the assessment of the performance indicators set by the long-term-care home Boards of Directors of long-term-care homes Quality Committees of the Boards of Directors (optional) Ministry through the inspection program 	Yes—All	3,782
Local Health Integrated Networks (LHINs)	Ministry	Ministry-LHIN Accountability Agreement (MLAA)	<ul style="list-style-type: none"> Ministry through similar performance indicators included in the MLAA of each LHIN LHIN Boards of Directors Quality Committee for each LHIN 	Yes—only for Home and Community Care Program within the LHIN (formerly the Community Care Access Centres)	2,960*

Parties Involved in the Health-Care System	Funding Provider	Accountability Arrangements	Who Has Oversight Responsibility for Quality?	Required to Prepare and Submit Quality Improvement Plans to Health Quality Ontario	2017/18 Overall Expenditures (\$ million)
Mental Health and Addiction Service Providers	Ministry through LHINS	Multi-sector Service Accountability Agreement with the LHIN (MSAA) and Individual Boards of Directors	<ul style="list-style-type: none"> LHIN through the assessment of performance indicators set by each entity Community health agency Boards of Directors Quality Committees (optional) 	No	1,053
Ambulance Services	Air: Ministry Land: generally Ministry (50%) and municipalities (50%)	Air: Performance Agreement between ORNGE and the Ministry; Air Ambulance Certification Land: Ministry; The <i>Ambulance Act</i> outlines certification requirements and standards for ambulance service documentation, patient care and transportation, and basic and advanced life support patient care.	<ul style="list-style-type: none"> Ministry through a review of ambulance operators, dispatch operators and base hospitals every three years Ministry certifies ambulance operators Ministry through assessment of performance indicators set in agreements 	No	922
Community Support Services, Assisted Living Services and Supportive Housing Providers	Ministry through LHINS	Multi-sector Service Accountability Agreement with the LHIN (MSAA) and Individual Boards of Directors	<ul style="list-style-type: none"> LHIN through the assessment of performance indicators set by each entity Community health agency Boards of Directors Quality Committees (optional) 	No	920
Community Health Centres	Ministry through LHINS	Multi-sector Service Accountability Agreement with the LHIN (MSAA) and Individual Boards of Directors	<ul style="list-style-type: none"> LHIN through the assessment of performance indicators set by each entity Community health agency Boards of Directors Quality Committees (optional) 	Yes	419
Independent Health Facilities (imaging services, such as x-rays and ultrasounds)	Ministry	Ministry through licensing of facilities under the <i>Independent Health Facilities Act</i> .	<ul style="list-style-type: none"> Regulatory colleges, e.g., College of Physicians and Surgeons of Ontario, and College of Midwives Ministry through its X-ray Inspection Services Unit 	No	48

* This includes Ministry funding for the LHINs' operations and home-care services, but not Ministry funding for hospitals, long-term-care homes and other health-care services funded through the LHINs.

Appendix 6: Excerpt from a Physician Practice Report for a Primary Care Physician

Source of data: Health Quality Ontario



MyPractice: Primary Care Report

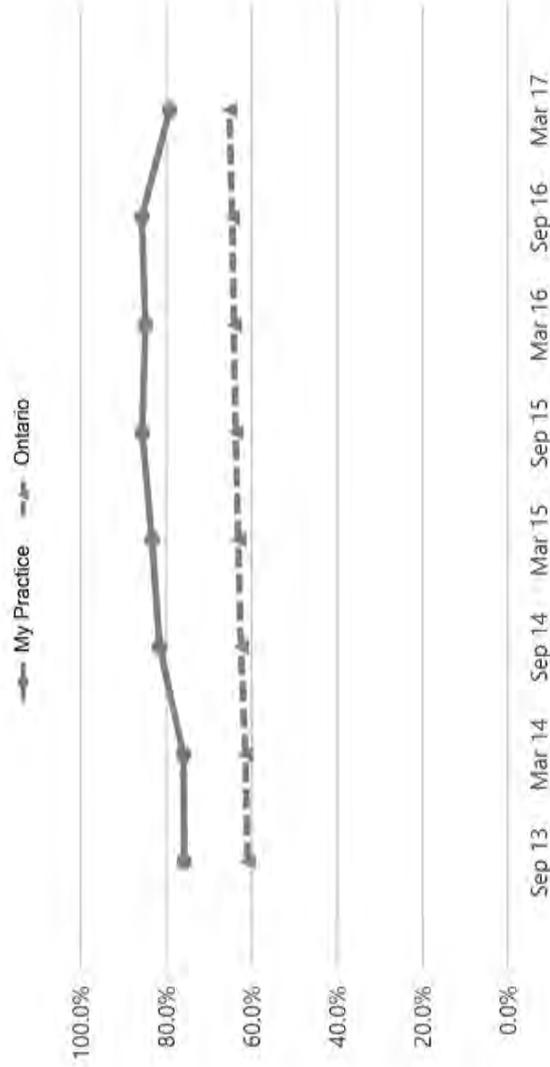
CRC Screening

Health Quality Ontario

Data as of March 31, 2017

What percentage of my eligible patients aged 52-74 are up-to-date with any colorectal screening (FOBT within the past two years, colonoscopy within the past 10 years, or other investigations i.e. sigmoidoscopy within the past five years)?

- As of March 31, 2017, 79.2% of my patients were up-to-date with colorectal screening. My group and LHIN percentages are 73.0% and 69.1%, respectively.
- My practice is **higher than** the provincial percentage of 65.3%.



† Data suppressed as per ICES' privacy policy (e.g. number of patients between 1 to 5); N/A: Data not available. † Please interpret with caution, denominator ≤ 30

A small proportion of FOBTs performed as diagnostic tests could not be excluded from the analysis. Tests performed in hospital laboratories or paid through alternative payment plans are not captured.

Number of my eligible patients not screened

31

Evidence for CRC screening continues to evolve. Health Quality Ontario will continue to monitor screening guidelines and modify the indicator, as appropriate (2).

How can I improve my CRC screening? (page 16)

To identify patients requiring follow up for CRC screening, please access your screening activity report (SAR) through the Cancer Care Ontario Portal

[SAR Report Portal](#)

Appendix 7: Excerpt from a Physician Practice Report for a Physician Providing Medical Care to Residents of Long-Term-Care Homes

Source of data: Health Quality Ontario

MyPractice: Long-Term Care

Health Quality Ontario

Summary: Jul 01, 2017 - Sep 30, 2017

What are my overall prescribing rates?

	My Rate (unadjusted)	Ontario Rate (unadjusted)	How does my prescribing compare to my peers?
Antipsychotic Prescribing for dementia without psychosis	32.7%	24.1%	My prescribing rate is higher than 60 percent of my peers
Benzodiazepine Prescribing	11.1%	13.4%	My prescribing rate is similar to many of my peers (between the 25th & 60th percentile)
3 or more Specified* CNS-Active Medications	Data Suppressed	16.6%	My rate for the most recent quarter is suppressed (e.g. number of residents between 1 and 5)

Exclusions: All indicators exclude residents under 66, in palliative care, or new to the LTC home (in home for less than 100 days).
*Specified CNS-active medications include antipsychotics, opioids, oral benzodiazepines and antidepressants (including trazadone).

Who are my residents?

Total residents	Mean age (years)	Female	New residents
60	85	73.3%	Data Suppressed

MyPractice: Long-Term Care

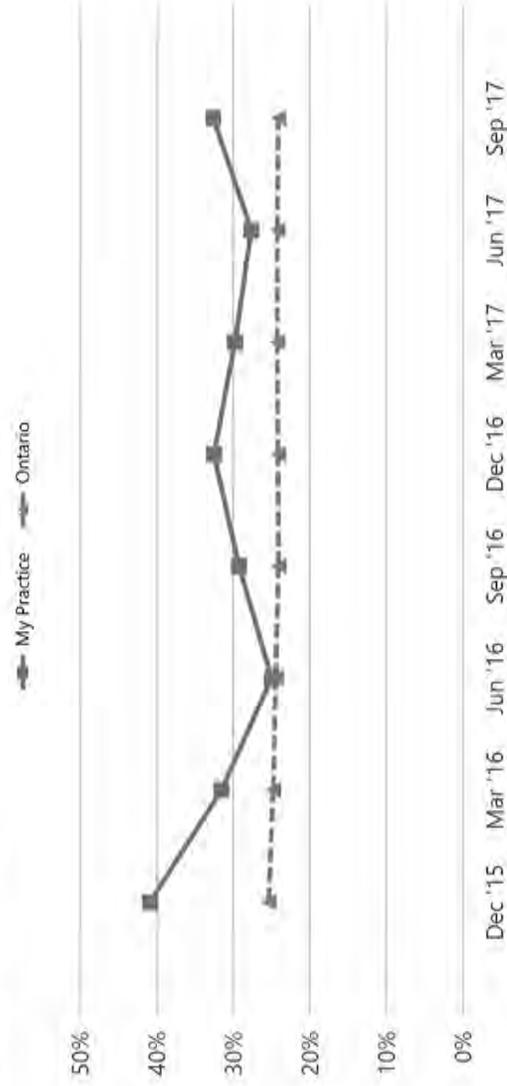
Health Quality Ontario

Antipsychotic prescribing

Reporting Period: Jul 2017 - Sep 2017

What percentage of my residents aged 66 and older who have dementia without psychosis were prescribed antipsychotics?

- Between Jul 01, 2017 and Sep 30, 2017
- **32.7%** of my residents with dementia, without psychosis, were prescribed an antipsychotic.
- My overall rate is **higher than** the provincial rate of **24.1%**. The rate in my LHIN is **29.7%**.
- **22.5%** of my residents were prescribed antipsychotics for at least 90 continuous days.²⁻³
- 1 to 5 of my residents were newly prescribed an antipsychotic (i.e. no prescription in previous 12 months).⁴



Exclusions: Residents who are under 66 years old, diagnosed with psychosis, in palliative care, or new to the LTC home (in the home for less than 100 days). Diagnoses are captured through previous five years of OHIP/DAD/OMHRS data and one year of ODB data.

Number of my residents with dementia (without psychosis) prescribed an antipsychotic

16

In some cases, antipsychotics are indicated for management of responsive behaviours and BPSD.⁵ The data cannot weigh the benefits against the possible harms for a particular resident, but they can point to practice patterns worthy of reflection.

The Change Ideas: BPSD suggest ways you can optimize your antipsychotic prescribing.

Source of data: Health Quality Ontario

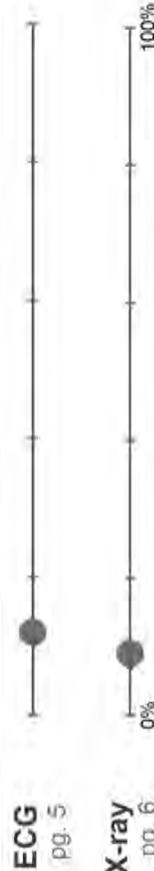
My Dashboard

My Corporation Name:
Hospitals within my corporation that performed low-risk surgeries are:

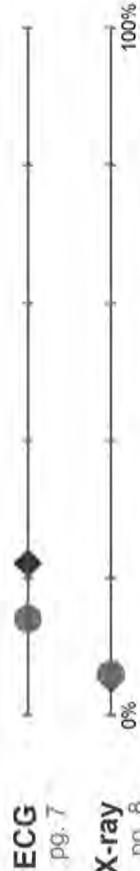
My corporation's performance in fiscal year (FY) 2016/17

◆ My Corporation ● Ontario

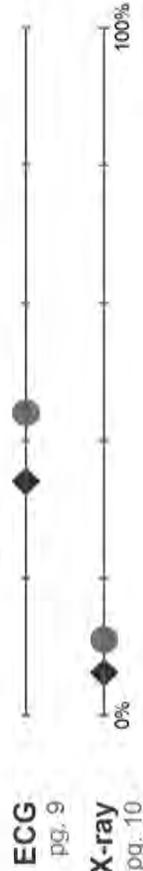
Percentage of endoscopy cases with pre-operative...



Percentage of ophthalmologic surgery cases with pre-operative...



Percentage of other low-risk surgery cases with pre-operative...



How many surgeries were done in FY2016/17 in my corporation?

Endoscopy Procedures

2,456

Ophthalmologic Surgeries

8,267

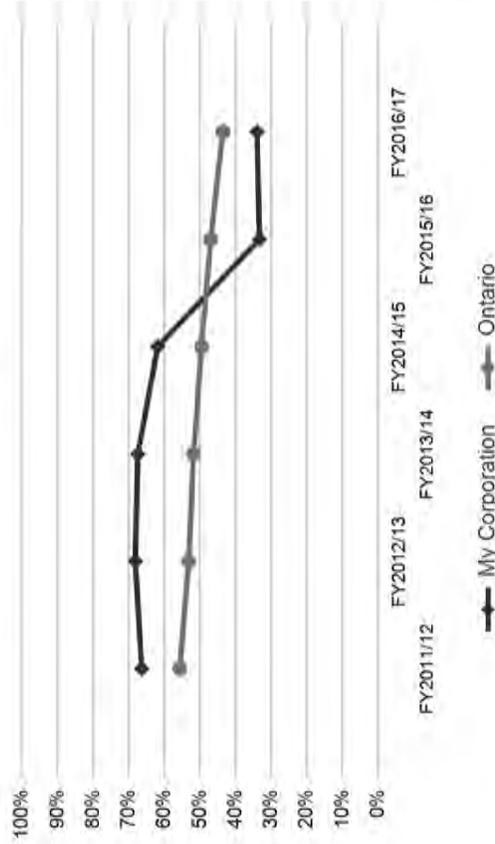
Other Low-risk Surgeries

3,139

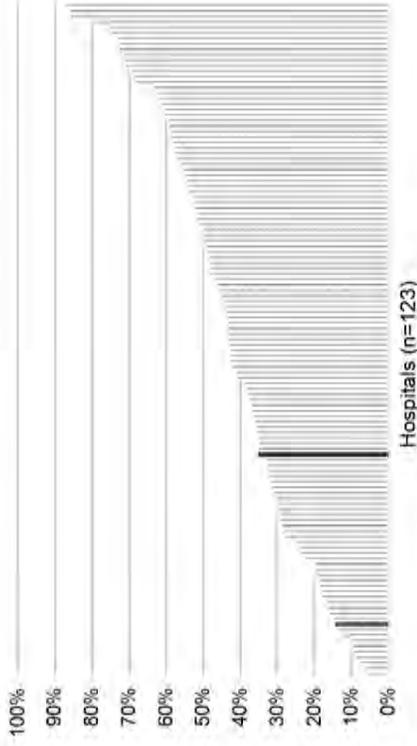
Data sources: Discharge Abstract Database (DAD), National Ambulatory Care Reporting System (NACRS), Ontario Health Insurance Plan (OHIP) Claims History Database and Registered Persons Database (RPDB), provided by the Institute for Clinical Evaluative Sciences (ICES).

My Corporation's Performance: ECG Test before Other Low-Risk Surgery

Percentage of other low-risk surgery cases with pre-operative ECG, from FY2011/12 to FY2016/17



How did my hospitals compare with others in FY2016/17?



Note: This graph and the analysis included in the table below do not include hospitals with suppressed data or hospitals without low-risk surgeries within the reporting period.

Period	FY 2011/12	FY 2012/13	FY 2013/14	FY 2014/15	FY 2015/16	FY 2016/17
My Corporation	66.4%	68.2%	67.5%	61.9%	33.3%	34.0%
Ontario	55.7%	53.2%	51.8%	49.6%	47.0%	43.6%

	FY2016/17
Site	35.2%
Site	14.5%
Minimum value	6.3%
25th percentile	30.3%
Median	43.8%
75th percentile	55.7%
Maximum value	88.0%

Key Findings

In FY2016/17, 1,068 pre-operative ECG tests were conducted before 3,139 other low-risk surgeries in my corporation. My corporation's rate was 34.0% in FY2016/17, which is lower than the provincial rate of 43.6%. For the same time period, the rates ranged from 6.3% to 88.0% across Ontario hospitals that performed these procedures.

Interprovincial and International Health Services

1.0 Summary

The Ministry of Health and Long-Term Care (Ministry) operates out-of-country and out-of-province Ontario Health Insurance Plan (OHIP) programs that provide coverage to Ontarians at either pre-established or pre-negotiated rates. It does so to comply with the portability principle of the *Canada Health Act*. This principle states that public health insurance must be provided to all Canadians even when they travel within Canada and internationally or move from one province to another.

In 2017/18, the Ministry paid a total of \$204 million for about 737,000 claims and applications under the out-of-country and out-of-province programs; over the past five years it has processed an average of about 836,000 claims and applications per year.

Ontario is a “provider” province—it provides more hospital in-patient services to patients from other provinces and territories than Ontarians use in other provinces and territories. We found that Ontario hospitals are providing some services to these patients at costs in excess of the amounts that they can bill back to the other provinces and territories. For example, Ontario hospitals can bill only a standard rate of \$359 to other provincial or territorial health insurance plans when providing a range of services to patients from other provinces

and territories that cost anywhere from \$154 to \$3,276. This in turn results in the Province in some cases subsidizing health-care costs for patients from other provinces and territories. The extent of this is not currently tracked by all Ontario hospitals.

We also found that the Ministry has not rejected a single claim from the out-of-province physicians who directly billed the Ministry for services rendered to Ontarians in the last five years.

In addition, we found that more public education is needed for Ontarians to ensure they know what financial coverage is provided to them when they travel outside the province. This would inform them that they may be financially responsible for any difference in coverage when they obtain health services outside of Ontario, both within Canada and outside of Canada.

Further, the Ministry does not fully utilize or accumulate data from its out-of-country and out-of-province programs to inform its decisions on program development. For example, the Ministry cannot easily identify the types of services that Ontarians are frequently receiving in other provinces. This could enable it to determine the reasoning behind Ontarians leaving the province to access these services.

We noted that the Ministry has recently taken some steps to improve Ontarians’ access to health services. For example, the Ministry entered into an agreement with Manitoba’s Health Ministry in May 2018 to provide funding for patient transport

to and from Manitoba health facilities. As well, it has increased the capacity in Ontario to provide services such as bariatric surgeries (to aid in weight loss) and some mental health services—in the past, the Ministry would have approved funding for these services to be delivered outside of the country.

The following are some of our other significant observations.

Out-of-Country Travellers Program

- **Ontario patients who may require emergency health services while in other countries are covered by the Ministry at pre-established rates, which represent a small percentage of the costs.** Between 2013/14 and 2017/18, on average, for every dollar that an Ontarian is billed by a foreign physician or hospital, the Ministry reimbursed five cents under the out-of-country travellers program. While the Ministry has used its website to advise travellers to obtain additional private medical insurance, it is not yet using social media to further educate the public. The Ministry has also not focused its public education on travellers who drive across the border and who may not realize they are not covered for health care while in the United States.

Referral of Ontarians for Out-of-Country Medical Services

- **The Ministry can do more in planning for health services within Ontario to meet the demand of Ontario patients who may otherwise require funding approval to obtain medical services in other countries.** Ontario patients may receive Ministry pre-approved health services from other jurisdictions. We found that while the Ministry has program information on what services are routinely requested to be received outside of Ontario, it relies on the medical community to identify opportunities to offer the same

services in Ontario. The Ministry also does not know whether the patients it has pre-approved to obtain health services in other provincial or foreign country facilities had good experiences with the providers and whether it should continue sending patients to these facilities for treatment. Some external medical experts who advise the Ministry on its pre-approval decisions indicated that having outcome information on patients who have gone to these foreign facilities can help them make better decisions in future cases.

Out-of-Province Program

- **Ontario patients who need to receive health services while in other Canadian provinces and territories may pay higher fees for these services.** When reimbursing a resident who receives health services outside of the province, Ontario, similarly to other provinces and territories, covers only medically necessary, insured hospital and physician services; not other health services such as long-term care homes and ambulance services. Ontario patients receiving ambulance services in some other provinces pay a higher fee—up to \$732.95—than the \$240 that Ontario charges non-residents. As well, the Ministry does not sufficiently inform Ontarians that it covers out-of-province eligible physician services only up to the Ontario billing rate. As a result, Ontario patients may unexpectedly have to pay out-of-pocket for these charges.

International Patients' Use of the Ontario Hospital System

- **The Ministry does not monitor foreign patients' financial impact on Ontario and their wait-time impact on Ontario patients.** In 2014, the Ministry directed hospitals to serve international patients only under specific conditions (such as for humanitarian

reasons), but it has not collected information on an ongoing basis to monitor hospitals' compliance with its requirements.

This report contains 13 recommendations, consisting of 24 actions, to address our audit findings.

Overall Conclusion

Our audit concluded that the Ministry of Health and Long-Term Care (Ministry) has systems and procedures in place to administer most aspects of the out-of-country and out-of-province health insurance programs. However, the Ministry allows electronic submission of claims only in very limited circumstances, and it cannot readily extract information such as processing timelines and unusual patterns of claims from its databases to monitor the performance of the programs.

We also found that the interprovincial out-patient hospital rates that Ontario hospitals observe when billing other provinces and territories do not always fully cover the costs of providing these services. As a result, Ontario hospitals may not be fairly compensated for the services they provide to patients from the rest of Canada.

More public education is needed to ensure that Ontarians are aware that, while they may be able to receive the same level of care outside of Ontario that they would be entitled to while in the province, they may be financially responsible for any difference in coverage.

The Ministry does not measure and report periodically to the public on the results and effectiveness of the out-of-country and out-of-province programs in meeting their intended objectives.

While the Ministry has directed Ontario hospitals to observe several principles in serving international patients, it has not monitored whether hospitals are indeed meeting these requirements, and it does not ensure that international patients' use of hospital services in Ontario has not negatively affected Ontarians' timely access to health care.

OVERALL MINISTRY RESPONSE

The Ministry of Health and Long-Term Care (Ministry) appreciates the effort the Office of the Auditor General has expended during its thorough audit of the Ministry's out-of-country and out-of-province prior approval, out-of-country travellers and out-of-province programs, as well as the review of the use of the Ontario health system by international patients. The Ministry is carefully reviewing all recommendations contained in the audit report to determine how to best implement them.

The Ontario Health Insurance Plan (OHIP) provides health coverage to approximately 14 million Ontarians. Every day, the province's dedicated and hard-working health-care providers provide quality care to Ontarians. At times, however, some of this care is delivered outside of the province. For example, the out-of-country prior approval program that the Ministry administers provides an important safety net that ensures Ontario residents have access to funding for medically necessary health services. These services include medically necessary cancer treatments and highly specialized surgical services.

The recommendations the Auditor General has made will help the Ministry modernize and improve program administration, implement program efficiencies, and ensure transparency and accountability for expenditures of Ontario's tax dollars. The program changes recommended by the Auditor General will ultimately help support the long-term sustainability of Ontario's health insurance program.

2.0 Background

2.1 Health Insurance Coverage for Ontarians While Not in Ontario

The Ministry of Health and Long-Term Care (Ministry) is responsible for administering and operating the Ontario Health Insurance Plan (OHIP). OHIP pays not only for insured health services provided to Ontario residents by physicians and other specified health-care providers and facilities while the residents are in the province, but also, under certain conditions, for medical and hospital care provided to Ontario residents in other provinces or territories and outside of Canada.

Ontarians may require health services in other jurisdictions for different reasons. One common reason is the unexpected need for health care while travelling, studying or working outside the province. Another is the need for a highly specialized, medically necessary procedure not yet available or not readily available in Ontario, but which is more readily available outside of Canada. One group of Ontario residents who are more likely than other Ontarians to use another jurisdiction's health services are those residing in communities that border another province or the United States.

The payment for these services is made in accordance with provincial legislative and regulatory requirements for publicly funded health care.

2.2 Legal Framework

Two overarching objectives for federal health-care policy are to ensure that every Canadian has timely access to all medically necessary health services regardless of his or her ability to pay for those services, and that no Canadian suffers undue financial hardship as a result of having to pay health-care bills.

In accordance with the *Canada Health Act*, the public health-care insurance plans of individual provinces and territories in Canada must provide coverage for insured services (including medically

necessary hospital and physician services) to all residents of the province or territory providing the plan even when they are temporarily absent from their home province or territory (such as when they travel within Canada and internationally or move from one province to another). This reflects the portability principle of the Act.

In Ontario, the *Health Insurance Act, 1990* and its regulations define those who are eligible to receive publicly funded health services under OHIP, what services are insured, and how payments are made under OHIP.

All provinces and territories in Canada place caps when they reimburse their residents for emergency out-of-country and out-of-province medical expenses. Canadian courts have ruled that this does not breach the *Canada Health Act* portability principle.

2.3 Out-of-Country and Out-of-Province Health Insurance Programs

The Ministry operates three distinct programs to cover the costs of Ontarians who obtain health services while in another jurisdiction, under specific situations defined by regulation. The other jurisdiction may be another Canadian province or territory, or a foreign country.

These three programs cover:

- emergency health services while an Ontarian is in another country (out-of-country travelers program);
- medically necessary physician and hospital services while an Ontarian is temporarily in or moving to another part of Canada (out-of-province program); and
- planned and pre-approved health services outside of Ontario within Canada and outside of Canada (out-of-province and out-of-country prior approval programs).

In 2017/18, the Ministry paid a total of \$204 million in claims under these programs, up 16% from \$176 million in 2013/14, as shown in

Figure 1. The Ministry estimated that it incurred costs of about \$7 million annually to administer these programs. In the last five years, the Ministry processed on average about 836,000 claims and applications a year through these programs.

Appendix 1 provides details on the types of services that are covered by OHIP and the amounts of the claims that the Ministry covers under these three programs. **Appendix 2** summarizes the programs’ objectives as set out in the Ministry’s internal documents.

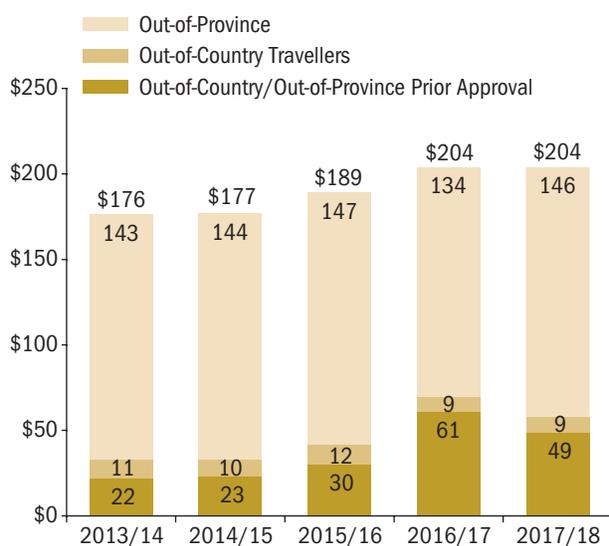
2.3.1 Out-of-Country Travellers Program

In 2017/18, through the out-of-country travellers program the Ministry paid out about \$9 million in claims. That year, 83% of the claims submitted to the Ministry under this program were for services provided in the United States. The Ministry does not track countries of origin for non-U.S. claims.

As shown in **Figure 2**, between 2013/14 and 2017/18, the Ministry processed on average about 88,000 out-of-country travellers claims per year, and paid an average of \$127 per claim.

Figure 1: Total Claims Paid by the Ministry of Health and Long-Term Care under the Out-of-Country Travellers, Prior Approval and Out-of-Province Programs, 2013/14–2017/18 (\$ million)

Source of data: Ministry of Health and Long-Term Care



2.3.2 Out-of-Province Program

In 2017/18, through the out-of-province program the Ministry paid out about \$146 million in claims. As shown in **Figure 3**, between 2013/14 and 2017/18, the Ministry processed on average about 747,000 out-of-province OHIP claims per year, and paid an average of \$195 per claim.

In 2017/18, 73% of the value of claims that the Ministry paid were for hospital services and 27% were for physician services. Of the reimbursement amounts paid for patients who went to other parts of Canada to receive hospital services, 28% went to Manitoba, 19% went to Quebec, and another 16% went to British Columbia in 2017/18, the most recent year for which this information is available.

2.3.3 Prior Approval Programs

In 2017/18, excluding laboratory services approved under these programs (which we examined in our 2017 audit of Laboratory Services in the Health Sector), the Ministry paid out \$49 million under the out-of-country and out-of-province components of these programs.

That year, 89% of the payments made were for cases sent to other countries (and 96% of these went to the United States). As shown in **Figure 4**, between 2013/14 and 2017/18, the Ministry processed on average 762 prior approval applications per year where the patient (not specimens) travelled to another country, and paid an average of about \$74,000 per case. Depending on the service performed, the approved amounts of the claims ranged from about \$200 to over \$1 million for services paid from 2013/14 to 2017/18.

The remaining 11% of the approved payments, amounting to \$5 million, were for cases sent elsewhere in Canada.

A significant portion of the out-of-country payments relate to cancer care. In 2017/18, of the total funding made under the out-of-country portion of these programs, about 43%, representing 23% of total cases approved, related to cancer care. Such services include:

Figure 2: Number and Value of Claims Submitted vs Paid, Out-of-Country Travellers Program, 2013/14–2017/18

Source of data: Ministry of Health and Long-Term Care

	Submitted			Paid*		
	# of Claims	Total Value (\$ million)	Average Claim Value (\$)	# of Claims	Total Value (\$ million)	Average Claim Value (\$)
2013/14	95,687	209	2,187	89,128	11	124
2014/15	87,332	215	2,459	79,179	10	126
2015/16	94,401	250	2,651	84,881	12	138
2016/17	81,014	224	2,759	70,364	9	128
2017/18	83,069	216	2,604	71,387	9	121
Average	88,301	223	2,532	78,991	10	127

* Claims paid may not correspond to the number of claims submitted during the same year because claims submitted one year may be paid in subsequent years.

Figure 3: Number and Value of Claims Submitted vs Paid, Out-of-Province Program, 2013/14–2017/18

Source of data: Ministry of Health and Long-Term Care

	Submitted			Paid ¹		
	# of Claims	Total Value (\$ million)	Average Claim Value (\$)	# of Claims	Total Value ² (\$ million)	Average Claim Value (\$)
2013/14	782,995	147	188	780,260	144	184
2014/15	758,899	153	201	756,333	149	197
2015/16	831,158	143	172	828,394	139	167
2016/17	707,667	154	218	704,225	148	210
2017/18	653,903	143	219	651,644	140	214
Average	746,924	148	200	744,171	144	195

1. Claims paid may not correspond to the number of claims submitted during the same year because claims submitted one year may be paid in subsequent years.

2. Differs from amounts shown in Figure 1 due to accounting adjustments.

- stem cell transplants (including bone marrow transplants used to replace blood-forming cells damaged by cancer, radiation or chemotherapy with healthy stem cells);
- CAR T-cell immunotherapy (using the body's own immune system to fight cancer, based on the concept that immune cells or antibodies can recognize and kill cancer cells); and
- proton-beam therapy (a form of cancer treatment that uses protons to destroy cancer cells).

Of the applications received in 2017/18, the Ministry approved 59% and denied 21%, most commonly for requests for residential in-patient servi-

ces for mental health issues. In the remaining 20% of cases, the applicant (either the patient or his/her specialist) cancelled the request after submitting the applications, often either finding treatment in Ontario or visiting the foreign medical facility with no prior approval.

Because the out-of-country prior approval program helps ensure that Ontario residents have access to OHIP funding for medically necessary health services that cannot be obtained in Ontario, its patterns of claims and payments may highlight the need to increase or create new capacity in Ontario for services that it funds.

Figure 4: Number of Applications Received and Claims Paid, and Amount Approved and Paid, Prior Approval Program Where the Patient Travels¹ to Another Country, 2013/14–2017/18

Source of data: Ministry of Health and Long-Term Care

	Submitted				Paid ²		
	# of Incoming Applications	% of Applications Approved by Ministry	Amount Approved by Ministry (\$ million)	Average Approved Amount per Application (\$)	# of Applications Paid	Total Value ³ (\$ million)	Average Value of Application Paid (\$)
2013/14	862	68	23	38,586	594	20	33,452
2014/15	844	70	27	44,920	602	21	35,000
2015/16	705	63	45	101,685	465	28	60,609
2016/17	714	62	61	138,030	428	59	136,919 ⁴
2017/18	687	59	45	112,027	414	44	105,591
Average	762	64	40	87,050	501	34	74,315

1. Excludes cases where specimens travel, an issue that we looked at in a 2017 audit and is not part of this audit.
2. Claims paid may not correspond to the number of applications approved during the same year because some patients receive approved services in subsequent years.
3. In addition to claims paid for prior approval services performed in foreign countries, the Ministry also paid for prior approval services in other parts of Canada. The annual costs of these payments ranged from \$2 million to \$5 million over this five-year period.
4. Mainly attributed to increase in cancer care cases and costs in that year.

For example, in our 2017 audit of Laboratory Services in the Health Sector, we noted that the Ministry has not kept up with the investment in infrastructure and development of expertise in the area of genetic testing, resulting in out-of-country costs of over US\$120 million between 2011/12 and 2015/16. We noted as well that the Ministry spent \$34 million in 2016/17 relating to about 10,000 genetic tests performed outside of Canada.

The Ministry took a different approach with bariatric surgery. Between 2007/08 and 2010/11, the Ministry funded a total of about 4,500 cases of bariatric surgeries (reducing the size of the stomach with a gastric band or gastric bypass surgery in obese patients) to the United States. Since then, Ontario has built its own capacity for bariatric surgery, with the result that the Ministry needed to send only one case to the United States between 2011/12 and 2017/18.

2.4 International Patients' Use of Ontario Health Services

Tourists, visitors and those without OHIP-eligible citizenship or immigration statuses are not eligible for OHIP coverage. Nevertheless, patients from other countries may access health services in Ontario for a variety of reasons. These may be, for instance, international students who fall ill and require health care while studying in Ontario, or tourists who are injured while skiing or driving in the province; or they may be foreign workers not meeting OHIP eligibility criteria, refugee claimants awaiting to hear the decisions of their asylum claim, long-term visitors or others.

Some foreign patients come to Ontario specifically to receive health services. Such patients might be expectant mothers who wish to give birth in Ontario (all babies born in Ontario are Canadian citizens regardless of their parents' nationalities), or visitors from a foreign country who wish to receive specialized treatment that may not be available in their home country.

Ontario hospitals can charge foreign patients a fee not only to recover the cost of treatment, but also to generate additional hospital revenue, with no need for specific approval from the Ministry. These fees may be paid by the patient or by private insurance, foreign governments or charities. The Ministry does not, however, intend Ontario hospitals to use public dollars to care for international patients, nor to displace any Ontarian in favour of an international patient. It further expects hospitals to put any revenue generated from treating international patients into hospital services that benefit Ontarians.

The Ministry, through the Local Health Integration Networks (explained in **Section 2.5.2**), funds Ontario's 75 community health centres to provide health care and community programs and services to Ontarians, including those without OHIP or private health insurance coverage. In our 2017 audit of Community Health Centres, we noted that 4.2% of total clients served by these centres were not insured by OHIP, and were instead insured under other plans such as interim federal insurance or not insured at all.

2.5 Partners in Interprovincial and International Health Services Programs

2.5.1 Ministry of Health and Long-Term Care

A number of Ministry branches are involved in administering the three out-of-country and out-of-province OHIP programs described in **Section 2.3**. These branches perform the following functions:

- review prior approval applications and work with medical providers to identify opportunities to offer the same services in Ontario;
- review and process submissions made to the Ministry's internal review process for all three programs;
- represent the Ministry in Health Services Appeal and Review Board hearings (the

Board hears cases in all three programs, including applicants who are dissatisfied with the outcome of the Ministry's internal review process—see further details in **Section 2.5.4**);

- represent Ontario in an interprovincial committee and its various working groups (explained in **Section 2.5.5**);
- process program claims, including billing other provinces reciprocally for out-of-province health services; and
- prepare program expenditure forecasts and reports.

Multiple Ministry branches are responsible for developing policy and standards for Ontario's hospitals to enhance access and quality for patients and their families. One of these branches is responsible for providing oversight of international patients' use of health-care services in Ontario (as described in **Section 2.4**).

2.5.2 Local Health Integration Networks and Hospitals

The Province's 14 Local Health Integration Networks (LHINs) plan, integrate, fund and monitor their local health systems based on local needs. LHINs in parts of Ontario that border another province or the United States have unique opportunities and challenges in managing local residents' health needs, which may be obtained from neighbouring jurisdictions.

LHINs fund the 141 public hospital corporations in Ontario. Most hospitals provide in-patient and out-patient services to primarily Ontario patients, but some serve a higher proportion of out-of-province patients (usually in parts of Ontario close to another province's border) and international patients (usually in large urban centres). Significant, unplanned use of the Ontario health system by out-of-province or out-of-country patients could affect service delivery for Ontario patients.

According to 2016/17 interprovincial hospital services data, the top two LHINs that had their

residents leaving the province and requiring admission to a hospital elsewhere in Canada were the North West LHIN and the Champlain LHIN, which border Manitoba and Quebec, respectively. In comparison, the top two LHINs that saw the most out-of-province patients requiring admission to a hospital were the Champlain LHIN and the Toronto Central LHIN—these two LHINs combined account for 75% of all in-patient stays from other provinces and territories.

2.5.3 Insurance Companies

Because the Ministry reimburses Ontarians for only certain types of health services under the out-of-country travellers and out-of-province programs, and for out-of-country travellers claims it reimburses services at specified rates that are often lower than had the patient been receiving the care in Ontario, the Ministry through its website recommends that Ontarians obtain private travel health insurance before leaving Ontario to cover any uninsured services.

The Ministry has agreements with 30 insurers, making them “registered” third-party insurers. Under this arrangement, in the event of an out-of-country travellers claim, the insurance company first pays the patient or the medical provider directly, and then recoups any OHIP-insured portion directly from the Ministry. In these cases, with the patient’s consent, the patient does not need to have any contact with the Ministry.

2.5.4 Health Services Appeal and Review Board

The Health Services Appeal and Review Board is an independent quasi-judicial tribunal that has a mandate to hear appeals under several different statutes, including the *Health Insurance Act, 1990*. Such appeals may be filed by residents whose claims were denied or partially reimbursed, or whose prior approvals were denied, by the Ministry. The Board hears and provides a decision on about

one-third of the appeals made by residents. In the remaining two-thirds of the appeals, either the Ministry approves the appeal at an earlier stage of the process or the applicant withdraws or abandons the application.

Between 2015/16 and 2017/18, the Board received on average about 74 appeals a year in the out-of-country travellers program and about 37 appeals a year in the prior approvals programs. Since 2015, of the total number of appeals received, the Board has fully overturned 5% and partially overturned 4% of Ministry decisions appealed by residents.

2.5.5 Interprovincial Health Insurance Agreements Co-ordinating Committee

The Interprovincial Health Insurance Agreements Co-ordinating Committee is a federal-provincial committee that supports the administration of payments between jurisdictions and addresses interprovincial health coverage issues. It oversees the application of two types of interprovincial health insurance agreements—one on physician services and the other on hospital services—and determines reciprocal billing rates. The Committee has representation from all provinces and territories, with Health Canada performing central administrative or general secretary duties.

3.0 Audit Objective and Scope

Our audit objective was to assess whether the Ministry of Health and Long-Term Care (Ministry) had effective systems and procedures in place to:

- administer out-of-country and out-of-province health insurance programs (Programs) to support eligible Ontario residents’ access to Ontario Health Insurance Plan (OHIP) funding for health services while not in Ontario in accordance with agreements, policies, and relevant federal and provincial

legislation and regulations, with due regard to economy and efficiency;

- measure and publicly report periodically on the results and effectiveness of the Programs in meeting their intended objectives; and
- oversee international patients' use of the Ontario health system and ensure that Ontarians' access to health services is not negatively impacted.

Before starting our work, we identified the audit criteria we would use to address our audit objective. These criteria were established based on a review of applicable legislation and agreements, policies and procedures, internal and external studies, and best practices we compiled from our audits of similar programs. Senior management at the Ministry reviewed and agreed with the suitability of our audit objective and related criteria, as listed in **Appendix 3**.

Our audit focused on the following OHIP programs: the out-of-country travellers program, prior approval programs, and out-of-province program. We also examined how international patients use Ontario's health system, primarily hospital services. We did not examine prior approval of laboratory services for patients who needed to have their specimens tested outside of Ontario, as we recently commented on this in our 2017 audit of Laboratory Services in the Health Sector.

We focused on activities of the Programs in the three-year period ending March 31, 2018, and considered relevant data in the last five years. We conducted our audit from January to June 2018, and obtained written representation from the Ministry that effective November 8, 2018, it has provided us with all the information it was aware of that could significantly affect the findings or the conclusion of this report.

In conducting our work, we met with staff at relevant branches within the Ministry, located in Kingston, London, Oshawa, Ottawa, Thunder Bay and Toronto, and examined data and documentation they provided. Where claims are processed, we observed how claims documentation is secured

after hours at the Ministry's Kingston, London and Ottawa offices. We also analyzed data from the Ministry's internal review process and the Health Services Appeal and Review Board to identify historical trends in their overturning of Ministry decisions.

To better understand patterns of use of their regions' health services by non-Ontarians, and how Ontarians living in their regions use other jurisdictions' services, we met or spoke with representatives from five of Ontario's 14 Local Health Integration Networks (LHINs). These LHINs (Champlain, North West, Erie St. Clair, Toronto Central and Central West) either border on another province or state or provide relatively high levels of health services to international patients. We also met with representatives from or obtained data from eight select hospitals in Ontario (Children's Hospital of Eastern Ontario, Hawkesbury and District General Hospital, Mount Sinai Hospital, Sunnybrook Health Sciences Centre, North York General Hospital, the Hospital for Sick Children, William Osler Health System, and University Health Network) to determine the impact that non-Ontarians have on frontline service delivery.

We researched how other provinces and territories operate their out-of-country and out-of-province health insurance programs to identify areas for improvement in Ontario.

We met with industry stakeholders, including the Travel Health Insurance Association of Canada and the Registered Nurses' Association of Ontario, to obtain their perspectives on how the Ontario Programs operate.

To better understand their involvement in the prior approval programs, we met with the Ministry's external medical experts, including Cancer Care Ontario, the Ontario Health Technology Advisory Committee of Health Quality Ontario, the Centre for Addiction and Mental Health, the Ontario Pediatric Specialized Services Advisory Committee and the Toronto General Hospital Program for Eating Disorders.

We obtained aggregate patient flow data for interprovincial health services from the Canadian

Institute for Health Information (CIHI). The analyses, conclusions, opinions and statements expressed in this report are those of our Office and not necessarily those of CIHI.

In determining the scope and extent of our audit work, we reviewed relevant audit reports issued by the Ontario Internal Audit Division and complaints data received by the Ontario Ombudsman in the last three years.

Finally, we considered the relevant issues reported in the out-of-country claims section of our 1998 audit of the Ontario Health Insurance Plan and incorporated these into our audit work.

We engaged an independent advisor with expertise in the field of health care to assist us on this audit.

We conducted our work and reported on the results of our examination in accordance with the applicable Canadian Standards on Assurance Engagements—Direct Engagements issued by the Auditing and Assurance Standards Board of the Chartered Professional Accountants of Canada. This included obtaining a reasonable level of assurance.

The Office of the Auditor General of Ontario applies the Canadian Standards of Quality Control and, as a result, maintains a comprehensive quality control system that includes documented policies and procedures with respect to compliance with rules of professional conduct, professional standards and applicable legal and regulatory requirements.

We have complied with the independence and other ethical requirements of the Code of Professional Conduct of the Canadian Professional Accountants of Ontario, which are founded on fundamental principles of integrity, objectivity, professional competence and due care, confidentiality and professional behaviour.

4.0 Detailed Audit Observations

4.1 Out-of-Country Travellers Program

4.1.1 Public Education to Ontarians Regarding OHIP Coverage When Travelling Abroad Limited to Website Advisory

While the Ministry through its main webpage on out-of-country travellers advises Ontarians to purchase private health insurance when leaving Ontario, we still found a significant number of claims that did not go through private health insurance companies. That many Ontarians appear to be travelling without obtaining travel insurance is a concern because in the five-year period between 2013/14 and 2017/18, the Ministry reimbursed just five cents for every dollar claimed by Ontario travellers when they made submissions to it. Not having private health insurance to supplement what the Ministry covers can significantly affect an Ontarian's finances, especially in cases where the patient has needed extensive emergency health care.

As discussed in **Section 2.3** and **Appendix 1**, when Ontario residents unexpectedly have to obtain emergency services from hospitals while travelling out of country, the Ministry covers only emergency health services at very limited rates. Facility fees are reimbursed at \$50 per day for out-patient services and \$200 or \$400 per day for in-patient services depending on the level of care obtained. Physician fees are reimbursed at the amount paid or the Ontario rate, whichever is less. Medical emergencies outside of Canada can arise unexpectedly, leaving individuals with significant medical bills. Consider the following illustrative examples:

- Tony had a heart attack during his stay in Florida. OHIP will pay up to \$400 per day for his stay in hospital and will pay his physician fees at Ontario rates. If Tony had purchased private insurance before he travelled, his

private insurer may cover the difference between the actual cost of these services and the amount paid by OHIP.

- Mary decided to drive to Buffalo to do some weekend shopping. She did not purchase travel insurance. While in Buffalo, Mary got into a car accident. She came back to Ontario with a \$10,000 hospital bill and \$3,000 in physician fees. After making her claim to OHIP, Mary was reimbursed \$400 for her two days in hospital and \$1,000 for physician fees. She is \$11,600 out of pocket.

Ontarians can purchase private health insurance for health expenses they incur while travelling that OHIP does not cover. In general, travellers specifically have to purchase travel health insurance for the following reasons:

- Not everyone has coverage through employer-funded extended health-care benefits, and not all such plans cover out-of-country health services. A workforce study conducted in 2016 indicated that 20% to 30% of Canadian workers are working as on-demand workers, freelancers, independent contractors and consultants, and 85% of the companies surveyed indicated that they expected that this “agile workforce” will increase by 2025. Companies are less likely to offer employer-funded extended health-care benefits to these workers.
- Although some people have travel health insurance through their credit cards, not all credit cards provide this coverage. As well, credit card companies may impose certain conditions, such as providing travel health insurance coverage only when the cardholder uses the card to pay for the trip.

Many Ontarians drive across the Canada–United States border. According to the United States Department of Transportation, in 2017, about 27 million people entered the United States from Ontario through border crossings in Minnesota, New York and Michigan. (This figure includes non-Ontario drivers, but it still gives a rough estimate

of the number of visits that Ontarians make to the United States each year by car alone.) As soon as they cross into the United States, these people are in the same position as any other out-of-country travellers when it comes to the Ministry’s limited coverage of their emergency medical care.

People who book their travel with air carriers are likely to be prompted by the airline to purchase travel insurance. Even so, not everyone purchases it, and many are left uninsured.

The Ministry’s own efforts to inform Ontarians of the risks they may face are limited—even though this program’s low level of coverage suggests that the government would want to push Ontarians firmly in the direction of buying travel insurance. The Ministry informs Ontarians on its main webpage on out-of-country travellers: “If you plan to travel outside of Ontario, it is strongly recommended that you obtain additional private medical insurance and fully understand what your policy covers.” It has not used other public education methods beyond this statement, however. We found no evidence that between August 1, 2017, and July 31, 2018, the Ministry informed Ontarians through its social media accounts of the need to purchase travel insurance because of the limited rates the Ministry pays and services it covers.

In addition, the Ministry does not analyze data to identify whether some people are less likely than others to purchase travel insurance so that it can better target its public education. We obtained claims data in the period between 2013/14 and 2017/18, and identified almost 37,000 claims that patients submitted directly to the Ministry, compared to about 402,000 claims that insurance companies submitted to the Ministry on behalf of patients. The Ministry does not have information on how many of the 37,000 claims were paid to patients who subsequently recouped additional funds from private insurance plans, if purchased.

RECOMMENDATION 1

To better educate the public on the limited rates that are publicly funded for emergency health care obtained outside of the country and the need to purchase private health insurance to supplement any residual amounts not reimbursable from the provincial government, we recommend that the Ministry of Health and Long-Term Care improve and expand its public education to Ontarians travelling outside of the country (such as communicating through social media), targeting those groups who are most likely to not purchase travel insurance.

MINISTRY RESPONSE

The Ministry supports recommendations to increase public education on OHIP coverage for out-of-country travel emergency health services and the need to purchase private travel insurance.

The Ministry will explore various communication vehicles to improve and expand public education.

4.1.2 Cost of Administering Out-of-Country Travellers Program High in Comparison with Payments Made under the Program

The Ministry spends about \$2.8 million a year to administer the out-of-country travellers program, which pays out about \$9 million in claims annually. In comparison, the Ministry spends about \$4.2 million a year to administer the out-of-province and prior approval programs, which combined pay almost \$200 million a year.

The Ministry processes close to 90,000 traveller claims annually. Ministry staff need to assess these claims to determine the appropriate payment rate—the relevant Ontario billing rate for physician services, \$50 for out-patient services, and either \$200 or \$400 per day for in-patient care, depending on the nature of the care. We noted that while Ontario has two rates for in-patient services, most

other provinces and territories have one common rate, as shown in **Figure 5**. Further complicating the task is the fact that staff manually process these claims, which are predominately paper-based. (We further discuss processing inefficiencies in **Section 4.4.1**.)

As well, claims in this program make up the largest percentage of all out-of-country and out-of-province claims that are heard by the Health Services Appeal and Review Board, resulting in further costs to the government.

Ministry records from 2012 and 2015 indicated that the Ministry was looking to make changes to the program, including revising the existing payment levels (\$50, \$200 or \$400) to a standard rate of \$100 per day for in-patient services; the proposal would eliminate coverage for out-patient care altogether. The Ministry indicated that such changes would align the coverage in Ontario with the coverage provided in other provinces and territories. These changes had not been made when we completed the audit.

Figure 5: Provincial Comparison of Out-of-Country Travellers Reimbursement Rates for Hospital Services, 2018

Source of data: Provincial and territorial ministries of health

Province	In-Patient Rate (\$/day)	Out-Patient Rate (\$/day)
Ontario	200 or 400	50
British Columbia	75	0
Alberta	100	50
Saskatchewan	100	50
Manitoba	280–570	100
Quebec	100	50
New Brunswick	100	50
Nova Scotia	525	0
Prince Edward Island*	1,423	359
Newfoundland and Labrador	465	62
Yukon*	2,642	359
Northwest Territories*	2,724	359
Nunavut*	2,638	359

* These governments' websites indicate that out-of-country services are reimbursed at the provincial/territorial rate.

RECOMMENDATION 2

To simplify the administration of the out-of-country travellers program, we recommend that the Ministry of Health and Long-Term Care revisit opportunities to reduce administrative costs, for example, through adopting a single reimbursement rate (similar to other provinces) for all emergency in-patient health services obtained out of country.

MINISTRY RESPONSE

The Ministry supports this recommendation and will work toward simplifying the administration of the out-of-country travellers program.

4.2 Prior Approval Programs

4.2.1 Ministry Relies on the Medical Community to Drive Process to Develop Capacity to Repatriate Services Back to Ontario

The Ministry relies on the medical community (such as the specialists within the province) to identify areas where capacity could be developed in Ontario to make health care more accessible to Ontarians within the province instead of having to send patients outside its borders.

Because the out-of-country prior approval program helps ensure that Ontario residents have access to OHIP funding for medically necessary health services that are not performed in Ontario or are performed but not available without medically significant delay, its patterns of claims and payments may highlight the need to increase or create new capacity in Ontario for services that it funds.

Some hospitals that we spoke to indicated that they expect the Ministry to be regularly analyzing prior approval data and engaging the medical community to repatriate services—that is, to offer them in Ontario—but they do not feel the Ministry has been doing that.

The Ministry uses some prior approval information to identify trends and potential areas of capacity building, but could do more in building capacity to meet existing and anticipated demands for services that are requested for prior approval.

While the Ministry has made progress in building additional capacity to offer more treatment options inside the province for services such as bariatric surgery, cancer treatment, and residential treatment for adolescents with severe eating disorders and for others with severe obsessive compulsive disorders, the increased in-province capacity does not always meet the demand of Ontario patients. We found significant volumes of patients sent out of province and expenditures in 2017/18 that the Ministry paid primarily to U.S. hospitals through funding for patient services under the prior approval program. These payments include:

- \$220,000 for each case of cancer treatment;
- \$205,000 for each case of vascular procedure;
- \$99,000 for each case of cardiac care; and
- \$80,000 for each case of residential in-patient service (for such diagnoses as severe eating disorder, substance abuse, borderline personality disorder and obsessive compulsive disorder).

Province in Process of Building Capacity in Ontario for Cancer Treatment

In our 2017 audit of Cancer Treatment Services, we noted that the average cost for each patient who needed stem cell transplants from the United States was \$660,000, and that Ontario capacity for stem cell transplants was inadequate to meet demand. At that time, we recommended that the Ministry work with Cancer Care Ontario and hospitals to expedite the review and approval processes for capital funding to expand capacity for stem cell transplants in Ontario.

At the time of this audit, according to the Ministry and Cancer Care Ontario, the Province is exploring the feasibility of introducing proton beam therapy in Ontario. It is anticipated that if

the Province moves forward with building a proton beam facility, it will be five to seven years before in-province services are available. In the meantime, the Ministry, together with Cancer Care Ontario, facilitates referrals to out-of-country providers to provide patients access to proton beam therapy.

RECOMMENDATION 3

To help Ontarians better access insured health services within the province and to identify priority areas to build in-province capacity, we recommend that the Ministry of Health and Long-Term Care review on an ongoing basis statistics on requests and approvals for health care outside of Ontario, and where needed, initiate work with the medical community to build or increase capacity for health services routinely funded through the prior approval programs.

MINISTRY RESPONSE

The Ministry supports this recommendation. While the Ministry has had success in building in-province capacity where there was out-of-country demand for services, the Ministry also recognizes that there are opportunities to work more closely with health-care experts to anticipate future demands.

4.2.2 Ministry Did Not Establish Preferred Provider Agreements with Foreign Medical Facilities That Have Been Providing Certain Medical Services to Ontarians Year after Year

A regulation of the *Health Insurance Act, 1990* allows the Minister to enter into “preferred provider arrangements” with hospitals, health facilities or physicians outside of Ontario to provide a number of specified treatments and procedures at pre-negotiated rates. As of March 2018, the Ministry had agreements with 27 foreign health facilities and hospitals, all in the United States. The Ministry has not made preferred provider agreements with other out-of-country health facilities, however,

even though increasingly more Ontarians are receiving services from these facilities. As a result, the Ministry may be missing out on opportunities to minimize health-care costs under the prior approval programs, and to be more efficient in its review of applications, as it is already familiar with the services offered by preferred providers with whom it has already negotiated billing rates.

In 2017/18, of the cases that the Ministry approved in the out-of-country prior approval program, 3% of the prior approved funding was for preferred providers. (This 3% of costs originated from 25% of patient applicants.) These facilities individually provide health services that include residential treatment for eating disorders and obsessive compulsive disorder, and a chemotherapy/surgery combination for a specific type of cancer. We explain preferred providers in further detail in **Appendix 1**. The remaining 97% of the approved costs went to other health facilities.

We analyzed prior approval data and identified four U.S. facilities that do not have a preferred provider agreement with the Ministry, yet they each treated an average of 10 Ontario patients a year between 2015/16 and 2017/18. Collectively, these four facilities—providing services including sight devices and procedures, types of cancer treatment, and sex reassignment surgeries—have received about \$35 million in Ministry funding over these three years, representing 35% of total funding under the out-of-country prior approval program during that period. The Ministry could potentially achieve considerable cost savings if it negotiates standard billing rates with these facilities, given the high cost of health services in the United States.

We asked the Ministry why it did not establish preferred provider agreements with these four facilities. The Ministry indicated that it was already realizing operational efficiency through the relationships established with these facilities and felt it was already benefiting from pre-negotiated costs outside established agreements.

RECOMMENDATION 4

To obtain the best value for money for the health services costs it pays to foreign medical facilities that provide pre-approved health services to Ontarians, and to help improve its efficiency in assessing Ontarians' applications through the prior approval programs, we recommend that the Ministry of Health and Long-Term Care establish agreements with foreign providers that do not yet have preferred provider agreements with the Ministry in cases where the benefits of these agreements are shown to outweigh their costs.

MINISTRY RESPONSE

The Ministry supports the recommendation to consider preferred provider arrangements where appropriate.

4.2.3 External Medical Experts Noted that Case Files Did Not Always Contain Complete Information

The Ministry obtains medical advice when reviewing applications requesting funding for health services outside of Ontario. Two of the external medical expert groups with which the Ministry contracts to help recommend approval or denial of prior approval applications found that the files the Ministry sends them do not always contain complete information. This may affect the outcome of the assessment and lead to unnecessary delays in the assessment process.

Overall, the Ministry relies for advice on in-house physician employees, on formal external medical expert groups each specializing in an area, or on individual medical experts who are normally part of large medical organizations or educational institutions (such as the Sunnybrook Health Sciences Centre and McMaster University's Division of Pediatric Neurology).

The Ministry uses external medical expert groups in four areas—mental health care, cancer

care, pediatric care, and eating disorders—as outlined in **Appendix 4**. It used these panels in 58% of cases between 2016/17 and 2017/18.

Individual external experts assist in cases such as mental health and pediatric cases for cerebral palsy, where the Ministry does not have an established expert group. The Ministry used individual experts in 6% of cases between 2016/17 and 2017/18.

In making their evaluations, the medical experts review specific patient cases according to criteria set out in the regulatory requirements: they consider whether a treatment is experimental, whether the treatment is already offered in Ontario, whether receiving the treatment in Ontario results in medically significant delay, and whether a proposed treatment is within the standard of care in Ontario.

To assist them with their evaluations, the Ministry provides each expert or expert group with a questionnaire to complete when assessing patient cases. The questionnaire helps the medical experts document any conflict of interest as well as their conclusions on the criteria set out in the regulatory requirements. We reviewed a sample of prior approval case files and saw that decisions were appropriately documented. However, as noted, two of the external medical expert groups we spoke to indicated that sometimes patient files do not contain all necessary information, such as the patient's body mass index, to help them make expedient recommendations on cases. The Ministry indicated that case documents are prepared by the patient's referring physician and, when requested, it would obtain additional information from the Ontario physician and provide it to the expert.

4.2.4 Lack of Evaluation of Foreign Facilities Providing Services under Prior Approval Program

The Ministry does not assess whether the facilities that provide pre-approved health services to Ontarians provide good care to Ontarians. Post-service follow-up on patients through the Ontario referring physician, for example, could help the Ministry and

the external medical experts who provide recommendations to the Ministry on approval or denial confirm that they should continue sending or recommending patients to these facilities, especially the Ministry's designated preferred providers.

The Ministry does not request feedback from patients or referring specialists regarding the health-care facilities where treatment was provided. The Ministry informed us that its role is to fund eligible services, and it considers it the patient's referring specialist's role to direct patient care and inquire about patient outcomes. As a result, the Ministry does not collect or analyze outcome data for patients who have undergone treatment at these facilities. Most of the external medical expert groups that assist the Ministry in recommending approval or denial of applications informed us that they would like to see the outcomes of patients they assess under the prior approval program, to improve their assessment process and inform their future decisions on similar cases.

At a minimum, the Ministry could collect information on whether patients generally had a positive or a negative experience with facilities outside of Ontario, and possibly also obtain such outcome information as post-operation infection rates, but it does not do so.

RECOMMENDATION 5

To help it make better informed decisions on applications for pre-approved health services outside of Ontario, we recommend that the Ministry of Health and Long-Term Care:

- develop a checklist for all documents and information that it needs to provide to external medical experts; and
- develop a mechanism to collect data on patient experience and other outcomes from patients who have received health services under the prior approval programs, and share the results with the external medical expert groups that assist it in making recommendations.

MINISTRY RESPONSE

The Ministry will work collaboratively with referring physicians and external medical experts to develop checklists on requirements.

The Ministry will also investigate the development of a mechanism to collect and use data on patient experience and other outcomes, and how that information could be shared to assist in decision-making.

4.2.5 Ontarians May Not Afford Travel Costs Associated with Medical Treatments Outside of Ontario

Even when an Ontarian obtains approval from the Ministry to access funding for health care outside of Ontario, the patient must still travel to that destination. As a result, those who can afford to travel to obtain health care outside of Ontario can access the same care that others may find cost-prohibitive. These people would then face extended wait times for services offered within Ontario or not be able to access that care at all. The Ministry does not collect information on cases where patients have chosen not to obtain pre-approved health services from outside of Ontario because they could not afford the cost of travel.

The Ministry provides a health travel grant for eligible patients in Northern Ontario, who may use the grant to subsidize travel costs when they are required to travel long distances to obtain health care in Manitoba or within the province. However, overall, OHIP does not cover travel costs associated with prior approval services.

We researched whether travel expenses are covered by other provincial public health insurance plans, and found that seven provinces and territories in Canada—Manitoba, Nova Scotia, New Brunswick, Newfoundland and Labrador, Prince Edward Island, Yukon, and Nunavut—offer varying travel subsidy programs for out-of-country and out-of-province prior approval care. Prince Edward Island's travel subsidy program has eligibility requirements,

including one based on net household income. Like Ontario, British Columbia, Alberta and Quebec do not subsidize travel costs associated with prior approval services.

RECOMMENDATION 6

To help ensure that Ontarians can equitably access timely health services that the Ministry of Health and Long-Term Care (Ministry) has pre-approved to be provided outside of Ontario, we recommend that the Ministry review assistance that other provinces and territories provide with travel costs to the destination jurisdiction that offers health services under their prior approval programs and assess whether similar assistance is applicable in Ontario, considering eligibility factors such as household income level.

MINISTRY RESPONSE

The Ministry will review the assistance provided by other provinces and territories for travel costs in order to assess whether it would be feasible to provide similar assistance to Ontarians.

4.3 Out-of-Province Program

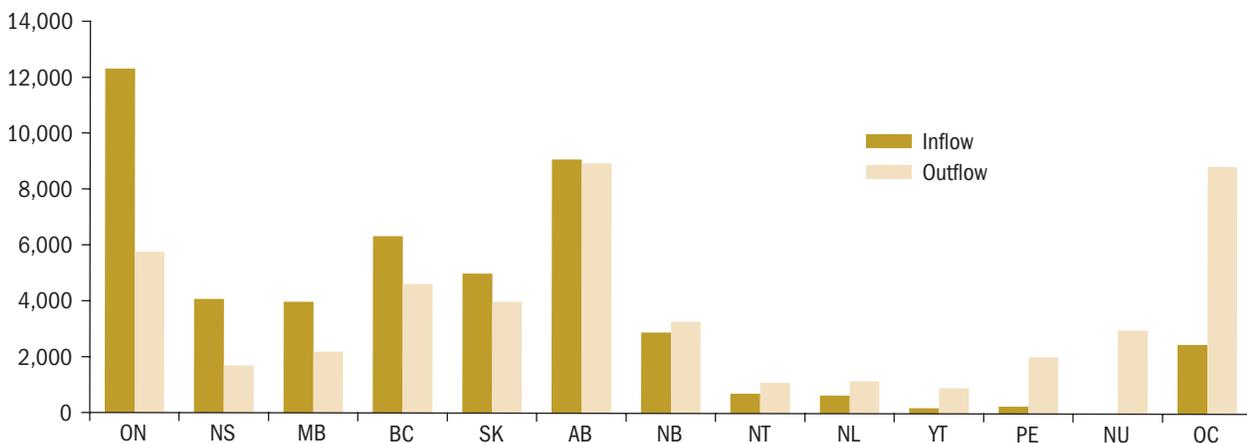
In looking at how the portability principle of the *Canada Health Act* is put into effect (see **Section 2.2**), Ontario is said to be one of Canada’s “provider provinces.” As shown in **Figure 6**, in 2016/17, the most recent year that data is available, people from other provinces and territories had more in-patient stays in Ontario’s hospitals than Ontarians had in those jurisdictions’ hospitals. In the same year, Nova Scotia, Manitoba, Saskatchewan, Alberta and British Columbia had similar experiences to Ontario, where residents of other jurisdictions had more in-patient stays in their hospitals than the number of in-patient stays their own residents had in hospitals elsewhere in Canada.

The Ministry indicated that it does not track the reasons why Ontarians use health care in other parts of Canada. But it believed that Ontario hospitals attract people from other provinces and territories for reasons that could include Ontario having several hospitals that specialize in certain procedures, and its position as the most populous province—Canadian visitors with family in Ontario may find themselves in need of health care once here.

We noted that over the 10-year period between 2007/08 and 2016/17, the number of in-patient

Figure 6: Number of Hospitalizations of Out-of-Province Patients across Canada, by Net Inflow/Outflow, 2016/17

Source of data: Canadian Institute for Health Information



Note: “Inflow” refers to number of in-patient stays by people from other provinces and territories treated in the named province. “Outflow” refers to number of in-patient stays by people from the named province treated in other provinces and territories.

stays by Ontarians in other provinces' and territories' hospitals dropped, while the number of in-patient stays in Ontario's hospitals by people from other provinces and territories increased.

In 2016/17, there were 5,757 reported in-patient stays by Ontario patients in other provinces' hospitals, a 25% reduction from 7,701 in 2007/08. About two-thirds of these stays in 2016/17 were in Manitoba, Quebec or British Columbia.

In comparison, in 2016/17, patients from other parts of Canada had 12,305 in-patient stays in Ontario hospitals, representing a 21% increase from 10,200 in 2007/08. Of this, 61% were from Quebec and 9% were from Alberta.

Steps Taken to Improve Ontarians' Access to Health Services in Other Parts of Canada

We found that the Ministry has recently taken some positive steps to help improve Ontarians' access to health services in other parts of Canada. To help Ontarians living in the North West Local Health Integration Network (LHIN) access health services in Manitoba—which they were not always able to do—the Ministry, working with the LHIN, entered into an agreement with Manitoba's health ministry in May 2018 to provide up to \$4.8 million a year to facilitate patient transport to and from Manitoba facilities and to supplement funding for specified hospital services under the interprovincial billing agreement. In 2016/17, of the in-patient hospital stays by Ontarians in other provinces and territories, 28% of these stays were by people who resided in the North West LHIN, and 95% of those were in Manitoba hospitals.

Also in May 2018, the Ministry proposed regulatory changes that would allow it to begin providing home-care and palliative-care coverage to Ontarians temporarily visiting other parts of Canada (Ontarians are covered for these services while at home) and to other Canadians just arriving in Ontario without being subject to the existing legislated interprovincial waiting period. The proposed amendment was up for public comment at the completion of the audit.

4.3.1 Full Range of Health-Care Services Not Entirely Portable in Other Parts of Canada

Similarly to other provincial and territorial governments, the Ontario Ministry covers physician services (such as consultation services at a walk-in clinic) and hospital services (for example, emergency, diagnostic or laboratory) that Ontarians use while travelling in other parts of Canada. But this coverage does not extend to other publicly funded services such as ambulance services, home care and community mental health services provided in non-hospital settings—services that the Ministry either partially or fully covers for eligible Ontarians while they are in Ontario. This is because the *Canada Health Act* requires provinces and territories to extend only medically necessary physician and hospital coverage to their residents during temporary absences (a term not defined in the Act) from the home province or territory.

Ontario, like many provinces and territories, provides its residents while they are in their home province not only the physician and hospital services required under the *Canada Health Act*, but also additional health-care services. In the case of Ontario, these include prescription drugs in a non-hospital setting for eligible individuals under the Ontario Drug Benefit program, home care for eligible Ontarians needing supportive living at home, and many more services.

In contrast, when Ontarians are in other provinces or territories for reasons such as travel, study and employment, and for those residing in border communities such as Kenora in northwestern Ontario who use health services in a neighbouring province (at a facility that could be closer to the patient than the nearest facility in Ontario), the Ministry reimburses only physician and hospital services (including certain surgical-dental services) under this program, because this is all that the *Canada Health Act* requires.

Ontarians Pay More for Ambulance Services in Some Provinces Than What Ontario Charges Other Provinces' and Territories' Residents

The Ministry either partially or fully funds certain non-hospital and non-physician services for Ontarians, such as ambulance services and most blood tests done at laboratories outside of hospitals, when these are provided in-province, but not when Ontarians obtain these services elsewhere in Canada, as shown in **Figure 7**.

We examined the differences in the billing rate for certain health services that the Ministry does not cover when an Ontarian is in another province or territory. Because we do not have complete information on what health services Ontarians receive out-of-province and the Ministry's data is not readily available on which health services are most commonly received (since the Ministry's claims data represents only claims submitted by the patients, who may not have submitted all their health claims either because they know that the Ministry does not reimburse them or they have private insurance coverage), we have selected ambulance services as possibly a health service that a Canadian would commonly have to pay for out-of-pocket when travelling in other parts of Canada.

We found that Ontarians were billed more for ambulance services when in other parts of Canada than the amount Ontario billed residents from other provinces and territories. For example, at the time of our audit, Ontario charged visitors from other parts of Canada \$240 per use of a land ambulance. In contrast, five other provinces charged more for Ontarians and other Canadian non-residents when they use their land ambulance services—Nova Scotia charged \$732.95, New Brunswick charged \$650, Prince Edward Island charged \$600, British Columbia charged \$530, and Quebec charged \$400 plus a kilometre charge. In comparison, an Ontarian typically has to pay only a \$45 fee as a co-payment when using land ambulance services in Ontario. Ontario has no reciprocal agreements with any other province or territory for ambulance services.

In 2016, the interprovincial committee (explained in **Section 2.5.5**) established a working group consisting of a select number of provincial representatives to review interprovincial coverage gaps, including ambulance services. The interprovincial committee had not made any recommendations when we completed our audit.

Figure 7: Health Services the Ministry of Health and Long-Term Care (Ministry) Covers for Ontarians in and outside of Ontario

Source of data: Ministry of Health and Long-Term Care

In Ontario	Outside of Ontario but within Canada ¹
<p>Partial or complete coverage:</p> <ul style="list-style-type: none"> • physician services² • hospital services² • ambulance services • home-care services • palliative care • drugs given outside a hospital (e.g., seniors' drug program) • community laboratory services • mental health facility costs • assistive devices (e.g., prosthetics) 	<ul style="list-style-type: none"> • physician services² • hospital services²

1. The Ministry may also cover other health services outside of Ontario but within Canada through its prior approval program. See **Appendix 1** for further details.

2. Medically necessary and insured services.

4.3.2 Public Education to Ontarians Regarding OHIP Coverage When Travelling Elsewhere in Canada Limited to Website Advisory

Through its main webpage on out-of-province health coverage, the Ministry provides examples of health services that are and are not covered when an Ontarian travels to other parts of Canada, with the following advisory message: “We recommend that you buy private health insurance before leaving Ontario to cover any uninsured services you may need.” As discussed in **Section 4.1.1**, the Ministry has not used social media to promote public awareness of health coverage on the part of Ontarians travelling outside of the province.

In comparison, other provinces’ and territories’ main webpages on out-of-province health coverage provide stronger and more detailed messages regarding the need to purchase private health insurance. For instance, Newfoundland and Labrador advises residents to purchase additional travel/health insurance from a private insurer, even if leaving for only one day. Quebec informs its residents that the government does not reimburse the full cost of health-care services received outside the province, and does not cover certain services at all. Yukon similarly warns its residents that its health insurance plan does not provide coverage for ambulance services and to purchase private health insurance even if making a day trip to the United States or another province.

Travelling Ontarians who are not well informed of the need to purchase private health insurance are at risk of out-of-pocket expenses for certain health services they receive in other parts of Canada.

4.3.3 No Agreement between Ontario and Quebec to Simplify Process of Physician Billing from Quebec

The Ministry has not helped reduce the administrative burden on Ontarians who receive physician services in Quebec. Because Quebec does not par-

ticipate in the interprovincial billing agreement for physician services, Ontarians who receive physician services in Quebec typically have to pay the bill at the time they receive the service and then submit the invoice for reimbursement from OHIP. In comparison, when an Ontarian receives physician services in other parts of Canada, the experience is more seamless, as those physicians generally bill the services first to their provincial insurance plan, which then bills OHIP for reimbursement. As a result, Ontarians who use physician services in Quebec have to go through extra steps to be reimbursed compared to Ontarians who acquire the same services in other parts of Canada.

The Ministry has had an agreement in place with a region in western Quebec since 1988 to help those Quebec residents receive emergency services and specialized medical services that are not available in that region from physicians in the Ottawa region, without needing to pay out-of-pocket. Yet this agreement benefits only Quebec patients and does not apply to Ontario patients going to Quebec. In 2017/18, of the \$11 million that was billed to OHIP outside of interprovincial billing agreements Ontarians requested in reimbursement from OHIP for out-of-province physician services, 74% was for physician services provided in Quebec.

4.3.4 No Protection for Ontarians Who Are Charged for Physician Services at Rates Higher Than the Ontario Rate

While the *Commitment to the Future of Medicare Act* protects Ontarians from being charged more than the amount payable under the Ontario Schedule of Benefits (the fixed amount that OHIP will pay an Ontario physician per medical procedure) when seeking insured health services from Ontario physicians, the protection does not extend to protecting Ontarians when they seek health services from a physician in another province or territory. Thus, when Ontario patients are asked to pay for health services elsewhere in Canada and then recover the amount paid from OHIP upon their return, they

may not be able to recoup the full amount paid. This usually applies to physicians in Quebec, but it could also apply in other parts of Canada, as physicians have the right to bill patients directly at point-of-care in lieu of billing their provincial health plan (which in turn recovers the amount from Ontario) under the existing interprovincial billing agreement.

We examined claims data and found examples where physicians in other provinces billed Ontario patients at higher rates than the Ontario rate. For instance, an Alberta physician billed an Ontario patient \$166 for out-patient psychotherapy, but OHIP reimbursed only \$80.30 according to the Ontario Schedule of Benefits. Similarly, an Alberta physician billed an Ontario patient \$40 for an extensive examination service, but OHIP reimbursed only \$33.70.

The Ministry indicates on its main webpage on out-of-province health coverage that Ontarians are covered for physician services elsewhere in Canada, but does not specify that the reimbursement would be capped at the Ontario rate when a patient pays the physician up front and then requests reimbursement from the Ministry. In comparison, both Quebec and the Yukon on their websites advise their residents that out-of-province physician services are reimbursable only up to the provincial rate.

RECOMMENDATION 7

To help reduce the financial and administrative impact on Ontarians who may require health services while travelling to other parts of Canada, we recommend that the Ministry of Health and Long-Term Care:

- work with other provinces to establish more consistent rates for common out-of-province services not required to be covered in the *Canada Health Act* (such as ambulance services) for Canadians while travelling in other parts of the country;
- explore options to streamline the reimbursement process for Ontarians acquiring phys-

ician services from Quebec in the absence of an interprovincial agreement on physician services with that province; and

- enhance its public communication to Ontarians on interprovincial health coverage, such as prominently stating that physician services obtained out of province, when billed at point of service, are paid only up to the Ontario rate.

MINISTRY RESPONSE

The Ministry will work with other provinces and territories to review funding for common out-of-province health services that are currently not covered by provincial health insurance plans.

The Ministry agrees a more streamlined reimbursement process would benefit Ontarians accessing physician services in Quebec. The Ministry will endeavour to make the reimbursement process more efficient.

The Ministry will enhance its current public communication to Ontarians on interprovincial health coverage.

4.3.5 Ministry Is Able to Detect Errors in Other Provinces' and Territories' Hospitals' Billings; It Can Do More to Detect Inappropriate Billings Submitted by Other Provinces' and Territories' Physicians

The interprovincial billing systems for physician services and hospital services at the Ministry allow physicians and hospitals in other parts of Canada, through their provincial health insurance programs, to bill the Ontario Ministry for health services provided to Ontarians.

We found that the Ministry has put in place controls in the billing system for hospital services to detect errors such as missing or invalid data on claim submissions, incorrect application of billing rules and rates, or duplicate in-patient/out-patient claims. Between 2013/14 and 2017/18, the Ministry processed on average about \$100 million

worth of out-of-province hospital claims each year and has detected errors in and received adjustments for about 165 in-patient claims and 2,700 out-patient claims every year.

However, the Ministry does not have similar controls in the billing system for physician services. It does not verify that the fees it pays to other provinces' physicians are for services provided to Ontarians who had valid health numbers. The Ministry processed on average about \$30 million worth of claims from other provinces' and territories' physicians each year between 2013/14 and 2017/18, and has never rejected any claims. However, we found by running an application on health numbers and out-of-province claims that between 2015/16 and 2017/18, the Ministry paid about \$43,000 in good faith to physicians in other provinces who submitted and received payments for about 750 claims where the Ontario health numbers submitted for payment were invalid.

RECOMMENDATION 8

To help reduce the risk of financial loss to the Province's health insurance program, we recommend that the Ministry of Health and Long-Term Care run an application annually to detect anomalies in claims, such as services purportedly rendered to Ontarians with valid health numbers, submitted by physicians from other parts of Canada.

MINISTRY RESPONSE

The Ministry supports the recommendation to further improve the efficiency of out-of-province physician claims processing. The Ministry will conduct a feasibility assessment to inform possible course(s) of action to support analysis of available data sources for anomalous results.

4.3.6 Negotiated Interprovincial Out-patient Hospital Rates Do Not Reflect Actual Costs Incurred

A rate review working group within the Interprovincial Health Insurance Agreements Co-ordinating Committee (Committee—explained in **Section 2.5.5**) has a mandate to review, develop and recommend various methodologies to calculate billing rates for the provision of interprovincial health services. The working group consists of representatives from each province and territory. Once the Committee approves a methodology, the Canadian Institute for Health Information then calculates the rates and reports these rates back to the Committee for approval.

According to the interprovincial billing rules that this working group established, hospitals can charge only one out-patient rate per day (the highest rate from among the services provided that day), regardless of how many services are provided that one day. As a result, hospitals that provide multiple out-patient services to out-of-province patients would need to forgo the cost of some services entirely.

For example, in the case of a patient needing laboratory services and a day surgery on the same day, if the patient were an Ontarian, the hospital would be funded for all aspects of the hospital services. But if the patient were from elsewhere in Canada, the hospital could bill for only one service per day (the service with the highest value if multiple services were provided on the same day) according to the interprovincial billing rules approved by the Committee. One hospital advised us that it would rather forgo billing other services provided to out-of-province patients than make these patients return to the hospital day after day, as it wants to minimize the patients' need to travel to the hospital multiple times.

We found that several reasons contributed to the out-patient hospital rates being unrepresentative of the actual out-patient service costs incurred:

- Unlike the in-patient rates that are hospital-specific, out-patient rates are common across Canada, based on about 7 million patient records obtained from about 60 hospitals from Ontario, Alberta and Nova Scotia. (These are among the provinces or territories that provide the most services to out-of-province patients.) These records are grouped by out-patient service categories, and an average rate is determined for each category. These rates are then applied across all hospitals in Canada regardless of the actual costs incurred by each hospital.
- Out-patient services at hospitals are grouped into 13 categories. These 13 categories were developed in the 1980s and have undergone minimal changes since. However, with advances in medicine and technology, some services that were formerly delivered in an in-patient setting are now deliverable in an out-patient setting, but would require their own rates in order to be fairly compensated (for example, some types of joint replacement).
- Hospitals are reimbursed \$359 per visit for services provided under a category called “standard out-patient visits,” but the category incorporates services with a wide range of costs, from relatively low-cost services like fixing a dislocated limb at an average cost of \$154 per visit, to a high-cost service such as peritoneal dialysis for patients with kidney disorders (done within the body as opposed to through an external dialyzer) at an average cost of \$3,276 per visit.
- Interprovincial out-patient rates have only been adjusted for inflation since 2015, when the rates were last updated based on case costing data.

Concerns Relating to Interprovincial Health Coverage Pending Interprovincial Committee Decisions

In addition to the review noted in **Section 4.3.1** that the Committee was still in the process of completing, we were informed that the Committee was also still investigating a concern that arose during its rate-negotiation process—Committee members became aware that some physicians and hospitals were double-billing for the same out-patient hospital service provided to patients from out-of-province, as provinces and territories pay their physicians differently.

In these cases, the Committee had been reviewing the situations for several years. While the Committee has representation from each province and territory, there are no established criteria for who serves as a representative on the Committee. This has resulted in inconsistent representation with respect to area of expertise (such as health policy versus claims processing) and decision-making authority of officials at the table, with some members often needing to consult with senior officials before decisions can be made.

RECOMMENDATION 9

To help support discussions with other provinces and territories regarding matters of interprovincial health coverage and to best represent the interest of all parties involved, we recommend that the Ministry of Health and Long-Term Care:

- work with other provinces and territories in the Interprovincial Health Insurance Agreements Co-ordinating Committee (Committee) to update the categories and rates for out-patient services; and
- discuss the mandate of the Committee, including a review of the level and expertise of staff represented at the Committee, with other provincial and territorial members.

MINISTRY RESPONSE

The Ministry agrees with the Auditor General that the existing interprovincial rate-setting model and methodology is problematic. The Ministry will explore options to improve this situation, including an analysis of financial gains or losses experienced by Ontario hospitals that provide health care to residents from other provinces.

The Ministry supports the recommendation to discuss the mandate of the Committee. Each province and territory is responsible for assigning representatives and staff to the Committee and ensuring members have the necessary level of expertise.

4.4 Claims Not Efficiently Administered

The Ministry processes a significant volume of out-of-country and out-of-province claims each year. The public expects the Ministry to process claims accurately and efficiently and maintain the confidentiality of the data to prevent potential loss and compromise of sensitive information.

We examined whether the Ministry had processes in place to ensure that claims information is secured and found that it has put in place security measures for this purpose. Specifically, at the time of our audit, the Ministry was establishing a new process for transferring data related to out-of-country travellers' claims, in response to the Ministry's internal audit conducted in 2016 that noted that the Ministry did not encrypt data transferred between the claims assessment department and the payment system. As well, we observed that paper files were appropriately secured at the Ministry's three processing offices—paper files were cleared from the staff's desks and filing rooms were locked after hours. Furthermore, the Ministry indicated that it has drafted user access management procedures and established a new process to help ensure that only authorized users can access systems and data-

bases that support OHIP claims. We also noted that Ministry staff store electronic files on the server and have unique usernames and passwords.

In addition, we examined the process that the Ministry uses to detect claims fraud. The Ministry indicated that following up with suspected cases by asking for more information on the claim has generally resulted in the claimant abandoning the claim.

We also examined whether the Ministry processed claims efficiently and accurately. We found that the Ministry has not fully realized the benefits of electronic claims submission and of a quality review process it undertook to improve accuracy of claims.

We look at these issues in detail in the following subsections.

4.4.1 Claims Processed are Primarily Paper-Based

Most out-of-country and out-of-province claims are submitted to the Ministry in paper format. Processing paper documents creates an administrative burden: Ministry staff have to open mail, enter data multiple times into different systems, scan paper documents for electronic storage, and ultimately store the documents for seven years as required by the retention policy. Their use can also lead to personal health information being lost in the mail or compromised.

In contrast, the private health insurance industry accepts electronic submission of certain claims. According to Ministry staff, electronic claims submission significantly reduces processing and data inputting time.

We noted the following with regard to the continued use of paper documents:

- The Ministry requires all claims submitted directly by patients to be on paper. These claims can arise from all three out-of-country and out-of-province programs.
- For the out-of-province program, where provinces reciprocally bill each other for health services provided to other provinces'

residents, six provinces and territories submit paper hospital claims to the Ministry, and all three territories submit paper physician claims. The other provinces and territories submit these claims to Ontario electronically. Further, only Newfoundland and Labrador allows electronic funds transfers, whereas all other provinces and territories require payment by cheque.

In September 2017, the Ministry began arranging for only one insurance company of the 30 with which it contracts (we explained this in **Section 2.5.3**) to submit electronic out-of-country travellers claims. In June 2018, it offered other insurance companies the opportunity to submit these claims, and six of these companies planned to begin the new process in the fall of 2018.

RECOMMENDATION 10

To improve the efficiency of claims processing, we recommend that the Ministry of Health and Long-Term Care:

- develop a mechanism to allow patients and other provinces and territories to submit claims electronically; and
- arrange with all provinces and territories to allow electronic funds transfers of reciprocal provincial billings.

MINISTRY RESPONSE

The Ministry supports this recommendation.

The Ministry is actively seeking support from other provinces and territories to move to electronic claims submission in Ontario. The Ministry will analyze options to determine if submission of patient claims is feasible.

The Ministry will contact the provinces and territories currently receiving payment via cheque to request that they consider enrolment in electronic funds transfer for their reciprocal billing payments.

4.4.2 Benefits of Quality Assurance Review of Claims Not Fully Realized

In October 2017, the Ministry started putting into practice a quality assurance review initiative to ensure that all claims-processing staff comply with operating procedures. The goal of the initiative is to identify errors in claims processing and their root causes, and to reduce future errors. While this initiative is a step in the right direction, we noted the following concerns:

- Ministry staff acting as reviewers in this initiative do not consistently follow a formal checklist when reviewing a file, so the consistency and completeness of the review cannot be ensured.
- At the time of our audit, the reviewers only assessed claims under the out-of-country travellers program. The Ministry indicated that it intends to expand the initiative to the prior approval and out-of-province programs, but had no timelines for the work.
- While the reviewers have summarized the errors detected through this initiative and informed us that only a few would have resulted in a change in payment (the amounts overpaid were nominal), they have not fully assessed the errors identified for trends or underlying causes, even though these actions are part of the goal of the initiative. The result is a missed opportunity for identifying ways to reduce the chance that the same errors will occur in the future.

RECOMMENDATION 11

To further improve the processing of claims in the out-of-country travellers, out-of-province and prior approval programs, we recommend that the Ministry of Health and Long-Term Care:

- monitor that all staff follow the standard checklist for its quality assurance review initiative;
- extend the initiative to all out-of-country and out-of-province programs; and

- analyze the results of its reviews to identify opportunities to minimize the occurrence of similar identified errors in the future.

MINISTRY RESPONSE

The Ministry supports this recommendation.

The Ministry will develop a mechanism to monitor the use of the standard checklist by staff when reviewing claims through its quality assurance review initiative. The Ministry will also analyze the information collected to identify opportunities to reduce the number of re-occurring errors, and will develop a plan, including timelines, to roll out this initiative to all out-of-country and out-of-province claims processing programs.

4.5 Lack of Data and Reporting Capabilities Limit Ministry Analysis of Program Performance

Overall, we found that the Ministry does not measure and report periodically to the public on the results and effectiveness of the out-of-country and out-of-province programs in meeting their intended objectives, which are noted in **Appendix 2**. As well, the Ministry does not maintain good data for all its programs, and its systems cannot produce useful reports to help it monitor its performance on operating the out-of-country and out-of-province programs. We noted the following concerns:

- The Ministry advised us that it has a 20-day service standard for processing claims. While it tracks the number of days it actually takes to process claims, it does not analyze the information to understand typical processing times for the different programs or measure actual processing times against its internal standard. Because of the limited reporting capability of its current information systems, the Ministry cannot produce data on processing time or the time needed to pay processed claims. The Ministry also does not publicly report on its actual processing times, but informs claimants

in the claim form to expect their claims to be processed and paid in six to eight weeks.

- For the out-of-country travellers program, while the Ministry has data on the country of the health-care providers, it does not extract system data to analyze this information to detect, for instance, whether certain Ontario travellers frequently obtain emergency health services from specific foreign health-care providers.
- Information from the three systems that the Ministry uses to track and pay claims under the out-of-province program lacks detail, thereby limiting the Ministry's ability to efficiently manage the program. For example, the Ministry cannot easily identify areas where Ontarians need to be better informed—such as cases where Ontarians are billed for amounts that exceed amounts reimbursable and the types of claims that are consistently rejected. The Ministry also cannot easily identify the types of services that Ontarians are frequently receiving in other provinces to determine the reasoning behind Ontarians leaving the province for these services.

RECOMMENDATION 12

To improve its oversight of the out-of-country and out-of-province programs, we recommend that the Ministry of Health and Long-Term Care:

- develop performance measures and explore an approach to enhance its information systems to collect, monitor and analyze data to evaluate the programs; and
- report publicly on the results.

MINISTRY RESPONSE

The Ministry welcomes the Auditor General's recommendation and will explore the potential, including costs, of enhancing its information systems in order to collect better data that allows for better program evaluation and public reporting.

4.6 International Patients' Use of the Ontario Hospital System

“Medical tourism” describes foreign patients seeking health care in another country because they perceive the care to be superior, more accessible and more affordable than in their home country. Research shows that medical tourism may shift public health care to profit-driven privatized care and that it goes against the principle of health equity.

Ontario hospitals serve patients who are primarily local residents, but they may also be visited by people from foreign countries.

4.6.1 Ministry Has Identified Providing Hospital Services to International Patients as a Concern

In the early 2010s, the Ministry became aware of some Ontario hospitals earning money by providing health-care services to international patients. In 2012, the then-Deputy Minister of Health and Long-Term Care sent a letter to Ontario hospitals, detailing Ministry expectations that this money would be reinvested in health care for Ontarians and that hospitals ensure that public funding would be used in a manner that demonstrates accountability for public funds.

In 2014, the Registered Nurses' Association of Ontario reported to the Ministry that it had been informed that Ontario patients were having surgeries cancelled so that doctors could treat international patients. This sparked another Ministry response. The Minister at that time issued another letter to Ontario hospitals, along with a public statement with a similar message. In that statement, the then-Minister made it clear that hospitals were not to market to, solicit or treat international patients (with the exception of activities related to a hospital's existing international consulting contracts), and that:

- hospitals cannot use public dollars to care for international patients;

- any revenue generated from international patient activities must be put back into hospital services that benefit Ontarians; and
- services to international patients must not displace any Ontarian in favour of international patients.

During our audit, we obtained data from four Ontario hospitals that provide services to international patients. These services include complex births, cardiac care, neurosurgery, transplants and orthopedics. Two of these hospitals have formal programs that were established prior to the 2014 direction and have therefore been allowed to continue operating the programs. They informed us that these programs have humanitarian purposes and that they typically arrange them directly with foreign country governments, private insurers, patients or their families, or with charitable organizations that pay for the services. Together, the four hospitals collectively served 3,123 foreign patients in 2017/18 (3,578 in 2016/17), generating over \$9 million of revenue per year.

No Provincial Framework to Guide Hospital Services to International Patients

The Ministry has never finalized its work on a framework to guide hospitals in their services to international patients. As a result, some hospitals have developed their own policies for the treatment of international patients, based on their interpretation of the Minister's statement. Such a lack of consistent standards and definitions leaves hospitals free to interpret the Ministry's requirements as they choose, including determining their own eligibility criteria for determining a humanitarian case, which could ultimately affect Ontarians' access to hospital services.

When the then-Minister released the statement in 2014, he indicated that the Ministry would work with Ontario hospitals to develop a framework to ensure compliance with the principles contained in the statement. The Ministry held meetings in late 2014 with Ontario hospitals that provide in-patient

services to people who come to Ontario to receive international patient services, and it developed a draft framework, although it never finalized its work.

In the absence of a provincial framework, some hospitals have developed local policies to guide their work with international patients. Of the five hospitals we visited, all reported having developed their own internal policy for the treatment of international patients.

The Minister's statement noted that hospitals could still undertake work in the areas of charitably funded and humanitarian care. While the Ministry's draft provincial framework defined various levels of humanitarian circumstances, only two of the five hospitals included references of, and had defined, this term in their internal policy. Even so, the definition varied. While both hospitals included the factor "patient cannot reasonably receive care in their country-of-origin" in their definition, one hospital also included "patient cannot medically return to their country-of-origin for care." Another hospital we visited indicated that the Ministry needs to provide better guidance in this area.

Ministry and LHINs Have No Current Information to Confirm Hospitals' Compliance with 2014 Minister's Requirements

The Ministry does not collect current information or analyze data to ensure that hospitals are in fact adhering to the Minister's requirements on international patient programs. Such information and data could include:

- hospital policies on how pre-planned international patient services are triaged in the Ontario system;
- country of origin of international patients receiving treatment in Ontario;
- revenue generated from the treatment of international patients; and
- assertions made by hospital management that they have complied with the requirements (this was done only in 2012 but has not been done since).

The last time the Ministry collected information on these programs for pre-planned care was a survey conducted in 2014. According to the 2014 survey results, 10 hospitals provided 461 cases of pre-planned health services to international patients in 2013/2014, and 80% of these were provided by only two Ontario hospitals. These 461 cases represented 8% of all non-Canadians admitted to Ontario hospitals in that year.

Similarly, Local Health Integration Networks (LHINs) that have a responsibility to monitor hospitals and other health-care organizations that they fund also do not confirm whether hospitals in their regions have complied with these requirements.

Of the five LHINs that we spoke to, none reported collecting information or statistics on international patient services from hospitals in their region. One LHIN we spoke to informed us that shortly after the Minister's statement outlining the Ministry's requirements, it requested hospitals in its region to complete a declaration of compliance with the requirement that public funds are not to be used for the care of international patients; however, it has not since repeated this one-time request.

4.6.2 75 Babies Born to Non-resident Mothers in Ontario in 2016

The Ministry does not monitor statistics on births to non-residents in Ontario over time. Even though current volumes of births to non-resident mothers are not significant, any sudden increases could have a potential impact in displacing Ontario mothers.

Since 1947, all babies born on Canadian soil have had birthright citizenship—meaning they are automatically granted Canadian citizenship—unless they are children of foreign diplomats. While some births by non-residents may have routine explanations (for example, mothers on work permits, mothers who have just moved to Ontario and are waiting the required three months to qualify for OHIP), some non-resident mothers may be engaging in "birth tourism." Birth tourism refers to the situation when expectant mothers

intentionally come to Canada to give birth, in order to give the baby Canadian citizenship and all the rights and benefits it involves. While some hospitals reported turning away foreign mothers seeking routine prenatal care if they are in the early stages of pregnancy, if a foreign mother shows up in the emergency department in labour, hospitals would take the ethical step of providing maternity care to the mother.

Overall, births to foreign mothers do not represent a significant percentage of Ontario births. According to Statistics Canada, in 2016, only 313 babies were born in Canada to foreign mothers out of more than 383,415 births across the country. In that same year, of the 141,925 births in Ontario, 75 (0.05%) were to mothers whose place of residence was outside of Canada, approximating the average of 81 births per year between 2014 and 2016. Residency information is self-reported, and not all of these births may be related to birth tourism. At the hospitals we visited for this audit that provide maternity services, less than 1% of births were to non-resident mothers.

We identified several local companies offering services to foreign mothers looking to give birth in Ontario. Their “birth packages” include services such as accommodation, transportation, administrative help, and support connecting mothers with Ontario doctors and specialists, all with prices attached. The existence of these companies may encourage more foreign mothers to come to Ontario, eventually reaching levels where foreign births may create barriers to access for Ontarians. One hospital in British Columbia was reported in the media as having delivered over 20 times the number of babies to non-residents in 2016/17 as in 2010.

RECOMMENDATION 13

To help ensure Ontario hospitals meet the 2014 Minister’s requirement that they do not use public dollars to provide pre-arranged care for international patients, put any revenue generated from treating international patients into hospital services that benefit Ontarians, and do not displace any Ontarian in favour of international patients, we recommend that the Ministry of Health and Long-Term Care, working with Local Health Integration Networks where appropriate:

- re-examine the draft framework to define principles, guidelines and reporting expectations for hospitals that provide pre-arranged health services to international patients;
- develop mechanisms to monitor hospitals’ compliance with the Minister’s requirement around pre-planned health services for international patients;
- identify information that hospitals need to report on regarding services to international patients and collect this information; and
- obtain and monitor statistics on pre-arranged births to non-residents in Ontario over time.

MINISTRY RESPONSE

The Ministry will work with its health-care partners, including hospitals and Local Health Integration Networks, to develop a framework to define principles, guidelines, requirements and reporting expectations (information reported to and collected by the Ministry) for hospitals for pre-arranged health services to international patients in light of the current government’s direction and strategic priorities. The framework will also include a mechanism for monitoring hospital compliance. The Ministry will also conduct further analysis on pre-arranged births to non-residents in Ontario.

Appendix 1: Details of Coverage under the Out-of-Country Travellers Program, the Out-of-Province Program and the Prior Approval Program

Prepared by the Office of the Auditor General of Ontario

OHIP Program	Coverage
Out-of-Country Travellers Program	<p>The Ministry reimburses limited costs when a patient, while out of Canada, acquires emergency health services to treat an illness or condition that is acute and unexpected, arises outside of Canada and requires immediate treatment. The reimbursable rates are:</p> <ul style="list-style-type: none"> • For physician services: the lesser of the actual amount billed by the out-of-country physicians or the fee allowed in OHIP’s Schedule of Benefits for Physician Services, which includes over 7,000 fee codes. • For out-patient services (such as imaging): the amount billed by the out-of-country hospital, up to a maximum of \$50 per day. • For in-patient services (i.e., overnight hospital stays): up to \$400 per day for services provided in an operating room, a cardiac intensive care unit, an intensive care unit (ICU), or a neonatal or pediatric special care unit, and \$200 per day for other levels of care.
Out-of-Province Program	<p>The Ministry covers medically necessary, insured hospital (including surgical-dental) and physician services that insured residents obtain in another province or territory during temporary absences from the home province or territory, to meet the portability provision in the <i>Canada Health Act</i>. Separate interprovincial billing agreements are in place with each jurisdiction for physician services and hospital services.</p> <p>Physician services: The interprovincial billing agreements were put in place between 1988 and 1999 between Ontario and various provinces and territories, except for Quebec, which does not have a billing agreement for physician services with Ontario or with any other province or territory. Under these agreements, the Ministry covers services provided to Ontarians who acquire physician services from another province or territory at the following rates:</p> <ul style="list-style-type: none"> • the physician’s own province’s rate if the physician bills his or her own province’s health plan first, which then bills OHIP; or • up to the Ontario Schedule of Benefits rate if the other province’s physician bills the Ontario patient or OHIP directly. <p>Hospital services: The interprovincial billing agreements were put in place between 1981 and 1999 between Ontario and all provinces and territories. The rates at which hospital services are paid are determined by an interprovincial committee (explained in Section 2.5.5):</p> <ul style="list-style-type: none"> • The rate for in-patient services represents a hospital-specific per diem rate based on data reported annually by hospitals across Canada. For instance, Children’s Hospital of Eastern Ontario in Ottawa can charge \$2,068 for ward services and \$4,617 for ICU services per day for an out-of-province patient; Thunder Bay Regional Health Sciences Centre can charge \$1,197 per day; and the University Health Network can charge \$1,849 for ward services and \$4,637 for ICU services per day (rates as of April 1, 2018). • Out-patient services are broken down into multiple service categories. The rate for each service category represents the average cost of service for 60 hospitals across Canada, based on 2013/2014 case costing data in 2015. For instance, the interprovincial rate that is applicable to all hospitals in Canada is \$749 for an MRI scan and \$359 for an emergency room visit (rates as of April 1, 2018). • Rates are established separately for certain high-cost procedures such as solid organ and bone marrow/stem cell transplants. For instance, all hospitals in Canada can charge the patient’s home jurisdiction per event (regardless of the length of stay) \$141,582 for a liver transplant and up to \$192,678 for up to 25 days of hospitalization for bone marrow/stem cell transplants given to certain pediatric patients (rates as of April 1, 2018).

OHIP Program

Coverage

Prior Approval Program
(Out-of-Country and Out-of-Province)

Covers costs that the Ministry has approved for coverage, before services are rendered, billed by the out-of-country or out-of-province provider organization, including organizations that have preferred provider agreements with the Ministry. In these cases, the preferred providers bill the Ministry at pre-established rates for specified medical services as set out in the agreements they have with the Ministry. If an agreement exists with a preferred provider for the service approved, the patient must go to the specified provider.

The Ministry uses the following criteria to determine whether it would approve health services to be provided outside of Ontario:

- the service is not experimental or for research;
- the service is generally accepted in Ontario as appropriate for a person in the same medical circumstances as the insured person;
- the service either is not performed in Ontario by an identical or equivalent procedure, or is performed in Ontario but the insured person must receive the service outside of the country to avoid a delay that would result in death or medically significant irreversible tissue damage;*
- an appropriate Ontario specialist has provided written confirmation;* and
- written prior approval has been received from the Ministry before the service is rendered (except in emergency circumstances).*

In addition, the service requested to be performed in a foreign country under the prior approval program must not:

- facilitate queue-jumping;
- provide access to “world expertise” when appropriate expertise exists in Ontario;
- provide access to out-of-country treatment when appropriate treatment (according to Ontario medical opinion from the patient’s specialist) is available in Ontario;
- provide access to health services that are not the Ontario standard of care; and
- provide access to new or emerging services or technology whose effectiveness, safety or necessity has not yet been scientifically established (for instance, the irreversible electroporation [NanoKnife] treatment for cancer is not recognized in Ontario as a standard of care, but is recognized in Europe; therefore, at the time of this audit, OHIP does not provide prior approval to obtain this surgery in other countries).

Examples of services for which the Ministry has provided prior approvals include:

Out-of-country: cancer treatment, vascular procedures, selective dorsal rhizotomy (to treat children with cerebral palsy), sex reassignment surgery

Out-of-province: breast reduction, back surgeries, emergency dental work

* These do not apply to the out-of-province prior approval program.

Appendix 2: Objectives of the Out-of-Country and Out-of-Province Programs and Related Provincial and Federal Objectives Regarding Health Care

Prepared by the Office of the Auditor General of Ontario

Objectives of the Three Out-of-Country and Out-of-Province OHIP Programs

- Out-of-country travellers program: to provide limited reimbursement for travellers requiring emergency health services out-of-country.
- Out-of-province program: to provide coverage for insured health services while eligible Canadians are temporarily absent from their home province or territory, or moving to another province or territory, as outlined in the portability principle of the *Canada Health Act* (see summary in following section).
- Prior approval program: to provide full funding for Ontarians to receive medically necessary services outside of Ontario when the services are not available in Ontario, or not available without medically significant delay.

Four Key Objectives of Ontario's Plan to Improve Its Health System¹

- **Access:** Improve access—providing faster access to the right care.
- **Connect:** Connect services—delivering better co-ordinated and integrated care in the community, closer to home.
- **Inform:** Support people and patients—providing the education, information and transparency they need to make the right decisions about their health.
- **Protect:** Protect our universal public health-care system—making evidence-based decisions on value and quality, to sustain the system for generations to come.

Canadian Health-Care Policy²

Primary objective of Canadian health-care policy: “to protect, promote and restore the physical and mental well-being of residents of Canada and to facilitate reasonable access to health services without financial or other barriers.”

Each province's health-care insurance plan must meet the following five criteria:

- **Public administration:** It must be administered and operated on a non-profit basis by a public authority appointed or designated by the government of the province.
- **Comprehensiveness:** It must insure all insured health services provided by hospitals, medical practitioners or dentists, and where the law of the province permits, similar or additional services rendered by other health-care practitioners.
- **Universality:** It must entitle 100% of the insured persons of the province to the insured health services provided for by the plan on uniform terms and conditions.

1. As per the Ministry of Health and Long-Term Care's *Patients First: Action Plan for Health Care* (2015).

2. As per the *Canada Health Act*.

- **Portability:** When insured persons are temporarily outside of the province, it must provide for the payment of the cost of insured health services (1) within Canada at the rate of the provincial or territorial plan where the services are provided, or at a rate agreed on by the provinces concerned, or (2) outside of Canada at a rate based on the provincial rate for similar services, taking into account, for hospital services, the size of the hospital, standards of service and other relevant factors. It must not impose any minimum period of residence in the province longer than three months before residents are eligible for insured services; and it must continue to cover health services for formerly insured persons who have moved to another province or territory until they have passed the waiting period for health coverage in their new province or territory.
- **Accessibility:** It must provide for insured health services on uniform terms and conditions, and may not limit reasonable access to insured health services. It must provide for reasonable compensation for all insured health services rendered by medical practitioners or dentists (such as for dental surgeries in hospital), and must provide for the payment of the costs of insured health services to hospitals.

Appendix 3: Audit Criteria

Prepared by the Office of the Auditor General of Ontario

1. Programs are aligned with relevant federal and provincial legislation and regulations.
2. Adjudication decisions are founded on consistent and well-defined standards, including program guidelines, contractual requirements and expert advice.
3. Analysis and research are performed periodically to identify more cost-effective means to administer the Programs, including areas where new or increased capacity for services in Ontario is needed.
4. Rates for services reimbursed under the out-of-province and out-of-country travellers programs are equitable, established according to evidence-based methodology and reviewed periodically.
5. Program information is clearly and effectively communicated to stakeholder groups, physicians and patients.
6. Accurate and timely payments are made to eligible recipients for eligible services in accordance with legislative, regulatory and contractual requirements.
7. Timely, accurate and complete information is available to assist with decision-making, program planning and public reporting. Processes are in place to protect data confidentiality while processing claims under these Programs.
8. Performance measures and targets are established, monitored and compared against actual results to ensure that the intended outcomes are achieved and that corrective actions are taken on a timely basis when issues are identified.
9. Processes are in place to monitor hospitals' compliance with Ministry of Health and Long-Term Care requirements and directives regarding services to international patients.

Appendix 4: Expert Panels and Advisors for the Prior Approval Program

Prepared by the Office of the Auditor General of Ontario

Organization	Composition	Area of Expertise
Cancer Care Ontario (CCO)	<p>Three expert standing committees assess prior approval applications for the following treatments: stem cell, CAR T-cell and proton beam.</p> <p>Each standing committee is composed of three expert members who review each case.</p> <p>For all other cancer treatments, CCO has a roster of 128 professionals with whom it consults.</p>	<p>CCO assists with assessing complex cancer cases requiring treatment in another country. The majority of decisions are for the following three treatments:</p> <ul style="list-style-type: none"> • stem cell transplant to replace damaged cells in a number of diseases and conditions • CAR T-cell immunotherapy to modify a patient's immune cells to identify and attack cancer cells • proton beam therapy to treat cancer using external beam radiation with fewer long-term side effects than conventional photon radiation.
Centre for Addiction and Mental Health (CAMH)	A number of psychiatrists individually assess files.	<p>Mental health-care practitioners evaluate individual applications for out-of-country mental health services.</p> <p>CAMH reports to the Ministry of Health and Long-Term Care (Ministry) with professional opinions on matters such as obsessive compulsive disorder.</p>
Ontario Pediatric Specialized Services Advisory Committee (OPSSAC)	Consists of five panel members, each from a separate pediatric hospital in Ontario.	Committee provides advice on specialized pediatric health services for patients under the age of 18 seeking out-of-country treatment.
Eating Disorders Panel	Three experts (from two Ontario hospitals and the University of Toronto) on this panel collaborate on each case.	<p>Each case is sent to the three experts separately, who independently assess patients with eating disorders and then collaborate before reporting back to the Ministry.</p> <p>Currently, there are no formal agreements with this panel; however, the Ministry plans to establish agreements with the two Ontario hospitals and the University of Toronto to assess cases.</p>

1.0 Summary

Legal Aid Ontario is responsible for providing legal services to low-income Ontarians. It is an agency of the Ontario Government and reports to the Ministry of the Attorney General (Ministry), under the *Legal Aid Services Act, 1998* (Act). Legal Aid Ontario provides assistance to eligible Ontarians in the following three major ways:

- **Community Legal Clinics:** Legal Aid Ontario funds and oversees 80 community legal clinics (clinics), including seven Student Legal Aid Societies, across Ontario that provide a variety of services to low-income individuals in their local communities. In 2017/18, clinics handled over 170,000 files for a total cost of \$85.8 million.
- **Legal Aid Certificates:** Legal Aid Ontario issues certificates to individuals who then retain private-sector lawyers who in turn bill Legal Aid Ontario for legal services provided. In 2017/18, Legal Aid Ontario issued about 102,870 certificates with a cost of \$252.8 million.
- **Duty Counsel:** Legal Aid Ontario provides free duty counsel services within the courts in Ontario. In 2017/18, duty counsel lawyers assisted over 643,970 persons for a cost of \$56.1 million.

The costs for the three major programs and \$81.4 million of Legal Aid Ontario's operational costs for its 17 district and area offices and other head office costs totalled \$476.1 million in 2017/18, an increase of 27% from \$373.9 million in 2013/14.

Our specific concerns are as follows:

Community Legal Clinics

- **Ontario Disability Support Program (ODSP) application and appeal cases comprise 44% of community legal clinics' workload.** In 2016/17, clinics handled 9,435 cases related to clients' ODSP applications as well as appeals when they had been turned down for ODSP. This was 44% of the clinics' caseloads. Legal Aid Ontario estimated that the total ODSP cases cost it approximately \$21 million, or about \$2,200 per case. This was about 24% of Legal Aid Ontario's clinic budget. Seventy-eight percent of respondents to our survey of community legal clinics indicated that if the ODSP case volume was reduced, they would be able to serve other needs in employment law, human rights matters, issues that impact senior citizens, and expanding the service areas that they already serve.
- **Working with the Ministry of Children, Community and Social Services (MCCSS) to reduce ODSP appeals presents an opportunity to reduce community**

legal clinics' usage and costs. Almost three-quarter of all ODSP appeals heard at the Social Benefits Tribunal (Tribunal) in 2017/18 were ruled against MCCSS's decisions. This high overturn rate is partly due to the fact that the Tribunal often receives more medical information at the time of the appeals than is previously submitted with the original applications to MCCSS. Another reason for the significant rate of decisions against MCCSS is that the Tribunal considers the applicants' oral testimony as formal evidence whereas the MCCSS mainly relies on medical records and other written evidence. The Ministry of the Attorney General, through funds transferred by Legal Aid Ontario, funds applicants who use clinic services and the Tribunal. Therefore, cost and time savings could likely be realized if the number of ODSP appeals could be reduced.

- **The clinics' new Information Management System was almost \$4 million over budget and three years late.** Legal Aid Ontario's clinic information system was completed in September 2017, three years late at a total cost of \$7 million (more than double its original budget of \$3.25 million). The primary causes of the delay and budget overruns were that the vendor was late in starting the project, encountered financial difficulties and was unable to complete the project before declaring bankruptcy in February 2017. Legal Aid Ontario subsequently had to hire the vendor's former employees on contract and have its own internal IT department manage the project. This likely could have been avoided if Legal Aid Ontario had evaluated the vendor's financial viability prior to awarding the contract.

Legal Aid Certificates

- **The process for Legal Aid Ontario to verify lawyers' billings is ineffective.** Legal Aid

Ontario does not have direct access to the original court documents and other information that contains the start and end time for each court proceeding. As such, it is difficult to verify both the nature of the court proceeding and the amount of time spent by the lawyer in court—both factors affect how much a lawyer is paid. In 2016/17, over 27,500 invoices for over 22,500 certificates issued included time billed for court proceedings. Legal Aid Ontario cannot verify these billings without obtaining the court transcripts from third-party transcriptionists for each invoice unless the courts start to track the length of proceeding, which should also be shared with Legal Aid Ontario. As a result, Legal Aid Ontario does not routinely verify lawyers' billing for the time spent in courts.

- **Follow-ups on billing issues on Guaranteed Daily Rate (Daily Rate) are not timely.**

The Daily Rate is a fixed fee of \$1,181 paid to lawyers if they are required to fly in to remote courts, or drive to a court that is more than 200 kilometres from the lawyer's office. Legal Aid Ontario noted instances of inaccurate billing from lawyers, but has not taken timely action to follow up on each case. For example, a lawyer billed almost \$150,000 from May 2013 to August 2016 under the Daily Rate despite the fact that the lawyer's office was only a short distance from the court. The lawyer should be paid an hourly rate, not the higher Daily Rate, for the service provided. While Legal Aid Ontario stopped paying for the Daily Rate since it notified the lawyer in August 2016 of its concern, it has not examined how much of the \$150,000 is allowed under the hourly rate and has not recovered any overpayment from the lawyer.

- **Private-sector lawyers are not assessed for quality nor are they peer reviewed.** More than 90% of certificate services and over one-third of duty counsel assists were delivered by private-sector lawyers in 2017/18. The Act

states that Legal Aid Ontario has the authority to direct the Law Society of Ontario to perform quality assurance audits of lawyers, but since its inception Legal Aid Ontario had not asked the Law Society of Ontario to do so. It did, however, refer lawyers to the Law Society, on a reactive basis, when it became aware of serious matters such as potential misconduct. Legal Aid Ontario received 211 complaints in 2016/17, of which about one-third concerned lawyers' services. This was a 30% increase from 162 complaints in 2012/13.

- **Private-sector lawyers are providing services without meeting all of Legal Aid Ontario's professional requirements.** Legal Aid Ontario lacks a policy to follow up on lawyers who have not met all its professional requirements for more than two years and on those who do not submit their annual self-report on continuous learning requirements. As a result, Legal Aid Ontario cannot ensure these lawyers have maintained the required competency level. For example, during the 2016 calendar year, 1,959 of the 5,423 private-sector lawyers on Legal Aid Ontario's rosters did not provide their annual self-report. Of the 1,959 lawyers who did not self-report, 395 billed Legal Aid Ontario \$7.7 million during the period from April 1, 2017, to March 28, 2018.

Financial Deficits at Legal Aid Ontario

Legal Aid Ontario incurred a total of \$40 million in deficits over two years—\$14 million in 2015/16 and \$26 million in 2016/17. We noted that the significant increase in refugee and immigration cases and Legal Aid Ontario's rushed decision-making in expanding eligibility for certificates contributed to these deficits. In particular:

- **Legal Aid Ontario has been using a larger portion of the provincial transfer payments to address the increase in refugee and immigration cases.** Legal Aid Ontario

has recently faced challenges managing the increase in refugee and immigration cases without a known increase of funding from the federal government. The provincial transfer allocated by Legal Aid Ontario for these cases increased by almost 30%, from \$19.3 million in 2014/15 to \$24.9 million in 2017/18. We noted that if federal funding was more predictable or stabilized, Legal Aid Ontario would be able to better plan and budget accordingly. As well, the agreement between the federal and Ontario governments does not specify a percentage split in sharing the refugee and immigration expenses between them. The decision to support immigrants and refugees is a federal government decision. We noted that, in 2017/18, British Columbia's federal funding portion was 72% of total funding, and Manitoba's was 90%. For Quebec, the federal funding portion was 69% of total funding in 2016/17. In contrast, Ontario's federal funding portion was only 37% in 2016/17 and 39% in 2017/18.

- **In June 2015, Legal Aid Ontario expanded its eligibility criteria for certificates in order to keep unspent funding.** In February 2015, Legal Aid Ontario realized that a 6% rise in financial eligibility thresholds covered by increased provincial funding did not result in the expected increase in certificates. Instead of returning the unused funding for 2015/16 to the Ministry as would have been required, Legal Aid Ontario expanded its non-financial eligibility criteria in June 2015 to allow more people to be approved for a certificate. More people qualified than it projected and that subsequently contributed to the deficits.

Duty Counsel

- **Duty counsel did not consistently track whether an eligibility test was required before providing legal services in court.** During 2016/17 (the most recent data

available), duty counsel did not perform an eligibility test for 95% of the individuals assisted on criminal matters. Duty counsel services are mainly provided without an eligibility test unless duty counsel suspects that the person may not be eligible and because some services (such as bail hearings) do not require that a person be financially eligible. However, because duty counsel did not consistently indicate whether a financial eligibility test was required for each case, it is unclear how many of the 95% should have been tested, and therefore may not have been eligible for legal aid.

This report contains 15 recommendations, consisting of 25 actions, to address our audit findings.

Overall Conclusion

Our audit concluded that, for **community legal clinics**, the number of Ontario Disability Support Program cases can be reduced to free up clinic resources for other needs. As well, Legal Aid Ontario overspent on the Clinic Information Management System and the system was completed three years late.

For **legal aid certificates**, Legal Aid Ontario's oversight of payments to private-sector lawyers can also be more effective. This is especially so when lawyers bill on an hourly basis for representing their clients in courts because the court systems do not track the length of proceedings. Also, Legal Aid Ontario is unable to ensure that consistently high-quality legal services are provided by private-sector lawyers. This is because it has not exercised its legislative authority by asking the Law Society of Ontario to perform quality reviews of lawyers providing legal aid services on a regular and proactive basis.

Legal Aid Ontario prepares long-term business and strategic plans regularly, but it should complete a thorough analysis before making key policy changes (particularly with regard to the eligibility requirement). It also needs to take precautions to not overspend its limited budget on refugee and

immigration cases, unless it can secure enough predictable funding from the federal government to serve the increasing demand in this area.

Further, Legal Aid Ontario cannot ensure clients who received **duty counsel** services are eligible because it does not consistently track whether an eligibility test was required and completed for most of the cases it assisted.

LEGAL AID ONTARIO OVERALL RESPONSE

Legal Aid Ontario welcomes the Auditor General's report, and appreciates the comprehensive audit that was performed by the Auditor General. Legal Aid Ontario agrees with, and has already started to address, the recommendations that are directed to Legal Aid Ontario.

Legal Aid Ontario exists to serve the low-income people of Ontario who require legal services. Legal Aid Ontario is committed to ensuring that these people are able to quickly access consistently high-quality legal services. Legal Aid Ontario is an independent agency and is accountable to taxpayers, always ensuring that public resources are used cost-effectively.

Legal Aid Ontario understands that clients are at the centre of our mandate, and to that end, is working hard to:

- ensure our clients receive high-quality legal services;
- eliminate red tape for clients in accessing service;
- streamline processes to maximize efficiency and effectiveness;
- demonstrate the impact and outcome of money spent;
- forecast the demand for legal aid services and respond accordingly; and
- demonstrate openness, transparency and accountability to the public.

2.0 Background

2.1 Overview

Legal Aid Ontario was established as a provincial agency reporting to the Ministry of the Attorney General under the *Legal Aid Services Act, 1998 (Act)*. It is publicly funded and tasked with administering the Province's legal aid program.

Legal Aid Ontario has a statutory mandate under the Act to provide access to justice throughout Ontario for low-income individuals by means of the following:

- providing consistently high-quality legal aid services in a cost-effective and efficient manner;
- encouraging and facilitating flexibility and innovation in the provision of legal aid services;
- identifying, assessing and recognizing the diverse legal needs of low-income individuals and of disadvantaged communities in Ontario; and
- providing legal aid services to low-income individuals through a corporation that will operate independently from the Government of Ontario but within a framework of accountability to the Government of Ontario for the expenditure of public funds.

Legal Aid Ontario's Board of Directors consists of 11 members appointed by the Lieutenant Governor in Council. Board members serve a two- or three-year term, at which time they can be reappointed.

In 2017/18, Legal Aid Ontario's total revenue was \$487.6 million. The provincial government provided \$365.4 million, or 75%, which is slightly below the range of 77%–80% over the four years prior to 2017/18. In the same year, Legal Aid Ontario had \$476.1 million in expenditures.

Figure 1 shows the breakdown of revenue, expenditures and the surplus or deficit from 2013/14 to 2017/18.

2.2 Description of Legal Aid Services

Legal Aid Ontario provides three main services: Legal Aid Certificate Program, community legal clinics and duty counsel.

Legal Aid Certificate Program

The **Legal Aid Certificate Program** is Legal Aid Ontario's largest program by expenditures.

Figure 1 shows that \$252.8 million (53% of expenditures) was spent on certificates in 2017/18. A certificate allows a client to retain a private-sector lawyer on one of Legal Aid Ontario's rosters (referred to as "panels" as defined by the Act). The certificate program has 15 rosters, related to criminal, family, civil, mental health or refugee areas of law. The lawyer then bills Legal Aid Ontario for the legal services provided to the client. Family income thresholds determine the client's eligibility initially. If the person is financially eligible, other, non-financial criteria are also assessed, such as whether incarceration is possible. A person might not receive a certificate, depending on the severity of the matter, but might instead receive assistance from duty counsel. Certificates are provided in the areas of criminal law, family law, immigration and refugee law, and civil law.

Private-sector lawyers who accept legal aid certificates are paid based on hourly rates and block fees, which are a set amount depending on the type of service provided, such as a bail hearing. The rates and fees are set by Legal Aid Ontario through regulations. Over 4,000 private-sector lawyers bill Legal Aid Ontario each year for the services they provide.

Figure 2 shows the expenditure, number of certificates issued and cost per certificate, by area of law, from 2013/14 to 2017/18. Specifically:

- The total number of certificates increased by 23%, from 83,658 to 102,873.
- The total certificate expenditure increased by 37%, from \$183.8 million to \$252.7 million in the period.

Figure 1: Legal Aid Ontario's Total Revenue and Expenditures, 2013/14–2017/18 (\$ million)

Source of data: Legal Aid Ontario

	2013/14	2014/15	2015/16	2016/17	2017/18	% Change	
						2013/14– 2017/18	2017/18 % of Total
Revenue							
Province	299.1	312.4	344.4	353.9	365.4	22.2	75
Federal government ¹	51.1	50.7	50.9	60.4	62.6	22.5	13
Law Foundation of Ontario	25.6	29.2	25.2	29.3	46.9 ²	83.2	10
Other ³	12.2	11.9	12.2	12.3	12.7	4.0	2
Total Revenue	388	404.2	432.7	455.9	487.6	25.7	100
Expenditures							
Certificate program	183.8	190.3	218.2	254.4	252.8	37.5 ⁴	53
Community legal clinics	75.5	83.9	92.3	87.1	85.8	13.6	18
Duty counsel	46.7	51.2	55.6	56.2	56.1	20.1	12
Administration and other ⁵	46.6	49.0	52.0	54.9	55.5	19.1	12
Program support ⁶	21.3	25.9	28.3	28.8	25.9	21.6	5
Total Expenditures	373.9	400.3	446.4	481.4	476.1	27.0	100
Surplus/(Deficit)	14.1	3.9	(13.7)	(25.5)	11.5		

1. Revenue from federal government is transferred to the province and is included in the provincial transfer payment to Legal Aid Ontario.

2. The increase from 2016/17 was mainly due to the increase in interest earned on the trust accounts maintained by the Law Foundation of Ontario.

3. Other includes client contributions, client and other recoveries, investment income, and miscellaneous income.

4. The increase was mainly due to the financial eligibility expansion funding discussed in [Section 4.1.2](#).

5. Administration and other includes head office costs, amortization and bad debts, service innovation projects and service provider support.

6. Program support includes operation costs incurred by regions, district and area offices, and the Client and Legal Centre (call centre).

- In 2017/18, the majority of certificates issued were for criminal law (56,777), followed by family law (27,049), refugee and immigration (13,687) and civil law (5,360).
- In 2017/18, family law certificates were the most costly, at an average of \$3,224 per certificate issued. This was mainly because family matters take longer to resolve. Next costly were criminal cases (\$2,260), refugee and immigration cases (\$2,170), and civil matters (\$1,399). The average cost per certificate was \$2,456.

Community Legal Clinics

Community Legal Clinics (clinics) provide a variety of services to low-income individuals in their local areas, mainly in areas other than criminal law or family law.

According to the Act, clinics are recognized as “the foundation for the provision of legal aid services in the area of clinic law.” It defines “clinic law” as the areas of law that particularly affect low-income individuals or disadvantaged communities, including legal matters related to (a) housing and shelter, income maintenance, social assistance and other similar government programs, and (b) human rights, health, employment and education.

Legal Aid Ontario funds 80 community legal clinics, including seven Student Legal Aid Societies, throughout the province. See [Appendix 1](#) for a list of all community legal clinics in Ontario by four regions. The clinics are not-for-profit, and each one is governed and managed by a volunteer board of directors. Clinics are independent from, but accountable to Legal Aid Ontario under the Act. In 2017/18, \$85.8 million (18% of total expenditures) was spent on community legal clinics (see [Figure 1](#)).

Figure 2: Certificate Expenditures, Number of Certificates Issued and Cost per Certificate, by Area of Law, 2013/14–2017/18

Source of data: Legal Aid Ontario

	2013/14	2014/15	2015/16	2016/17	2017/18	% Change 2013/14– 2017/18
Criminal						
Expenditures (\$ million)	107.5	105.7	117.5	130.5	128.3	19
# of certificates issued	54,949	54,182	63,688	63,855	56,777	3
Cost (\$)/certificate issued	1,956	1,951	1,845	2,044	2,260	16
Family						
Expenditures (\$ million)	52.8	59.1	72.7	88.9	87.2	65
# of certificates issued	19,027	22,086	30,195	30,303	27,049	42
Cost (\$)/certificate issued	2,775	2,676	2,408	2,934	3,224	16
Refugee and Immigration						
Expenditures (\$ million)	18.0	19.5	21.8	27.6	29.7	65
# of certificates issued	5,308	6,445	9,268	12,658	13,687	158
Cost (\$)/certificate issued	3,391	3,026	2,352	2,180	2,170	(36)
Civil						
Expenditures (\$ million)	5.5	5.9	6.3	7.4	7.5	36
# of certificates issued	4,374	4,566	5,108	5,293	5,360	23
Cost (\$)/certificate issued	1,257	1,292	1,233	1,398	1,399	11
All Areas of Law						
Expenditures (\$ million)	183.8	190.2*	218.3*	254.4	252.7*	37
# of certificates issued	83,658	87,279	108,259	112,109	102,873	23
Cost (\$)/certificate issued	2,197	2,179	2,016	2,269	2,456	12

* Slightly different than the certificate program expenditures shown in Figure 1 due to rounding.

Figure 3 shows the number of active clinic files and average cost per active file from 2012/13 to 2017/18.

Duty Counsel

Duty counsel are lawyers who can give immediate legal assistance to those appearing in court. In 2017/18, Legal Aid Ontario spent \$56.1 million (12% of total expenditures) on the duty counsel program (see **Figure 1**).

Duty counsel are available in all of Ontario's more than 50 courthouses, and about 30 remote and fly-in locations. Legal Aid Ontario employs close to 200 in-house duty counsel staff and pays about 1,120 private-sector lawyers on seven rosters—related to criminal, family, and civil areas of

law—to provide duty counsel services in the courthouses on an hourly or a daily rate.

Duty counsel provide more basic representation than a lawyer retained on a certificate. Duty counsel advise about legal rights, obligations and the court process. For criminal matters, duty counsel do bail hearings, first appearances, adjournments, guilty pleas, and sentencing. For family law matters, duty counsel negotiate and settle issues, review and prepare court documents, and assist their client in the courtroom for child protection hearings, garnishment and support hearings, request adjournments, and argue motions. Although certificate services include all of the above services, a lawyer retained on a certificate likely provides more time to the client and could go to trial.

Figure 3: Number of Active Clinic Files and Average Cost per Active File, 2012/13–2017/18

Source of data: Legal Aid Ontario

	2012/13	2013/14	2014/15	2015/16	2016/17	2017/18	% Change 2012/13– 2017/18
# of clinic files	202,390	208,019	205,619	208,775	226,134	170,429	(16)
Average cost per file (\$)	357	363	408	442	385	503	41

Note: Prior to 2017/18, files included any services provided to a client, such as case representation, brief services, advice and referrals. Starting 2017/18, the new clinic system includes files only when case representation is provided to a client. As a result, the number of files recorded in 2017/18 is significantly lower than previous years. This also explains the higher cost per case in 2017/18.

Figure 4: Number of Persons Assisted by Duty Counsel, by Area of Law, 2013/14–2017/18

Source of data: Legal Aid Ontario

Area of Law	2013/14	2014/15	2015/16	2016/17	2017/18	% Change 2013/14– 2017/18
Criminal	467,510	438,343	434,772	456,594	504,636	8
Civil and others*	163,249	160,990	153,660	143,976	139,339	(15)
Total	630,759	599,333	588,432	600,570	643,975	2

* Others include family, tenant, and mental health matters.

Figure 4 shows the total number of persons assisted by duty counsel from 2013/14 to 2017/18, by area of law.

2.3 Eligibility

There are different eligibility criteria for legal aid certificates, duty counsel services and clinic services.

Eligibility for Legal Aid Certificates

Legal Aid Ontario follows two categories of eligibility criteria for issuing legal aid certificates: financial and non-financial.

Financial Eligibility Criteria—In order to be eligible for a certificate, an applicant's gross family income must fall below the income levels listed in **Figure 5** depending on whether a client has a contribution agreement (explained below) or faces domestic violence. In addition, applicants of certificates must have no more than \$2,676 in liquid assets, such as cash and investments that can be

cash in, in order to be eligible, or no more than \$10,000 for domestic violence clients. The most recent increase of the financial eligibility thresholds was on April 1, 2018. The financial eligibility thresholds have increased 6% annually since 2014, with the intent that there will be an annual increase every year for 10 years until 2024 (explained in **Section 4.1.2**). The annual increase has not been approved by the Province as of May 2018. Provincial regulation sets financial eligibility thresholds.

Non-financial Eligibility Criteria—Criteria relating to the severity of the legal matter, such as the probability of jail time, is also considered to determine whether the applicant is eligible for a certificate. If the matter will not result in severe consequences, the client may not be eligible for a certificate (see Certificate Program above). As part of its role under the Act, Legal Aid Ontario may adjust its non-financial eligibility criteria, with the approval of its Board, in order to manage the volume of certificates issued, so that certificate budgets can be adhered to.

Figure 5: Maximum Family Income Eligible for a Legal Aid Certificate or Duty Counsel, Effective April 1, 2018

Source of data: Legal Aid Ontario

# of Family Members	Certificate	Certificate	Certificate	Duty Counsel (\$)
	(without Contribution Agreement) (\$)	(with Contribution Agreement) (\$)	Domestic Violence ¹ (\$)	
Single boarders ²	9,501	10,973	n/a	n/a
1	14,453	16,728	22,720	22,720
2	25,003	30,110	32,131	32,131
3	28,503	35,088	39,352	39,352
4	32,207	40,307	45,440	45,440
5+	35,749	45,446	50,803	50,803

1. Certificates issued to clients who are facing domestic violence are considered a priority and thus have a higher income threshold than other certificates.
2. A single boarder is an individual who is in a living arrangement where living expenses, such as food and shelter, are provided for them. The single boarder has a slightly lower income threshold due to decreased living expenses.

Contribution Agreements—Individuals may be eligible for a certificate with a contribution agreement, requiring them to sign a lien against a property or direction to cover all or part of the legal fees related to their matter. Monthly repayments range from \$50 to \$115 depending on the income levels and number of family members, with some exceptions due to personal circumstances. Legal Aid Ontario has a process to ensure all outstanding debts are collected. **Figure 5** shows the family income levels for a certificate with and without a contribution agreement.

Eligibility for Duty Counsel in Courts

Duty counsel lawyers at the courts are responsible for assessing the financial eligibility for clients who need legal assistance when applicable. Income level cut-offs are specified where the applicant's gross family income must fall below the income levels listed in **Figure 5** in order to be eligible for duty counsel assists. Also, all applicants of duty counsel services must have no more than \$2,007 in liquid assets in order to be eligible. The financial eligibility thresholds for duty counsel services are also set by regulation, and they are generally higher than the thresholds for certificates. The higher the thresholds, the more people would be financially eligible for services.

Eligibility for Services Provided by Community Legal Clinics

As set out in regulation, Legal Aid Ontario establishes guidelines for clinics to determine financial eligibility of clients to receive clinic services. Clinics may use discretion when considering the financial situation of the client on a case-by-case basis approved by each clinic's board of directors. Clients of clinics must provide evidence of income and asset eligibility.

Figure 6 presents Legal Aid Ontario income eligibility guidelines for clinic services. A net asset guideline also applies, where applicants of clinic services must have less than \$12,000 in net assets (cash, bonds, stocks, mutual funds less short-term debt) in order to be eligible.

2.4 Key Players in Ontario's Legal Aid System

Figure 7 depicts the key players who are involved in delivering legal aid services in Ontario, as well as the flow of funding within the system.

Ministry of the Attorney General (Ministry)

The Ministry is mainly accountable and responsible for the following:

Figure 6: Guideline for Maximum Family Income Eligible for Services Provided by Community Legal Clinics, Effective April 1, 2018

Source of data: Legal Aid Ontario

# of Family Members	One-Adult Family		Two-Adult Family	
	Automatically Eligible (\$)	Discretionary Financial Eligibility* (\$)	Automatically Eligible (\$)	Discretionary Financial Eligibility* (\$)
1	21,144	22,720	n/a	n/a
2	24,490	32,131	28,638	32,131
3	28,638	39,143	30,980	39,352
4	30,980	42,288	34,192	45,440
5	34,192	46,303	36,667	49,648
6+	36,667	50,518	39,879	50,803

* The clinic's board of directors may use discretion to consider eligibility if the applicant's family income is above the Automatically Eligible but below the Discretionary Financial Eligible threshold. Factors such as the applicant's debt load, necessary transportation costs, and excessive child-care costs are considered when making an eligibility decision.

- reviewing and approving Legal Aid Ontario's budget for its business and operational plans and recommending to Treasury Board what funding to provide;
- analyzing reports and other sources of information to identify performance issues and concerns; and
- undertaking risk assessments of Legal Aid Ontario on behalf of the Attorney General and recommending corrective action if necessary.

The Federal Government

The Province has an agreement for funding with the federal government as represented by the Minister of Justice of Canada respecting criminal legal aid and immigration and refugee legal aid. While the funding for criminal legal aid is based on a predetermined formula, the funding of immigration and refugee legal aid is based on the case volume from the prior year. The most recent agreement covers the period from April 1, 2017, to March 31, 2022. For 2017/18, the contribution from the federal government was \$46.7 million for criminal legal aid, and \$15.9 million for immigration and refugee legal aid cases (further discussed in **Section 4.1.1**).

Law Foundation of Ontario (Law Foundation)

The Law Foundation has a mandate to improve access to justice for the people of Ontario. It achieves this mandate through a variety of grants and awards in addition to annual payments to Legal Aid Ontario. The Law Foundation's primary source of revenue is interest earned from lawyers' and paralegals' trust accounts. At least 75% of this revenue after operating expenses must be given to Legal Aid Ontario under the Law Society Act.

Private-Sector Lawyers and Paralegals

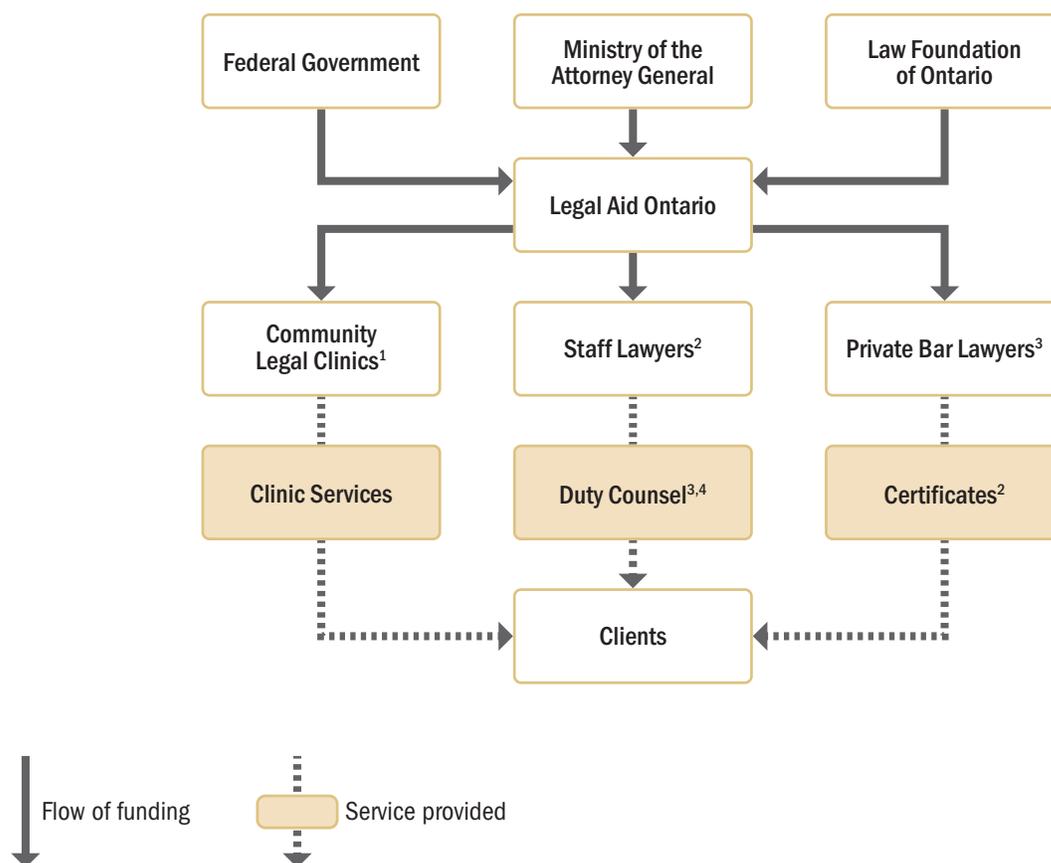
Under the *Legal Aid Services Act, 1998* (Act), only a lawyer or someone under the direct supervision of a lawyer, such as a law student or paralegal, can provide legal services. Lawyers can work for Legal Aid Ontario directly as employees, charge for services through the certificate program, or provide duty counsel services on a per diem basis, or as employees of community legal aid clinics.

The Law Society regulates paralegals to provide legal services to the public. Community legal clinics employ paralegals to provide clinic law services.

In order to provide certificate and/or duty counsel services, lawyers must register to be on Legal Aid Ontario's roster for the type of law that they practise. Legal Aid Ontario has 15 certificate

Figure 7: Key Players in Ontario's Legal Aid System

Source of data: Legal Aid Ontario



1. Community legal clinics hire lawyers, paralegals, and other employees to provide clinic services.
2. About 10 staff lawyers also provide certificate services.
3. Of the more than 4,000 private bar lawyers, about 1,100 of them also provide duty counsel services in courts.
4. Legal Aid Workers, paid by Legal Aid Ontario, also work in the courts to assist duty counsel.

rosters, (such as criminal, family, refugee and child protection) and seven duty counsel rosters (such as criminal, family and general advice). Its professional standards provide the minimum experience and professional development requirements that lawyers must meet.

Law Society of Ontario (Law Society)

The Law Society governs Ontario's licensed lawyers and paralegals in the public interest by ensuring they meet high standards of learning, competence, and professional conduct. Under the Act, only the Law Society can conduct quality assurance audits of

lawyers who provide legal aid, although Legal Aid Ontario may direct the Society to do so and reimburse it for costs.

2.5 Organizational Structure

Legal Aid Ontario has about 980 full-time equivalent employees throughout the provincial office and district offices in the four regions, which include the Greater Toronto Area, Southwest region, North region and the Central/Eastern region. Seventeen district and area offices deliver legal aid services within the four regions. In addition to the 17 district and area offices, Legal Aid Ontario maintains a

presence in each of Ontario's over 50 courthouses. Refer to **Appendix 2** for a description of Legal Aid Ontario's relevant branches and their corresponding responsibilities.

3.0 Audit Objective and Scope

The objective of our audit was to assess whether Legal Aid Ontario had effective systems and procedures in place to ensure that:

- appropriate legal aid services are provided to low-income and eligible Ontarians in a cost-effective and timely manner;
- payments to lawyers and community legal clinics are in accordance with legislation and agreements; and
- accurate and complete data on the effectiveness of Legal Aid Ontario's key services and programs is collected, analyzed, used for decision-making and service improvements, and publicly reported.

In planning for our work, we identified the audit criteria (see **Appendix 3**) we would use to address our audit objective. These criteria were established based on a review of applicable legislation, policies and procedures, internal and external studies, and best practices. Senior management reviewed and agreed with the suitability of our objectives and associated criteria.

We conducted our audit between December 2017 and June 2018. We obtained written representation from Legal Aid Ontario's and the Ministry of the Attorney General's management that, effective November 1, 2018, they had provided us with all the information they were aware of that could significantly affect the findings or the conclusion of this report.

Our audit work was conducted at Legal Aid Ontario's head office in Toronto. In conducting our audit, we reviewed relevant documents, analyzed information, interviewed appropriate Legal Aid Ontario staff, and reviewed relevant research from

Ontario and other Canadian provinces, as well as jurisdictions in other countries. The majority of our file review went back three to five years, with some trend analysis going back as far as 10 years.

We conducted the following additional work:

- reviewed the work conducted by Legal Aid Ontario's internal audit unit and considered the results of these audits in determining the scope of this value-for-money audit.
- visited and conducted more in-depth interviews with key personnel at four community legal clinics representing all four geographic regions, as well as the Association of Community Legal Clinics of Ontario. We spoke to one specialty clinic that advocates for income security for low-income individuals. We also conducted unannounced visits at an additional 16 community legal clinics to speak with on-site personnel and observe their operations.
- met and interviewed both criminal and family duty counsel in Toronto, London, Ottawa and Thunder Bay in order to gain an understanding of unique issues within each geographic region in Ontario.
- talked with representatives from stakeholder groups, including the Law Society of Ontario (Law Society), the Criminal Lawyers Association of Ontario and the Social Benefits Tribunal. We also obtained relevant appeal data from the Social Benefits Tribunal. We observed a hearing at the Landlord and Tenant Board. We also met with representatives from the Nishnawbe-Aski Legal Services Corporation, the Aboriginal legal services corporation which provides services to Nishnawbe-Aski Nation peoples and which is funded by Legal Aid Ontario. As well, we spoke with representatives from the Office of the Children's Lawyer, Ministry of the Attorney General, Ministry of Children, Community and Social Services and Department of Justice Canada.

- spoke with a member of Legal Aid Ontario's Board of Directors, who was a former board member of the Law Society, to obtain further understanding of Legal Aid Ontario's relationship with the Law Society.
- engaged an expert with legal background and expertise in government-funded legal aid plans, access to justice, and poverty law.
- conducted a survey with the remaining 76 community legal aid clinics that we did not have an in-depth discussion with to obtain an understanding of how clinic law services are delivered in Ontario. The response rate for the survey was 66%.
- considered the relevant issues reported in our 2011 Annual Report audit of Legal Aid Ontario and incorporated them into our audit work.

We conducted our work and reported on the results of our examination in accordance with the applicable Canadian Standards on Assurance Engagements—Direct Engagements issued by the Auditing and Assurance Standards Board of the Chartered Professional Accountants of Canada. This included obtaining a reasonable level of assurance.

The Office of the Auditor General of Ontario applies the Canadian Standards of Quality Control and, as a result, maintains a comprehensive quality control system that includes documented policies and procedures with respect to compliance with rules of professional conduct, professional standards and applicable legal and regulatory requirements.

We have complied with the independence and other ethical requirements of the Code of Professional Conduct of the Canadian Professional Accountants of Ontario, which are founded on fundamental principles of integrity, objectivity, professional competence and due care, confidentiality and professional behaviour.

4.0 Detailed Audit Observations

4.1 Rising Costs of Refugee and Immigration Cases and Legal Aid Ontario's Rushed Decision-Making Contributed to \$40 Million Deficit

Legal Aid Ontario incurred a total of \$40 million in deficits in two years—\$14 million in 2015/16 and \$26 million in 2016/17. We noted two major contributing factors as follows:

- there was a significant increase in refugee and immigration cases (discussed in **Section 4.1.1**); and
- Legal Aid Ontario expanded its eligibility criteria for certificates in order to keep unspent funding (discussed in **Section 4.1.2**).

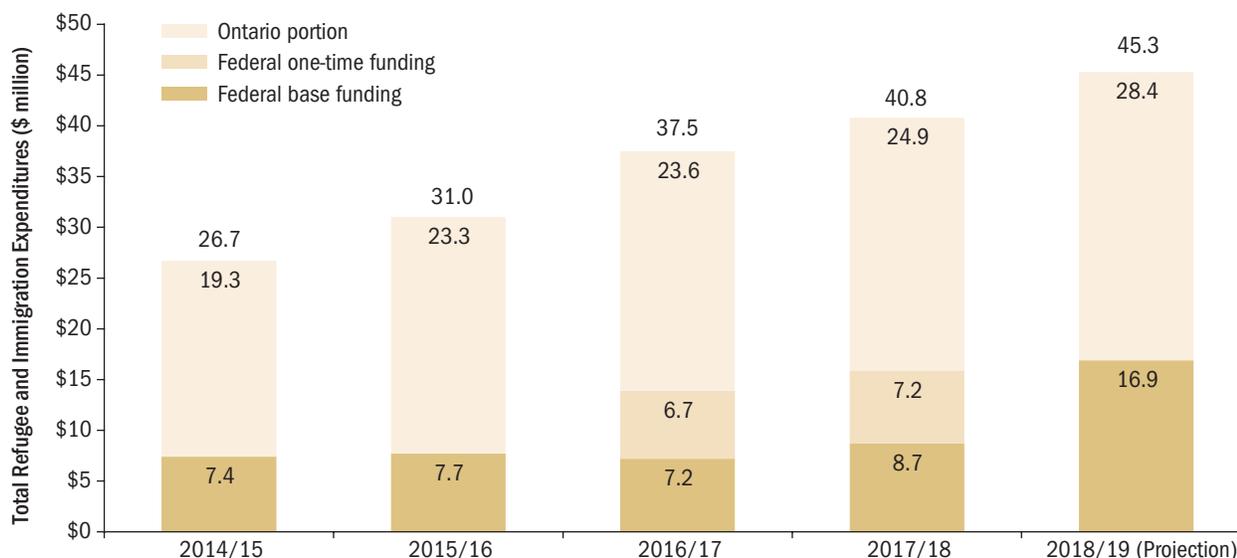
4.1.1 Unpredictable Federal Funding Leaves Legal Aid Ontario Exposed to Rising Costs of Refugee and Immigration Cases

Legal Aid Ontario has recently faced challenges managing the increase in refugee and immigration cases without a known increase of funding from the federal government. We noted that if federal funding was more predictable or stabilized, Legal Aid Ontario would be able to better plan and budget accordingly. We also noted that the agreement between the federal and Ontario governments does not specify a percentage split in sharing the refugee and immigration expenses between them. The decision to support immigrants and refugees is a federal government decision. The *Constitution Act, 1982* specifies that citizenship, immigration, and deportation are responsibilities and duties of the federal government.

However, our audit found that Legal Aid Ontario has been using a larger portion of the provincial transfer payments—covering certificates, legal clinics and duty counsel—to address the increase in refugee and immigration cases (as shown in **Figure 8**).

Figure 8: Difference Between Federally Funded and Provincially Funded Refugee and Immigration Expenditures* (\$ million)

Source of data: Legal Aid Ontario



* Expenditures include certificates, staff costs, clinics, duty counsel, administration and other related to immigration and refugee matters.

- In 2014/15, the Province provided \$19.3 million to Legal Aid Ontario and the federal government contributed \$7.4 million, based on a funding formula agreement (explained below) it has with the Province.
- In 2017/18, the federal government contributed just \$8.7 million through the agreement, but the provincial transfer, such as from the Province and the Law Foundation, rose to \$24.9 million, which was close to a 30% increase from \$19.3 million in 2014/15. The federal government also provided \$7.2 million in that fiscal year, but that was one-time funding that Legal Aid Ontario had to request.
- In May 2018, Legal Aid Ontario requested a total of \$17.5 million from the federal government, and in September 2018, the federal government committed to providing \$16.9 million for refugee and immigration legal aid for 2018/19. Legal Aid Ontario is projecting that, for 2018/19, even with the federal funding, it might still require at least

\$7.4 million more that would need to be covered from provincial revenue sources.

The allocation of immigration and refugee funding provided by the Province has steadily increased, from \$19.3 million in 2014/15 to \$23.6 million in 2016/17. Given that, prior to its deficit, Legal Aid Ontario spent \$19.3 million on immigration and refugee cases in 2014/15, we estimated that the subsequent increase in spending over and above \$19.3 million in this area had contributed to about \$8 million of the \$40 million deficit over 2015/16 and 2016/17. Legal Aid Ontario indicated that, in the absence of additional funding from the federal government, it has had to rely on provincial funds to address the increase in refugee and immigration cases.

Between 2015/16 and 2016/17, Legal Aid Ontario issued an increased number of certificates for refugees and immigrants, and community legal clinics provided legal services to more immigrants, as follows:

- The number of refugee and immigration certificates issued increased by 37%, from 9,268 to 12,658.
- The number of immigration and citizenship cases opened at community legal clinics increased by 24%, from 936 to 1,161.

The increases in demand were driven by many factors, including the unstable geopolitical environment that resulted in more people seeking asylum in Ontario and requiring legal aid services in Ontario.

The federal government specifies the amount of funding to be distributed to Ontario's Ministry of the Attorney General related to immigration and refugee legal aid. An agreement is in place covering the period April 1, 2017, to March 31, 2022. The annual funding amount is calculated using Ontario's total demand for immigration and refugee services, using statistics provided by the Immigration and Refugee Board, Immigration, Refugees and Citizenship Canada, and the Federal Court.

This agreement states that the federal government may provide additional one-time financial resources in addition to the amounts provided in the agreement, if needed, and supported by a business case by each province.

The Department of Justice Canada, which is in charge of the funding calculation, indicated that the formula to calculate immigration and refugee funding may change in the future because of anticipated process changes at the Immigration and Refugee Board. An April 2018 review of the Immigration and Refugee Board made over 60 recommendations that could impact how and when lawyers are involved in all parts of the immigration and refugee hearing process. This could directly impact how much legal aid is required. At the time of our audit, there were no confirmed plans or changes to the funding formula.

The federal government allocates immigration and refugee funding to six provinces that provide immigration and refugee services: British Columbia, Alberta, Manitoba, Ontario, Quebec, and Newfoundland and Labrador. While we were unable to

obtain information from Alberta and Newfoundland and Labrador for federal funding relating to immigration and refugee services, we noted that, in 2017/18, British Columbia's federal funding portion was 72% of total funding, and Manitoba's was 90%. For Quebec, the federal funding portion was 69% of total funding in 2016/17. In contrast, Ontario's federal funding portion was only 37% in 2016/17 and 39% in 2017/18.

Legal Aid Ontario said it supports immigration and refugee services, but also said it may have to cut other services if federal funding is not sufficient to cover the cost of the growing demand for immigration and refugee legal aid.

RECOMMENDATION 1

To help meet increasing service demands for refugee and immigration related cases, resulting from federal policy decisions, we recommend that Legal Aid Ontario, together with the Ministry of the Attorney General, work with the federal government (as represented by the Minister of Justice Canada) to obtain a more predictable and appropriate proportion of expense coverage from the federal government.

LEGAL AID ONTARIO AND MINISTRY RESPONSE

Legal Aid Ontario and the Ministry of the Attorney General agree to work collaboratively to demand that the federal government provide more predictable and appropriate funding for immigration and refugees that reflects the cost of delivering these services.

4.1.2 Eligibility Criteria for Certificates Was Expanded in Order to Use Unspent Funding

Legal Aid Ontario's rushed decision-making contributed to the \$40 million deficit—after quickly expanding eligibility for certificate funding for court cases. It did so because it wanted to use the funding it would have had to return to the Ministry

Figure 9: Changes to Legal Aid Ontario's Non-financial Eligibility Criteria for a Certificate in Criminal Matters*

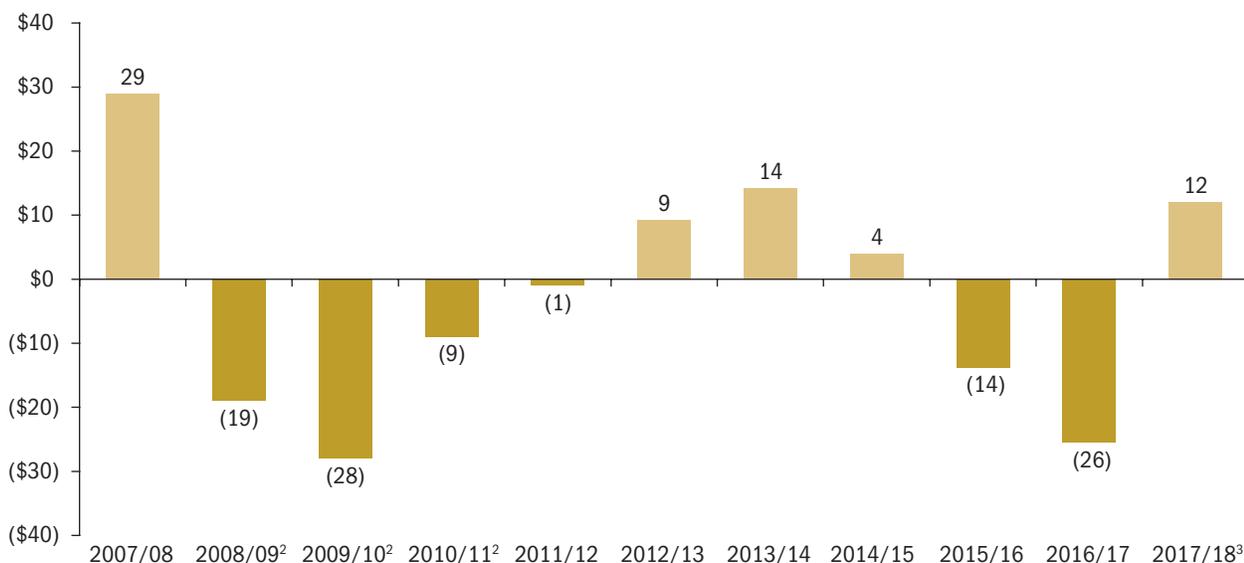
Prepared by the Office of the Auditor General of Ontario

Before June 1, 2015	June 1, 2015–December 31, 2016	After December 31, 2016
Financially eligible people who faced incarceration if convicted would qualify.	Financially eligible people who faced secondary consequences if convicted would qualify. Secondary consequences included loss of employment, loss of planned educational opportunities, or a significant impact on access to family and child custody.	Financially eligible people who faced incarceration if convicted would qualify. Some vulnerable people, such as First Nations, Métis or Inuit, or those with mental health issues, are assessed for eligibility on a case-by-case basis, even if there is no risk of incarceration.

* This figure includes criminal examples only.

Figure 10: Legal Aid Ontario Operating Surplus/Deficit¹, 2007/08–2017/18 (\$ million)

Source of data: Legal Aid Ontario



1. Legal Aid Ontario may transfer a surplus of up to \$20 million to its Contingency Reserve Fund. The fund's purpose is to give Legal Aid Ontario the ability to fund severe and extraordinary financial emergencies. Surpluses are used to reduce the accumulated deficit and used to replenish the depleted Contingency Reserve Fund.
2. The deficits in 2008/09 to 2010/11 were a result of the economic downturn starting in 2008. Interest rates dropped significantly after 2008, which resulted in decreased revenue from the Law Foundation of Ontario.
3. While Legal Aid Ontario had a net accumulated deficit of about \$30 million as of March 31, 2017, it had realized a surplus of about \$12 million in 2017/18 to reduce the accumulated deficit to about \$18 million as of March 31, 2018.

of the Attorney General (Ministry) if it was not spent within the 2015/16 fiscal year.

In 2014, Legal Aid Ontario began receiving additional annual provincial funding to raise the financial eligibility threshold for major legal services, including legal aid certificates, to increase the number of people qualifying for Legal Aid Ontario assistance. The financial eligibility threshold had not been increased since 1996.

However, in February 2015, when Legal Aid Ontario found that it had not issued substantially

more certificates to spend the additional funding of \$17.1 million, it quickly expanded non-financial eligibility criteria in June 2015. That led to a higher number of certificates being issued than it anticipated, putting it in a deficit. Refer to **Figure 9** for the changes in non-financial eligibility coverage between June 1, 2015, and up to and after December 31, 2015. Legal Aid Ontario issued more certificates than it had expected—28% more between 2014/15 and 2016/17.

Figure 11: Financial Eligibility Expansion Funding to Legal Aid Ontario by the Province, 2014/15–2023/24 (\$ million)

Source of data: Legal Aid Ontario

	Funding ¹
Approved by the Province	
2014/15	6.4 ²
2015/16	31.5
2016/17	48.8
2017/18	67.0
2018/19	86.3 ³
2019/20	106.4 ³
2020/21	120.1 ³
Not Yet Approved by the Province	
2021/22	123.2 ⁴
2022/23	126.4 ⁴
2023/24	129.8 ⁴

1. Legal Aid Ontario allocated about 65% of the funding to the certificate program, 20% to clinics, 5% to duty counsel, and 10% to administration costs.
2. Legal Aid Ontario received, in November 2014, \$6.4 million, which is pro-rated based on the annual amount of \$15.3 million for 2014/15.
3. The total funding committed by the Province from 2018/19 to 2020/21 was \$312.8 million.
4. In 2014, Legal Aid Ontario requested a total of \$379.4 million for the years from 2021/22 to 2023/24. As of May 2018, the Province has not approved the amount yet.

Legal Aid Ontario prepares long-term business and strategic plans regularly, but it needed to do more analysis before making key policy changes in spending the financial eligibility funding committed by the provincial government. Increasing the pool of people eligible for legal aid certificates requires detailed budgetary planning and appropriate forecasting for future certificates. However, Legal Aid Ontario changed its policies too fast, resulting in more people becoming eligible than projected, and resulting in the deficit situation. **Appendix 4** details significant events that occurred relating to the deficits in 2015/16 and 2016/17.

Figure 10 shows Legal Aid Ontario's surpluses and deficits from 2007/08 to 2017/18. **Figure 11** shows the rise in total funding approved by the Province from 2014/15 to 2020/21, and the

amount requested by Legal Aid Ontario that has not yet been approved by the Province as of May 2018.

Increased provincial funding allowed for an increase of 6% in the financial eligibility threshold for certificates starting on November 1, 2014, with the intent that there be an annual increase every year for 10 years until 2024. **Figure 12** provides the actual and planned change in the gross income threshold (for a single-person family) up to 2023/24.

Since Legal Aid Ontario has three more years of financial eligibility funding from the Ministry of the Attorney General (see **Figure 11**) totalling \$312.8 million from 2018/19 to 2020/21, it needs to increase either financial or non-financial eligibility with caution and not to exceed this fixed budget.

As well, the sudden changes in the non-financial eligibility criteria, shown in **Figure 9**, also affected the people who were trying to qualify for Legal Aid Ontario assistance. More people qualified when the eligibility criteria were expanded in June 2015. But when the eligibility criteria were tightened in December 2016, people who would have qualified from June 2015 to then were suddenly disqualified by the policy change. Legal Aid Ontario serves a vulnerable segment of the population and in future needs to ensure that it does not need to reverse policies that were rolled out too quickly, thereby taking away services from low-income people.

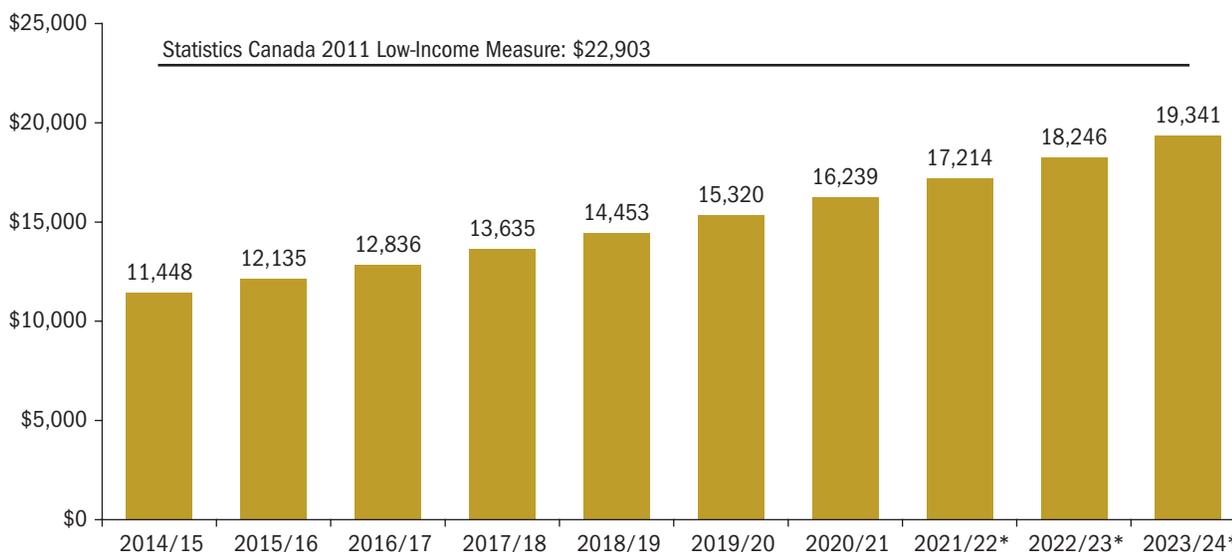
4.1.3 Legal Aid Ontario Now Collecting Race-Based Client Information to Formulate Service Strategies

On April 1, 2018, Legal Aid Ontario started to collect race-based information on the clients it serves under the certificate program. It cites that understanding which racial groups use its services will help it identify whether all demographics are receiving the same services and to see whether special services and strategies are required.

Legal Aid Ontario identified that, in April and May 2018, certificates were issued to the following racial groups:

Figure 12: Legal Aid Ontario’s Financial Eligibility Income Thresholds (for a Single-Person Family) for Certificates, 2014/15–2023/24 (\$)

Source of data: Legal Aid Ontario



* Legal Aid Ontario projected the income eligibility thresholds for the period between 2021/22 and 2023/24 and that had not been reflected by the Legal Aid Services Act Regulation as of June 2018.

- 11% to 13% Indigenous clients;
- 32% to 37% visible minority clients;
- 44% to 48% white clients (Legal Aid Ontario uses the term “non-visible minority”); and
- 7% to 9% “others.”

Legal Aid Ontario currently has a strategy for serving Indigenous clients. Also, in January 2018, the Black Legal Action Centre was announced, to be opened in 2018 with funding from Legal Aid Ontario.

As well, Legal Aid Ontario has identified that major users of the legal aid system are repeat offenders and people who are incarcerated while waiting for bail hearings or trials. Over 12 years up to 2017/18, 47% of individuals who received criminal certificates were issued more than one certificate during this time. Thirty percent were issued more than two certificates. Also, Ontario has more people incarcerated on remand awaiting trial than those who are sentenced. Significant backlog for bail courts is a contributing factor to the large remand population. Statistics Canada reported that, for Ontario, in 2016/17, about 70% of the incarcerated population were awaiting trial.

For family law, about three out of four certificates are issued for women, and over 50% of these were for domestic violence cases.

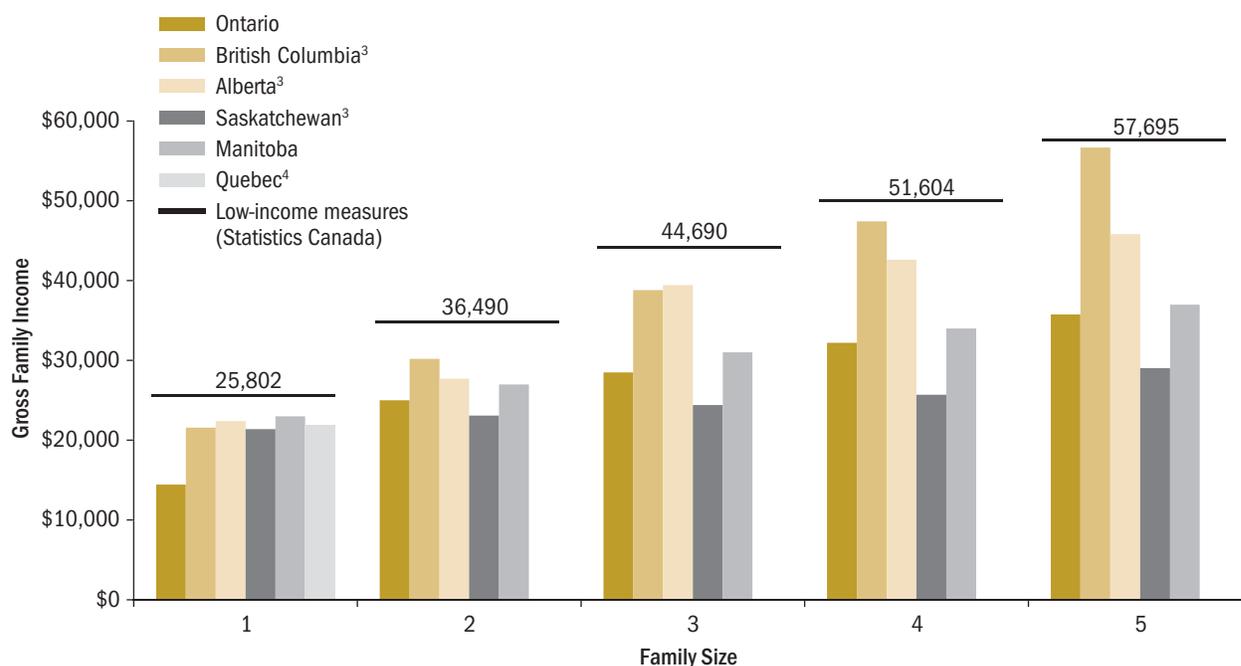
Gathering and analyzing these statistics is a good step in understanding that the gross income threshold is not the only way to evaluate access to justice for low-income individuals. Other factors, such as what type of legal problems are covered and the amount and type of service provided, can also be reviewed.

4.1.4 Legal Aid Ontario Plans to Meet Statistics Canada 2011 Low-Income Definition by 2024

As discussed in **Section 4.1.2**, in 2014, the provincial government increased financial eligibility thresholds (the higher the threshold, the more people would be eligible for services) for all major legal services—legal aid certificates, duty counsel and clinic services. The intent of the amendment was to make more Ontarians eligible for legal aid services by meeting Statistics Canada’s 2011 low-income definition by 2024.

Figure 13: Comparison of Legal Aid Ontario's Gross Income Threshold for Certificate Eligibility to Other Large Provinces, as of April 2018²

Sources of data: Legal Aid Ontario and Statistics Canada



1. Provinces with population of over one million are included.
2. Most provinces, including Ontario, require an applicant's assets to be considered when determining eligibility. We excluded asset assessments from our comparison.
3. British Columbia, Alberta and Saskatchewan reported their income thresholds on a net income basis while the remaining provinces reported on a gross income basis. Therefore, we adjusted the income threshold for British Columbia, Alberta and Saskatchewan so that their gross income figures are comparable to other jurisdictions.
4. Quebec uses a different definition of family income and is not comparable for a family size of more than one.

After 10 years, in 2024, the financial eligibility threshold (based on a family gross income) for a single-person family will be \$19,341, which will be closer to the Statistics Canada 2011 low-income measure of \$22,903. Refer to **Figure 12** for the anticipated change in the gross income threshold (for a single-person family) up to 2023/24, and **Figure 11** for the cost associated in achieving the plan.

Comparing Ontario with other large provinces with a population over one million (**Figure 13**), we noted for a single-person family, as of April 1, 2018, Ontario's gross income threshold is the lowest, followed by Saskatchewan, British Columbia, Quebec, Alberta and Manitoba. For a family of more than one, Ontario's gross income threshold is roughly in the middle: higher than Saskatchewan but lower than British Columbia, Alberta and Manitoba. (Quebec is excluded because it uses a different def-

inition of family income and is not comparable for a family size of more than one.)

To understand how much Ontario pays for legal aid services compared with other provinces, we calculated the legal expenditure per capita for large provinces (British Columbia, Alberta, Saskatchewan, and Manitoba) where information is publicly available. We found that, in 2016/17, Ontario had the highest legal aid expenditure per person at \$33, whereas British Columbia had the lowest legal aid expenditure per capita at \$18. This is because Legal Aid Ontario, in general, provides a relatively broader range of legal services than other provinces. For example, Ontario funds poverty law through the clinic system, covering areas such as landlord and tenant, employment, human rights, and social assistance matters. British Columbia does not fund any of these matters. (Clinic services are discussed in **Section 4.3.5**.)

RECOMMENDATION 2

To help keep spending of limited legal aid funding within budget, we recommend that Legal Aid Ontario:

- roll out new initiatives with proper analysis, monitor the impact and take corrective action in the event of cost escalation; and
- seek approval from the Ministry of the Attorney General before using any surplus or unused funding.

LEGAL AID ONTARIO AND MINISTRY RESPONSE

In 2015/16, Legal Aid Ontario (LAO) used its funding to expand services to meet unmet demand for services; when that unmet need proved too great, LAO took corrective action by limiting the expansion and implementing a balanced budget plan to eliminate the deficit, which resulted in a balanced budget in 2017/18. LAO continues to refine stronger processes for analyzing the use of funding.

The Ministry of the Attorney General agrees with the recommendation and will work with LAO to return any surplus or unused funding back to the Ministry.

4.2 Legal Aid Certificates

4.2.1 The Process for Legal Aid Ontario to Verify Lawyers' Billings Is Ineffective

Legal Aid Ontario does not have direct access to original court documents and other information that contains the start and end time for each court proceeding. It therefore is difficult to verify the nature of the proceeding and the actual time lawyers spent at the proceeding; both factors affect how much lawyers are paid.

Although Legal Aid Ontario can verify that lawyers attended court on behalf of their clients for criminal, family and civil cases on any given day, it cannot easily track the amount of time lawyers

spend in court. Some fees are hourly; others are a block fee, which is a set amount depending on the type of service provided, such as a bail hearing. In 2017/18, the certificate program cost \$252.8 million, of which \$232.4 million was paid to over 4,000 private-sector lawyers. The remaining \$20.4 million in expenditures were salary for staff lawyers who also provide certificate services.

Time-Consuming and Unreliable Way to Verify the Nature of Court Proceeding

Administration of Ontario's courts is the responsibility of the Ministry of the Attorney General (Ministry). Court office staff manually key information into the court information systems and the original court documents are filed in physical form.

In order to verify the nature of the proceeding, Legal Aid Ontario currently requires the lawyer to request copies of original court documents from the courthouse and provide them to Legal Aid Ontario. For example:

- If a lawyer submits a bill to Legal Aid Ontario for payment on a criminal case, he or she could bill \$754 for a court attendance to complete a guilty plea if the Crown elected to proceed summarily, which is a less complex legal matter. Or the lawyer could bill \$1,411 if the Crown elected to proceed by indictment, which is a more serious matter. However, in order for Legal Aid Ontario to verify that the matter proceeded summarily or by indictment, it asks the lawyer to request copies of original court documents from the courthouse and provide them to Legal Aid Ontario.

Lawyers collecting and submitting court documents to Legal Aid Ontario is less reliable than Legal Aid Ontario's Audit and Compliance Unit (Compliance Unit) obtaining the documents directly from the courts. Legal Aid Ontario informed us that at the time of our audit it was in discussions, since April 2018, with the Ministry to explore a process that would give Legal Aid Ontario direct access to court documents in order to routinely

verify billings. To further increase efficiency in sharing court information, the Ministry could expand efforts to file copies of court documents in electronic form. Currently, many courthouses continue to maintain only paper copies.

Verifying Hours Spent in Court Is Not Practical

Legal Aid Ontario does not routinely verify lawyers' billing for their time spent in criminal or family court because the current verification process is ineffective and costly. In order to verify the billings, Legal Aid Ontario would have to request court transcripts or a portion of the transcript, which include the start and end time of the proceeding. The length of proceeding is not tracked on court documents or any other format that is useful and accessible for Legal Aid Ontario. If the transcript substantiates the lawyer's billing, then Legal Aid Ontario pays for the cost of the transcripts. On the other hand, if Legal Aid Ontario found that the lawyer billed inappropriately, the lawyer would have to pay for the cost of the transcripts.

Fees for court transcripts are regulated by law in Ontario, ranging from \$4.30 per page for a normal request to \$8 per page for transcripts produced within 24 hours, and are paid to third-party transcriptionists. The cost of the transcripts could be expensive, so obtaining transcripts as billing verification is neither efficient nor economical.

In 2016/17, over 2,350 private-sector lawyers billed Legal Aid Ontario for court attendance time on over 27,500 invoices for more than 22,500 certificates, which is about 20% of all certificates in that fiscal year. Legal Aid Ontario could not verify these billings without obtaining the court transcript from third-party transcriptionists for each invoice unless the courts start to track the length of proceeding and also share this with Legal Aid Ontario.

RECOMMENDATION 3

To better verify private-sector lawyers' billings are accurate for court cases, we recommend that the Ministry of the Attorney General:

- finalize the process that would give Legal Aid Ontario direct access to court documents; and
- take steps toward filing original copies of court documents electronically, and record and track proceeding time in its court information systems.

MINISTRY RESPONSE

The Ministry of the Attorney General (Ministry) continues to work with Legal Aid Ontario (LAO) to finalize a process to give LAO direct access to court information in the Ontario Court of Justice (OCJ). It should be noted that the Ministry would need to secure the consent of the OCJ to implement this recommendation.

The Ministry is also in the early stages of exploring criminal process modernization, including an electronic documents strategy and enhancements to criminal justice technologies.

The Ministry will consider the recommendations about tracking duration of court proceedings and standardized electronic filing for future iterations of this work.

\$100,000 of Irregular Billings Identified After Internal Review of Immigration and Refugee Board Data

In 2016, Legal Aid Ontario received data, as far back as 2013, from the Immigration and Refugee Board (Board) for the first time, to analyze the actual length of proceeding time. Legal Aid Ontario initiated this review once it became aware that the Immigration and Refugee Board tracked this data. Proceedings for refugee cases for which certificate lawyers can bill their attendance time do not fall under the administration of the Ministry because the Immigration and Refugee Board is a federal board. However, Legal Aid Ontario can audit the lawyers that bill it for work done at the Board. Unlike Ontario's courts, the Board's information system tracks how long proceedings last.

However, Legal Aid Ontario cannot directly compare individual lawyer billings to the proceeding data provided by the Board because it does not track the Board's file numbers, which would allow it to link its billing data to the Board's data. Instead, it analyzed the data to identify lawyers who potentially billed significantly more attendance time, between 2013 and 2016, than the average hearing time and targeted those lawyers for in-depth reviews.

At the time of our audit, Legal Aid Ontario's Compliance Unit had completed reviews of 11 lawyers. Those 11 reviews, among other billing errors, resulted in more than \$100,000 of recoveries. They also led to two lawyers being removed from rosters for knowingly billing for hearings that did not take place and billing for hearing time greater than the actual hearing. The Compliance Unit initiated or was working on reviewing another 24 lawyers at the end of our audit.

Immigration and Refugee Board Data Inconsistent with Lawyers' Reported Attendance Time

We also reviewed the Board's data to analyze the actual length of proceeding time. We compared the Board's data to Legal Aid Ontario's billing data and were able to match only 226 of the over 17,000 certificates issued between 2014 and 2016, using available data such as lawyers' names and dates of hearings. A complete matching of data was not possible given Legal Aid Ontario does not use the same file numbers used by the Board (as discussed above). Our further analysis of the 226 certificates showed the following:

- 153, or 68%, of those where the lawyers' billed hours were greater than the hours reported by the Board, ranged from 15 minutes to 6.25 hours. Assuming these invoices were billed at an hourly rate of \$122.78, we estimated that the potential overbilling totals \$22,215.

- 10, or 4%, of them were under-billed, ranging from 16 minutes to three hours. We estimated that the potential under-billing for these cases totals \$1,260.
- 63, or 28%, of them were billed within 15 minutes' accuracy.

We discussed the discrepancies with staff from the Compliance Unit and they indicated that they would have to follow up and investigate further on each case to confirm the reasons for the discrepancies.

RECOMMENDATION 4

To better verify private-sector lawyers' billings for immigration and refugee cases, we recommend that Legal Aid Ontario:

- require lawyers to submit Immigration and Refugee Board (Board) case file numbers when they bill and link them to its billing data for all cases; and
- investigate, when necessary, lawyers whose hourly billing does not agree to actual proceeding time reported by the Board, and take corrective action on billing irregularities.

LEGAL AID ONTARIO RESPONSE

Legal Aid Ontario (LAO) agrees. Work is under way to obtain case file numbers. LAO has been reviewing refugee hearing attendance time and taking action to recover on billing irregularities.

4.2.2 Follow-Ups on Billings Issues on Guaranteed Daily Rate Not Timely

The Guaranteed Daily Rate (Daily Rate) is a fixed fee of \$1,181 paid to lawyers each time they are required to fly to remote courts, or travel to a court by road that is more than 200 kilometres one way from the lawyer's office. Legal Aid Ontario noted instances of inaccurate billing from lawyers, but has not taken timely action to follow up on each case or strengthen its controls to prevent overbilling as detailed below.

Legal Aid Ontario Has Paid Almost \$150,000 to One Lawyer Who Inappropriately Billed the Guaranteed Daily Rate

We noted one lawyer who billed, using the Daily Rate, almost \$150,000 from May 2013 to August 2016 even though the lawyer's office location was only five kilometres away from the court and therefore did not qualify under the Daily Rate's policy. Although the lawyer should be paid an hourly rate for the service provided, Legal Aid Ontario did not have records to determine how much the billing should have been. Legal Aid Ontario indicated that it discussed the issue with the lawyer in August 2016 and the lawyer stopped billing the Daily Rate since then. Legal Aid Ontario has not explored how much was overpaid and therefore should be recovered from the lawyer.

Legal Aid Ontario Has Not Strengthened Its Control to Prevent Double Billings

The Daily Rate is approved and processed by Legal Aid Ontario's district office managers. However, certificate case accounts are processed at Legal Aid Ontario's centralized billing department, and it has no controls in place to ensure lawyers are not billing for the Daily Rate and billing for the same day on a certificate. This creates the opportunity to double bill.

Based on a tip of potential billing irregularities, and results from its routine audits on lawyer billings, Legal Aid Ontario started a review in January 2018 to identify double billings. While it has the ability to go back six years to audit billings, it has not done so routinely regarding the Daily Rate. As of July 2018, Legal Aid Ontario still had not finalized its review. In 2016/17, total payments for the Daily Rate were \$2 million billed by 87 lawyers.

In its preliminary review, Legal Aid Ontario also found other examples of overbillings:

- The lawyer, who inappropriately billed almost \$150,000 for the Daily Rate as mentioned above, used a P.O. box address instead of his/her primary address on file with the

Law Society of Ontario. The lawyer stopped billing Legal Aid Ontario after the case was identified.

- Other lawyers were billing Legal Aid Ontario for meals on flights when meals are included in the cost of airfare.

Legal Aid Ontario explained that a lack of clarity of its Daily Rate policy might have contributed to lawyers' possible inappropriate billings, but it could not confirm the causes until the review is finalized.

The purpose of the Daily Rate is to recognize the challenges of harsh northern weather conditions, risks of travel in small aircraft and unpredictable and extended workdays, and to provide incentive for lawyers, such as those based in Thunder Bay, to provide legal aid services to remote communities. The fee covers all legal aid services provided on that day including travel fees, but excluding flights.

RECOMMENDATION 5

To help keep payments of the Guaranteed Daily Rate in accordance with applicable rules, we recommend that Legal Aid Ontario:

- finalize its review to determine the extent of inappropriate billings in a timely manner;
- implement effective controls preventing double billing and other inappropriate billing related to primary office locations and meals;
- clarify the Guaranteed Daily Rate policy and communicate it to private-sector lawyers and the importance of complying with the policy; and
- recover any overbilling from lawyers when identified.

LEGAL AID ONTARIO RESPONSE

Legal Aid Ontario will finalize the Guaranteed Daily Rate review, clarify the policy, strengthen controls and recover any overbilled funds.

4.2.3 Legal Aid Ontario Has Not Made Progress with Law Society to Audit Quality of Lawyers' Services

We noted that since its inception Legal Aid Ontario has not once directed or asked the Law Society of Ontario (Law Society) to perform quality assurance audits on any lawyers providing legal aid services. The majority of legal aid services are provided by private-sector lawyers, but Legal Aid Ontario has no mandate to govern the quality of service that they provide.

The *Legal Aid Services Act, 1998* (Act) requires Legal Aid Ontario to implement a quality assurance program to ensure that it is providing high-quality legal aid services in a cost-effective and efficient manner. The Act also states that Legal Aid Ontario may conduct quality assurance audits of providers of legal aid services but *not* of lawyers; it must instead direct the Law Society to perform quality assurance audits of lawyers. The Act also specifies that the Law Society of Ontario shall be reimbursed by Legal Aid Ontario for its costs of conducting quality assurance audits, which range between \$6,500 and \$12,000 each with a timeline of 12 to 15 months.

Although lawyers are required by their professional ethics and conduct standards to provide high-quality services, a risk still exists that legal aid services may not be of a consistently high quality. As well, legal aid clients are typically more vulnerable and may not be as aware that the level of service they receive is not adequate.

No Co-ordination between Legal Aid Ontario and the Law Society of Ontario on Quality Reviews

The Law Society and Legal Aid Ontario have had preliminary discussions about conducting quality assurance audits and the costs of potentially engaging in practice reviews. We noted that these discussions have been happening over many years but have never progressed into an agreed upon protocol. We also noted this issue in our 2011 audit on Legal Aid Ontario.

The most recent discussions between Legal Aid Ontario and the Law Society occurred in 2015 and 2017 in respect to establishing a formal Memorandum of Understanding to enable Legal Aid Ontario to make use of the Law Society's Practice Management Review program for the purpose of Legal Aid Ontario's quality assurance audits of lawyers who provide legal aid services. However, no protocol was agreed upon at the time of this audit.

Although the Law Society conducts its own practice reviews of lawyers, Legal Aid Ontario does not provide input as to which specific lawyers to review. The Law Society uses its own criteria for selecting lawyers to audit. The Law Society audits lawyers for compliance in areas such as time management, file management and client service, financial management, communications, technology and equipment, professional management, and personal management. Although the Law Society Act prohibits the Law Society from sharing audit results with Legal Aid Ontario, nothing prohibits them from working together to identify the lawyers who should be considered for audit.

In January 2018, the Law Society issued a *Report of the Legal Aid Working Group: An Abiding Interest*. The mandate of the working group, among other things, was to identify opportunities to support and enhance the delivery of strong and sustainable legal aid services, and to identify opportunities for engagement with Legal Aid Ontario. The report emphasized that there are many compelling reasons for the Law Society to be more involved in legal aid, with an aim to build stronger relationships between the two organizations, since they have a mutual interest in facilitating access to justice. The report also stated that as a regulator, the Law Society should focus on quality assurance regarding legal aid services provided by licensees and consider whether rule changes should be undertaken. However, at the time of this audit, no changes or decisions were made regarding a quality assurance program of private bar lawyers who specifically provide legal aid services.

Legal Aid Ontario does, however, have a process in place to refer lawyers to the Law Society if it becomes aware of serious matters such as potential professional misconduct. Legal Aid Ontario liaises with the Law Society on disciplinary actions against lawyers, initiated by the Law Society as the result of a referral from Legal Aid Ontario. In 2016/17, Legal Aid Ontario referred seven lawyers to the Law Society for service- and conduct-related issues.

Ontario has about 50,000 lawyers. The Law Society completes about 500 practice management reviews per year. In addition to those reviews, the Law Society receives and responds to complaints from the public about lawyers and paralegals and investigates those that are warranted. In 2016, it received over 6,300 complaints, of which about 2,000 warranted a formal investigation. Of those, 50% were related to service issues such as fail to communicate or fail to serve client.

Quality of Legal Advice by Private Lawyers Not Measured for Certificate Cases and Duty Counsel

As discussed above, none of the private-sector lawyers who work for Legal Aid Ontario have had quality assurance audits performed on the work they provide. During 2016/17, 4,196 private-sector lawyers billed for legal aid certificate and duty counsel services. (For a discussion of certificates and duty counsel, see **Section 2.2** for the major types of legal aid services provided.) Most of the legal aid certificate program, which totalled \$254 million in 2016/17 for 112,000 certificates, is carried out by private-sector lawyers. Some Legal Aid Ontario staff lawyers deliver services for clients that have received a legal aid certificate, but this equates to about 9% of the \$254 million.

As of April 1, 2018, Legal Aid Ontario employed 196 staff lawyers in duty counsel offices within Ontario's courts. Legal Aid Ontario also hires private-sector duty counsel lawyers on a per diem basis to cover staff vacancies or vacation time, or during busy periods in the courts. Legal Aid Ontario has a performance evaluation process in place for

its in-house staff lawyers. However, 34% (217,205 of 643,975 in 2017/18) of the duty counsel services that were provided by private-sector lawyers lacked formal quality assurance procedures.

Legal Aid Ontario Has Begun Peer Reviews in Refugee and Immigration Cases

Legal Aid Ontario conducts in-house peer reviews on complex refugee and immigration cases, but not on standard certificate cases. It recently started peer reviews of lawyers who handle refugee and immigration cases because Legal Aid Ontario became aware of quality concerns of certain lawyers; however, it has not conducted regular and proactive peer reviews in the past.

Mixed Client Satisfaction Rates Based on Legal Aid Ontario Surveys

Since 2011, Legal Aid Ontario has surveyed its clients to measure client satisfaction. In 2016, 93% of clients responded in Legal Aid Ontario's in-person survey that they were satisfied with the overall quality of service from the lawyer. Six percent responded negatively, and 1% was neutral. However, web-survey results were significantly different. Only 43% of clients responded that they were satisfied with the overall quality of service from the lawyer, while 47% responded negatively. Ten percent were neutral. Legal Aid Ontario indicated that there are many reasons why a web survey might show a lower satisfaction rate, such as clients completing the web survey may feel they can be more honest completing a survey in private rather than in person with the lawyers they are rating.

Complaints about Quality of Service by Lawyers Are Increasing; More Removed from Rosters

In what might be a red flag of a rising problem in the quality of services provided by lawyers, the number of complaints against lawyers to Legal Aid Ontario was up 30% in 2016/17 to 211 from 162 complaints in 2012/13. The majority of complaints,

72 out of 211, relate to service issues, as shown in **Figure 14**.

Legal Aid Ontario appears to be acting on problems regarding lawyers' services. **Figure 15** indicates that the number of private-sector lawyers removed from Legal Aid Ontario's rosters increased from two in 2012/13 to 29 in 2015/16 and 20 in 2016/17.

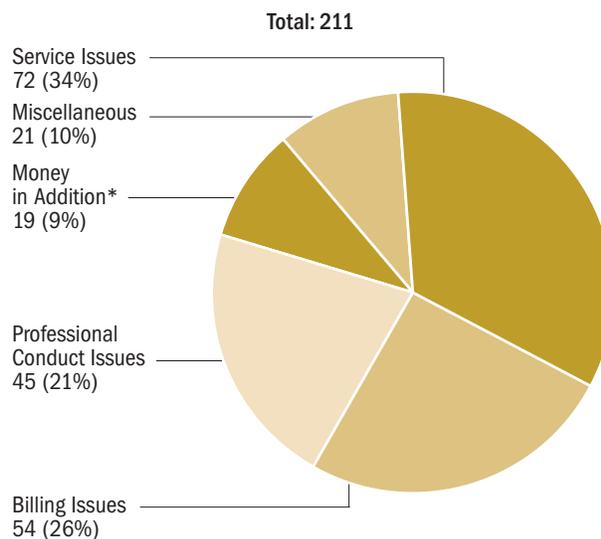
The *Legal Aid Services Act, 1998* allows Legal Aid Ontario to remove a lawyer from a roster if he or she fails to meet standards, or if there is reasonable cause, such as being found guilty of professional misconduct or found guilty of a criminal offence.

Of the 20 lawyers removed from the roster in 2016/17, two were not meeting Legal Aid Ontario standards, three incurred criminal charges, four had issues that originated from the Law Society, and 11 were removed for reasonable cause. For example, reasons cited for reasonable cause included bad faith in interactions with Legal Aid Ontario, crossing professional boundaries with a client, or findings of inappropriate behaviour by a court.

The removals were in response to complaints, rather than Legal Aid Ontario determining quality of services through a regular review of lawyers.

Figure 14: Categories of Complaints Relating to Lawyers, 2016/17

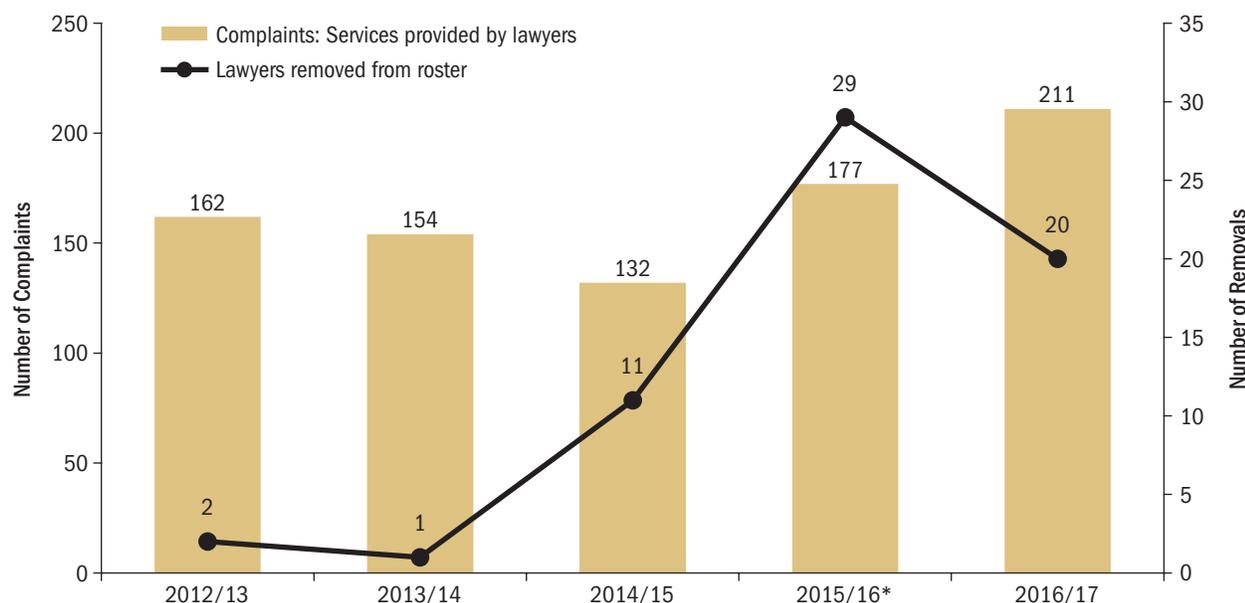
Source of data: Legal Aid Ontario



* Lawyers may not accept any money from clients in addition to the amount paid under the certificate.

Figure 15: Number of Complaints Received Regarding Services Provided by Lawyers and Number of Lawyers Removed from Legal Aid Ontario Roster, 2012/13–2016/17

Source of data: Legal Aid Ontario



* In 2015/16, 29 lawyers were removed from the roster; 13 of their files originated in 2014/15 but were not finalized until 2015/16.

RECOMMENDATION 6

To oversee lawyers or examine the feasibility of developing and implementing a quality assurance program on its own, we recommend that Legal Aid Ontario work with the Law Society of Ontario to create a quality assurance audit program, including after-case peer review, to oversee lawyers or seek changes to legislation that would allow it to develop and implement a quality assurance program by itself.

LEGAL AID ONTARIO RESPONSE

Although Legal Aid Ontario (LAO) does monitor lawyers' work and billings, LAO will explore with the Law Society of Ontario the feasibility of a quality service review that meets the needs of LAO. If not feasible, LAO will seek changes to the regulation.

4.2.4 Private-Sector Lawyers Providing Services without Meeting All Legal Aid Ontario Professional Requirements

Lawyers Who Fail to Confirm Continuous Learning Requirements Face No Follow-Up or Consequences

During the 2016 calendar year, 1,959 of 5,423 private-sector lawyers on Legal Aid Ontario rosters did not provide their annual self-report. Legal Aid Ontario requires that all roster lawyers confirm annually that they have met the experience and continuous learning requirements as a mechanism to ensure competence. Requirements vary by roster, but all include six hours of legal education and completion of a minimum number of case files in the previous year.

Of the 1,959 lawyers who did not self-report, 395 billed Legal Aid Ontario \$7.7 million during the period from April 1, 2017, to March 28, 2018, while the remaining 1,564 likely did not provide a self-report because they were not actively providing legal aid services and they had no billings. Of the

395 lawyers, 329 did not submit a self-report for the following 2017 calendar year as well. However, Legal Aid Ontario does not impose consequences on lawyers who fail to submit a self-report.

Legal Aid Ontario's online billing portal automatically reminds lawyers to complete their self-report upon logging in, until they have submitted it. Other than this, Legal Aid Ontario does not routinely follow up to ensure that lawyers comply each year. There is no administrative consequence for failing to submit an annual self-report.

Legal Aid Ontario Does Not Follow Up On Conditionally Approved Lawyers

New lawyers or lawyers who are new to a particular area of law who do not meet the experience requirements to be on a Legal Aid Ontario roster in their area of law can be conditionally admitted to a roster if they agree to meet the minimum experience level within two years. We found that as of February 2018, 1,064 of the 5,059 private-sector lawyers on rosters at that time had a conditional status on at least one roster for more than two years and 800 of them had been conditional for more than three years.

A conditionally approved lawyer must attend training and be mentored. Conditional status lawyers are paid the lowest hourly rate at \$109.14. Top rate lawyers bill \$136.43 an hour, if they meet the requirements of more than 10 years' experience in total and more than four years of experience in either criminal law or civil law.

Based on our review, we noted that although these 1,064 lawyers have billed Legal Aid Ontario only minimal amounts (an average of less than \$1,500 per lawyer in 2017/18) relating to the area of law that they were conditional on, Legal Aid Ontario does not regularly follow up on how long the lawyers have been conditional. Although conditionally approved lawyers are allowed to accept certificates, their conditional status means that they have not satisfied all of Legal Aid Ontario's requirements.

RECOMMENDATION 7

To help private-sector lawyers meet Legal Aid Ontario's professional requirements, we recommend that Legal Aid Ontario:

- follow up promptly with lawyers who are on conditional status for more than two years and those who do not annually self-report on the continuous learning requirements; and
- establish cost-effective consequences for lawyer who do not provide an annual self report on their continuous learning.

LEGAL AID ONTARIO AND MINISTRY RESPONSE

Legal Aid Ontario (LAO) will implement cost-effective processes for follow-up with lawyers on the conditional panel and those who do not self-report.

LAO and the Ministry of the Attorney General believe that private-sector lawyers who do not meet LAO's professional requirements should no longer be entitled to receive legal aid certificates and LAO will work with the Ministry to streamline the process to effectively and efficiently manage its private lawyer panels.

4.3 Community Legal Clinics

4.3.1 Ontario Disability Support Program (ODSP) Application and Appeal Cases Comprise 44% of Community Legal Clinics' Workload

Working with the Ministry of Children, Community and Social Services (MCCSS) to Reduce ODSP Appeals Presents an Opportunity to Reduce Community Legal Clinics' Usage and Costs

In 2016/17, community legal clinics (clinics) handled 9,435 ODSP application and appeal cases, which accounted for 44% (9,435 of 21,289) of their caseload, as shown in **Figure 16**. Legal Aid Ontario estimated that the 9,435 ODSP cases had an approximate cost of \$21 million, or about \$2,200

per case. This is about 24% of Legal Aid Ontario's clinic budget.

Due to the recent initiatives, as discussed later in this section, taken by the MCCSS and the Tribunal to streamline their processes, ODSP cases as a percentage of the total caseload handled by clinics decreased from 53% in 2014/15 to 44% in 2016/17 (the latest year for which data is available). Nevertheless, ODSP cases, including assistance in applications and appeals, are still the most common type of cases that clinics handle.

Two of the four clinics with which we had a more in-depth discussion, plus one specialty clinic, indicated that the significant resources spent on ODSP cases prevent them from providing services in other areas, such as consumer, debtor and creditor law matters, wills and powers of attorney, tenant issues, and immigration and refugee matters. Also, 78% of respondents to our survey of clinics indicated that if ODSP case volume was reduced, they would be able to serve other needs such as employment law, human rights matters, workers' compensation, housing law matters, issues that impact senior citizens, and expanding the service areas that they already serve.

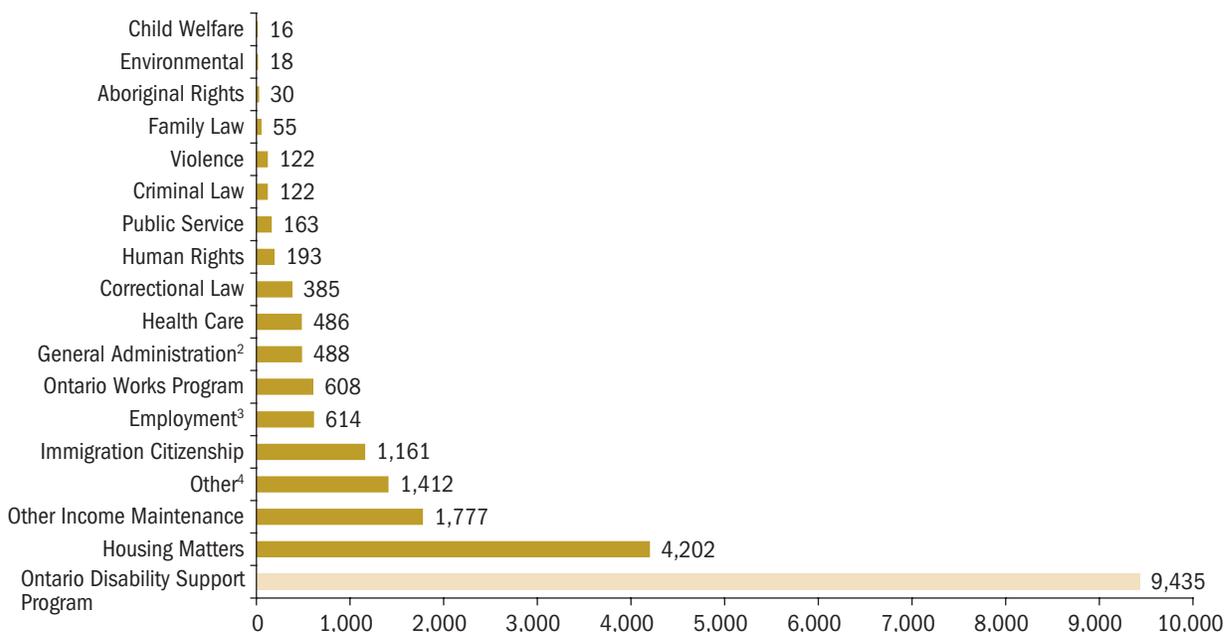
Not all ODSP cases went to the Tribunal, and Legal Aid Ontario did not know how many of these cases handled by the clinics eventually went to the Tribunal. Some clinics might have collected this data, but they are not required to report the number of appeals to Legal Aid Ontario until the information system (discussed in **Section 4.3.3**) is fully functional. This information is useful because it allows Legal Aid Ontario and clinics to understand how much of clinics' resources were spent on which stage of ODSP cases and to identify areas for further improvement.

Ministry of the Attorney General Funds Applicants and Tribunal in the Appeal Process

The Ministry of Children, Community and Social Services (MCCSS) is responsible for ODSP, which provides financial assistance and benefits for

Figure 16: Breakdown of Clinic Cases by Type, 2016/17¹

Source of data: Legal Aid Ontario



1. Data excludes Student Legal Aid Societies Services. 2016/17 is the most recent data available.
2. General administration matters may include assistance with obtaining social insurance number, birth certificate or name change.
3. Employment matters may include employment standards issues, wrongful dismissals, or occupational health.
4. Other matters may include consumer protection, debt, or estates and wills.

individuals with disabilities. ODSP applications are evaluated based on financial eligibility criteria and whether an individual meets the program's definition of a person with a disability or other criteria.

Applicants can apply online by themselves or in person with the help of an ODSP caseworker. The applications are detailed and require the applicant to provide financial information and health-care professionals to provide complete medical records and other documents. If denied benefits either on financial grounds or for not meeting the definition of a person with a disability, applicants can appeal first in writing, which is called an internal review, and if unsuccessful, then to the Social Benefits Tribunal (Tribunal). Clinics provide assistance and representation with these appeals. Some clinics also provide guidance on applications before they are submitted to MCCSS.

The Ministry of the Attorney General, through funds transferred by Legal Aid Ontario to the clinics, funds the clinics and also funds the Tribunal.

Cost effectiveness could be achieved if the number of ODSP appeals was decreased so that the Ministry of the Attorney General's resources are not used as frequently to fund the appeal process. The large number of ODSP appeals has been a longstanding issue, which our Office also identified in our audit of ODSP in our *2009 Annual Report*. Under the *Ontario Disability Support Program Act, 1997*, an applicant has the right to appeal the decision of MCCSS to the Tribunal.

Various Reasons for Overruling MCCSS's Decisions on ODSP Cases

We noted that 73% of all ODSP appeal cases heard at the Tribunal in 2017/18 ruled against MCCSS's decisions (**Figure 17**). The high overturn rate of appeals is partly due to the fact that the Tribunal often received more medical information at the time of the appeals than was submitted to MCCSS prior to the appeals. However, the Tribunal does

Figure 17: Number of Ontario Disability Support Program Appeal Cases Heard at the Social Benefits Tribunal, and Their Overturn Rates, 2013/14–2017/18

Source of data: Social Benefits Tribunal

	# of Ontario Disability Support Program Appeal Decisions ^{1,2}	Overturn Rate (%) ²
2013/14	7,227	66
2014/15	7,617	67
2015/16	6,369	66
2016/17	6,160	72
2017/18	4,784	73

1. These appeals include other cases that were not represented by the clinics.
2. Includes only cases where the Social Benefits Tribunal granted or denied an appeal, where the applicant was present. Cases that were resolved for other reasons, or denied because the appellant did not show up at a hearing, are not included.

not formally track how often this occurs and could not provide an estimate.

Another reason why many appeals are overturned is because the Tribunal considers the applicants' oral testimony as formal evidence, but MCCSS does not. An internal review of the Tribunal in 2016 indicated that the then Ministry of Community and Social Services process is paper-based whereas at a Tribunal hearing, applicants can provide oral testimony in person and elaborate on evidence in person. Tribunal members indicated that additional information regarding the severity of a disability can be gleaned from in-person testimony. We noted that Section 15 of the *Statutory Powers Procedures Act* (Act) gives the Tribunal the authority to consider any oral testimony relevant to the subject matter of the proceeding, as evidence. (This Act provides the general framework for the conduct of hearings before Ontario's administrative tribunals.) However, the Tribunal does not formally track how often oral testimony contributed to an overturned MCCSS decision. Although all Tribunal decisions are made public, it is not always reported whether oral testimony was a contributing factor to the overturned MCCSS decisions.

Further, we obtained the overturn rates by the five geographical regions (Central, North, East, South and West) and noted that, for 2017/18, the overturn rates ranged from a low of 67% in the Central region to a high of 84% in the North region. The Tribunal could not explain the regional variation, but indicated that each decision is unique because they were made on a case-by-case basis.

Ministry of Children, Community and Social Services and the Tribunal Collaborate to Streamline Processes

The Ministry of Children, Community and Social Services (MCCSS) has collaborated with the Tribunal to streamline the adjudication process at MCCSS as well as to improve the appeal process at the Tribunal. For example, the Tribunal launched a Medical Review Early Resolution Pilot project in November 2015, which MCCSS also participates in. The purpose of the project is to review appeals, and to clarify, exchange and share information, with the goal of reaching a resolution as soon as possible. MCCSS and the Tribunal also started to exchange data related to ODSP appeals electronically to increase efficiencies between the two organizations.

We noted that MCCSS's overturn rate at its own Internal Review process has increased from 7% in 2014/15 to 11% in 2017/18, meaning more cases were resolved prior to a formal hearing at the Tribunal. Overturn rates due to additional medical information submitted prior to the Tribunal hearing dates has also increased, from 24% in 2014/15 to 37% in 2017/18, further indicating that more cases were resolved prior to a formal hearing at the Tribunal.

At the Tribunal, we also noted that the number of appeals decreased during the same time period from 7,617 in 2014/15 to 4,784 in 2017/18 (**Figure 17**), or by 37%, because more cases were resolved at MCCSS.

RECOMMENDATION 8

To help make better use of community legal clinics' resources, we recommend that the Ministry of the Attorney General, on behalf of Legal Aid Ontario and the Social Benefits Tribunal, continue to work with the Ministry of Children, Community and Social Services to further reduce the number of Ontario Disability Support Program cases that proceed to an appeal process.

MINISTRY RESPONSE

The Ministry of the Attorney General agrees with this recommendation and will work with the Social Justice Tribunals Ontario, the Social Benefits Tribunal and the Ministry of Children, Community and Social Services to address this issue.

RECOMMENDATION 9

To better understand how resources are being used by community legal clinics (clinics) on Ontario Disability Support Program cases, we recommend Legal Aid Ontario work with clinics to formally record how much of clinics' resources are used to assist with applications versus appeals.

LEGAL AID ONTARIO RESPONSE

Legal Aid Ontario (LAO) will work with clinics to record the type of work done on Ontario Disability Support Program cases in order to better assist the government in making underlying changes as per **Recommendation 8**. The new clinic information management system allows LAO and clinics to track resources to different types of cases.

4.3.2 IT System Almost \$4 Million over Budget, Three Years Late and Increased Administrative Work for Clinics

Legal Aid Ontario's Clinic Information Management System (System) was in place in 2017 at a total cost of \$7 million, but it was three years later than planned and cost \$3.75 million (115%) more than the original budget of \$3.25 million. We found that Legal Aid Ontario's request for proposals for the System, although competitive, did not include an evaluation of the vendor's financial viability. Given the strategic importance of the new system for all of Ontario's community legal clinics, an evaluation of financial viability might have avoided the cost overruns, project delays, and difficulties experienced in completing the System.

In early 2013, Legal Aid Ontario began accepting vendor proposals for a new case management system for community legal clinics. The new electronic system was to replace the previous system used by clinics since 1999 to track client information, case information, and staff hours worked. At the time, Legal Aid Ontario expected the System to be fully operational in April 2014; however, the winning vendor had not started to develop the System until June 2014 and the System was not completed until September 2017. At the time of this audit, the System still does not work as intended, as discussed in **Section 4.3.3**.

Legal Aid Ontario indicated that the primary cause of the delay and budget overruns was that the vendor was late in starting the project, encountered financial difficulties and was unable to complete the project before declaring bankruptcy in February 2017. Legal Aid Ontario subsequently had to hire the vendor's former employees on contract and have its own internal IT department manage the project.

Legal Aid Ontario advised us that at the time of the request for proposals, the Ontario Public Sector Procurement Directive and Legal Aid Ontario's internal procurement process did not require a review of the financial viability of a potential

vendor. We noted several examples of other jurisdictions recommending the assessment of financial viability for complex procurements, such as:

- The Canadian federal government's supply manual requires that all vendors must have the financial capability to fulfill the contract, and it is the responsibility of the contracting party to verify this capability.
- In British Columbia, a provincial-wide guide for the request for proposals process lists financial viability as a potential criterion in evaluating a vendor's capability to deliver the contract.
- The Australian Department of Finance advises that complex, high-value, and relatively important projects, such as centralized information technology, should include consideration of the need for a financial viability assessment.

RECOMMENDATION 10

To help future projects be reliably sourced and avoid vendors failing to complete projects, we recommend that Legal Aid Ontario implement a policy to evaluate vendor financial viability for critical procurements.

LEGAL AID ONTARIO RESPONSE

Legal Aid Ontario's procurement processes and policies are being updated and will be implemented to include a financial viability test.

4.3.3 Clinics Demanding Improvements to Burdensome Information Management System

All four clinics that we had a more in-depth discussions with and the representative from the Association of Community Legal Clinics of Ontario indicated that the new Clinic Information Management System (System) has negatively affected clinics' operations. Some common complaints include:

- excessive time is spent on loading and saving information into the System;
- the System is not user-friendly and does not flow logically;
- client intake takes far longer to input than performing actual case/legal work for the client, leading to workarounds such as taking client information by hand and inputting the data later to the System, creating duplication of work;
- some features, such as conflict-of-interest checks, do not work; and
- reports must be custom built with no guidance on how to do so.

The four clinics also indicated that issues with the new System have put a strain on their resources. One clinic closes its office one morning each week so that staff can catch up on data entry. Staff at another clinic indicated that they completed data entry after hours. A third clinic hired an additional employee dedicated to managing issues related to the new System after staff threatened to quit because of the increased workload. The fourth clinic cited similar problems and frustration.

Based on our survey of community legal clinics that we did not have in-depth discussions with, we noted similar issues as follows:

- 80% of clinic respondents indicated that the System is slow and requires excessive time to load and save information.
- 82% indicated that the System is not user-friendly and does not flow logically from one screen to another.
- 69% indicated that client intake takes longer than performing actual case or legal work for the client.
- to input data into the System, 22% closed their doors during office hours, 33% asked staff to work after hours, and 27% hired additional staff to assist with inputting data.
- 58% of clinic respondents said that they somewhat disagreed and strongly disagreed that the System is achieving its intended purpose, which is to better capture and report on

client and case information; 24% indicated that they somewhat agreed that the System is achieving its intended purpose, while 18% were neutral.

- 91% of clinic respondents reported that the implementation of the System created an administrative burden at the clinic, while 9% indicated that it has minimal to no impact on the clinic's daily operations. However, 22% of respondents indicated that in addition to creating an administrative burden, the System did provide more data for better decision-making.

Legal Aid Ontario responded that it was working on improving the System based on the formal feedback it has received from the clinics that raised similar concerns as mentioned above. Legal Aid Ontario, together with representatives from some clinics, created a Clinic Information Management System Working Group. It consists of clinics' Executive Directors and their staff and Legal Aid Ontario's IT department and is working on prioritizing specific IT requirements. Legal Aid Ontario also hired a third-party vendor to assist its IT department with developing navigation changes and other enhancements to the flow of the System as requested by clinics. The most recent changes were made in May 2018.

RECOMMENDATION 11

To allow better use of the community legal clinics' time for delivering services, and to help ensure the significant investment in the new Clinic Information Management System provides value, we recommend that Legal Aid Ontario continue to address the complaints received from the clinics and resolve the issues identified.

LEGAL AID ONTARIO RESPONSE

Legal Aid Ontario has made significant improvements to the Clinic Information Management System since it was rolled out and remains committed to work with clinics to further enhance the system.

4.3.4 Legal Aid Ontario So Far Unable to Reduce Funding Gaps Between Clinics

The majority of clinic funding is based on historical amounts—meaning that funding is primarily based on prior years' funding—rather than equitably distributed based on local needs in each community. As a result, average funding per low-income person varies significantly between clinics.

In 2016/17, total funding to clinics was \$87.1 million, of which \$80.9 million was to clinics for direct client service delivery. Of the \$80.9 million, \$71.6 million was historical; \$5.4 million was financial eligibility funding (discussed in **Section 4.1.2**); and the remaining \$3.9 million was specified funding to clinics that had the fewest resources per low-income person.

Legal Aid Ontario committed to increase funding to clinics that had the fewest resources per low-income person by allocating them a total of \$10.2 million for the three years between 2014/15 and 2016/17 to help close the funding gaps, with a commitment of \$3.9 million permanent annual funding thereafter.

However, that was only about 5% of the total annual funding to clinics and the slight adjustment did not reduce the funding gaps between clinics and regions. For example, in 2016/17, the 10 top-funded clinics received an average of \$75 per low-income person while the 10 lowest-funded clinics averaged just \$14, resulting in a \$61 gap. The gap between the top and bottom 10 increased by 19%—from \$51 in 2013/14 to \$61 in 2016/17.

Average funding to clinics per low-income person in 2016/17 also differed among the four regions as follows:

- Northern: \$61;
- Central and Eastern: \$43;
- Greater Toronto Area: \$29; and
- Southwestern: \$28.

The average funding to clinics was \$36 per low-income person.

In 2016/17, the highest-funded clinic in Ontario received \$145 per low-income person in its catchment area, compared with \$11 per low-income

person for the lowest-funded clinic. The most well-funded clinic received \$145 per low-income person in 2016/17, a 14% increase from \$127 in 2013/14. During this time, the clinic's funding increased 6% while the population of the catchment area considered low-income actually fell by 7%.

Mapping where low-income people live is considered by experts in legal aid sector as an effective proxy indicator for identifying clinic service needs, and so Legal Aid Ontario used this measure to increase funding to clinics that had the fewest resources per low-income person.

In addition, Legal Aid Ontario started in April 2018 to collect demographic data, such as race, for the legal aid certificate program to understand the users of the program and better plan for their needs (see **Section 4.1.3**). It plans to collect similar data from clinics once the issues of the information system are resolved as discussed in **Section 4.3.3**.

RECOMMENDATION 12

To better address local needs and priorities equitably, we recommend that Legal Aid Ontario, together with community legal clinics, collect complete, accurate and current demographic data on which to base its decisions about allocating funding to clinics.

LEGAL AID ONTARIO RESPONSE

Legal Aid Ontario will work with community legal clinics (clinics) to collect complete, accurate and current demographic data, and other relevant data about clinic clients and communities, to inform funding allocations to clinics.

4.3.5 Clinics Received Increased Funding; Provided More Advice, but Handled Fewer Cases

Clinics report providing services to clients under three main categories: case, brief service, and advice. A case is the most resource intensive, while advice is the least resource intensive (described

in **Figure 18**). While Legal Aid Ontario increased funding to community legal aid clinics, we found that the clinics were providing more advice but handling fewer cases.

In the four years from 2013/14 to 2016/17, Legal Aid Ontario's funding to clinics increased by \$12.7 million (or 19%) from \$68.2 million to \$80.9 million. The majority of the funding increase was provided by financial eligibility funding (discussed in **Section 4.1.2**). We noted that, however, in the same period while the number of advice assists increased by 17%, the number of cases fell by 5%. The number of brief services increased slightly by 1%. See **Figure 18** for the trend analysis.

We also noted the following examples:

- One clinic received 24% more base funding in 2016/17 than it did in 2013/14. However, the number of case files decreased by 15%.
- Another clinic received 38% more base funding in 2016/17 than it did in 2013/14; however, the number of case files decreased by 34%.

We recognize that all clinic cases are counted the same, whether it is a case where a single client is represented in a matter, or the case is a "test case" that can have broader systemic impact on low-income people across the province. A test case is a case that sets a precedent for other cases involving the same question of law. The latter would include significantly more time and effort. However, at the time of the audit, Legal Aid Ontario was not able to provide a breakdown of cases by types or complexity, or the number of hours clinics spend on the average case.

Tracking of Clinics' Performance Outcomes Significantly Delayed

Legal community clinics measure and report on outputs, such as number of cases, number of public education sessions held, and number of referrals. However, Legal Aid Ontario does not have aggregated data on whether these outputs are achieving the desired program outcomes for clinic

Figure 18: Community Legal Clinics¹ – Number of Assists Provided by Service Type, 2013/14 and 2016/17

Source of data: Legal Aid Ontario

Service Type	Average Time Spent	# of Assists Provided		
		2013/14	2016/17	% Change
Case – Any group of services related to a client's matter where the clinic is providing representation before the courts, tribunals or boards	11–23 hours ²	22,316	21,289	(5)
Brief Service – Assists with minimal advocacy and no representation	1/2 hour up to 2 hours	41,053	41,423	1
Advice – Advice with no advocacy	1/2 hour or less	111,162	129,749	17

1. Student Legal Aid Societies Services are not included in this data.

2. Amount of time spent per case was based on survey results. Thirty-eight percent of survey respondents estimated that an average case took between 11 and 23 hours. Twenty-five percent of respondents estimated 24 hours or more.

law matters, such as each clinics' success rates of appeals of disability income cases (our data on Ontario Disability Support Program appeals came from the Social Benefits Tribunal) and landlord-tenant disputes. This issue was also identified in our 2011 audit on Legal Aid Ontario.

Legal Aid Ontario indicated that it plans to address this issue through further development of the Clinic Information Management System, discussed in **Section 4.3.3**. Legal Aid Ontario developed its first draft of proposed performance measures in early 2013, targeting December 2015 for reporting various performance measures through the Clinic Information Management System. At the time of this audit, however, the performance data required to produce these measures was not yet being reported by clinics.

RECOMMENDATION 13

To help keep funding to community legal clinics (clinics) used for the intended services and to achieve the intended outcome, we recommend that Legal Aid Ontario work with clinics to:

- finalize the reporting of performance measures that are used to evaluate the effectiveness of clinics; and
- monitor actual outcomes and address areas of underperformance in a timely manner.

LEGAL AID ONTARIO RESPONSE

Legal Aid Ontario (LAO) will continue to work with clinics to implement performance measures and outcome reporting so LAO and clinic boards can support and evaluate clinic effectiveness in serving their communities. Results will be monitored and data will be used to address areas of underperformance in a timely way.

4.3.6 Comprehensive Review of Community Legal Clinics Model Not Done Over the Last Decade

At the time of our audit, Legal Aid Ontario, together with the clinics, was developing a plan for clinics, to renew its accountability and governance framework with individual clinics and with the clinic system. However, it does not plan to conduct a review of the clinic model, which has not been done over the last decade.

Clinics are required by the *Legal Aid Services Act, 1998* (Act) to be independent community organizations. They are structured as a corporation without share capital that provide legal aid services to the low-income community they serve. The legislation also established that a clinic's board of directors determines the legal needs of the individuals and communities served. Independence from Legal Aid Ontario and the government was determined to

be essential because the government is often the opposing party in litigation involving clinic clients.

Historical Tension between Legal Aid Ontario and Community Legal Clinics

In our 2011 audit of Legal Aid Ontario, we noted significant tension between it and the community legal clinics. At that time, Legal Aid Ontario's efforts to extract greater efficiencies from community legal clinics had caused relationships to deteriorate. Although the Act technically gives Legal Aid Ontario significant authority and control over all areas of the clinics' operations and expenditures, this conflicted with the clinics' culture of independence and their individual board of director governance structure. Clinics have resisted Legal Aid Ontario's attempts to impose measurement criteria because this is time-consuming and tends to take away from the provision of services.

Although clinics are legally independent from Legal Aid Ontario, they are dependent on it for virtually all their funding and support, including information technology. For example, Legal Aid Ontario approves the clinics' client financial eligibility threshold, budgets, salaries, rent, and supporting requirement.

At the time of our audit, the relationship between Legal Aid Ontario and community legal clinics has improved overall since our 2011 audit. However, all four clinics that we had a more in-depth discussion with expressed concerns that clinic law services are not given enough attention and that Legal Aid Ontario addressed clinics' problems on a reactive basis only. Some of the concerns clinics raised include the following:

- The annual funding application is an onerous and resource-intensive process resulting in little benefit. Some suggested that the process should change to a multi-year (three-year) funding exercise. Seventy-nine percent of our survey respondents said that, in their opinion, the frequency of annual funding applications was not appropriate, while 11% said it was

appropriate and 10% were neutral; 58% of survey respondents indicated that every three years would be more appropriate.

- The approved budget from Legal Aid Ontario is not received by clinics until several months into the fiscal year (usually around July), making it difficult for clinics to manage their spending and proceed with planned expenditures. Based on our survey, 81% of respondents indicated that their 2017/18 budget was approved between July and September 2017, already the second quarter of that fiscal year; 17% indicated that it was approved between October and December 2017, the third quarter of that fiscal year; and only 2% said their budget was approved between April to June 2017, the first quarter of the year. Thirty-eight percent of respondents said the late approvals negatively impacted their ability to manage and budget their spending.
- Some of the clinics' contracts for leasing space are ending and Legal Aid Ontario had no commitment to address the increased costs that the clinics anticipated. Of the clinics in our survey who were expecting a lease increase in the next two years, 73% indicated that Legal Aid Ontario had not committed to address those expected increased lease expenses at the time of the survey.

Community-Based Clinics in Other Jurisdictions

Ontario is the only Canadian province that provides clinic law services through independent community-based clinics. Other provinces deliver similar clinic services through their provincial legal aid programs. See **Appendix 5** for an inter-jurisdictional comparison.

Most jurisdictions in Australia have community-based clinics similar to those in Ontario. Several states have done comprehensive reviews of their clinic system to ensure they are meeting client need to the greatest extent possible within fixed

budgets. For example, South Australia's Community Legal Service Review Project projected demand for both five- and 10-year time horizons, using local government area population projection data to estimate the projected population growth for each postal code, age range and gender combination. It also considered where the low-income population resides. Specific clinic matters by type (such as consumer complaints and tenancy issues) are predicted by region in order to predict the need for each clinic.

RECOMMENDATION 14

To help community legal clinics achieve their legislative mandate and intended objectives cost-effectively, we recommend that the Ministry of the Attorney General work with Legal Aid Ontario to conduct a comprehensive review of the service delivery model and identify areas for improvement.

LEGAL AID ONTARIO AND MINISTRY RESPONSE

With Legal Aid Ontario's (LAO's) reorganization, effective January 2019, one Vice President will have accountability for clinic oversight and will review (with input from clinics) the service model to identify areas for improvement and to review the foundational documents that define the LAO-clinic relationship.

The Ministry of the Attorney General agrees with the recommendation and will conduct, in consultation with LAO, a comprehensive review of the legislation and the service delivery model, and identify areas for improvement of the community legal clinics.

4.4 Duty Counsel

Eligibility Test Not Done for 95% of Clients in Criminal Cases

In 2016/17, duty counsel assisted 600,570 individuals who required legal assistance in criminal and civil courts. The majority, or 456,594, of them

Figure 19: Percentage of Financial Eligibility Tests Conducted for Duty Counsel Clients, 2016/17

Source of data: Legal Aid Ontario

Court	Not Tested	Tested		Total
		Eligible	Not Eligible	
Criminal	95	4	1	100
Civil	37	38	25	100

were assisted in criminal courts, and 143,976 were assisted in civil courts.

Duty counsel services are provided largely on an honour basis, because an eligibility test is only required when duty counsel suspects that the person may not be eligible.

During 2016/17 (the most recent data available), of the 456,594 individuals assisted on criminal matters, duty counsel did not conduct eligibility tests for 95% of the assists (see **Figure 19**). Another 4% where the eligibility test was conducted was recorded as eligible. The remaining 1% was recorded as not eligible.

In the same year, of the 143,976 persons assisted on civil matters, duty counsel did not conduct eligibility tests for 37% of the assists (see **Figure 19**). Another 38% where the eligibility test was conducted was recorded as eligible and 25% was recorded as not eligible.

We noted that duty counsel also did not consistently input all their assists information into the tracking system. Duty counsels' practices vary across the province for both criminal and civil courts, and the amount of times they recorded that no test was completed varied depending on the courthouse, as shown in **Figure 20**.

Legal Aid Ontario could not explain the large discrepancy but indicated that the required information and statistics were not entered consistently across the province. Legal Aid Ontario indicated that some services do not require a person to be financially eligible, such as bail hearings, incarcerated people, referrals, adjournments or diversions. However, duty counsels do not track consistently whether the test is required or not and for which circumstances.

Figure 20: Percentage of Duty Counsel Clients Assisted Where Financial Eligibility Test Was Not Conducted, 2016/17

Source of data: Legal Aid Ontario

% of Clients Assisted Where No Test Was Conducted	# of Court Houses	
	Criminal	Civil
80-100	39	10
60-79	8	11
40-59	3	9
20-39	0	9
1-19	1	11
Total	51	50

In other cases, a judge might instruct duty counsel to provide assistance to those who are unrepresented in court, in order to increase efficiency in the court process.

Legal Aid Ontario, however, does not track how many times duty counsels were directed by judges to provide assists to individuals who were not financially eligible, so it is unknown how frequently this occurs across all of Ontario's courts. Also, Legal Aid Ontario was not able to provide us with an estimate of the related cost.

Duty counsel may inform the judge that the person is not eligible. We were informed that in many of these cases, however, the person is assisted anyway because of the pressure by judges to ensure an efficient court process.

In certain circumstances, judge-appointed duty counsel is necessary for the courts to operate effectively, because self representation in court is inefficient and frustrating for the courts. However,

Legal Aid Ontario is the only entity that pays for the services.

The current legislation is silent as to who should pay for the legal services for those who are not financially eligible for legal aid services. Over-extending duty counsel services to those clients could take away duty counsel resources available to assist clients who are eligible.

RECOMMENDATION 15

In order to collect reliable data on duty counsel assists, we recommend that Legal Aid Ontario:

- instruct duty counsel to input data appropriately and consistently across the province;
- track duty counsel assists to non-eligible clients when directed to by judges; and
- track reasons why financial eligibility was not assessed, such as because a financial eligibility test was not required and in what circumstances.

LEGAL AID ONTARIO RESPONSE

Legal Aid Ontario (LAO) is committed to improving the consistent and accurate reporting of duty counsel assists and services and has developed a tool to support this initiative.

LAO will instruct duty counsel to consistently and appropriately input data across the province. LAO will develop a process to track duty counsel assists to non-eligible clients when a financial eligibility test is conducted, and track reasons why a financial eligibility test was not conducted.

Appendix 1: Community Legal Clinics

Source of data: Legal Aid Ontario

Greater Toronto Area – 22

Aboriginal Legal Services	Parkdale Community Legal Services Inc.
Chinese and Southeast Asian Legal Clinic	Rexdale Community Legal Clinic
Community Legal Clinic of York Region	Scarborough Community Legal Services
Downsview Community Legal Services	Services d'Aide Juridique du Centre Francophone de Toronto
East Toronto Community Legal Services Inc.	South Asian Legal Clinic of Ontario
Flemington Community Legal Services	South Etobicoke Community Legal Services
Jane Finch Community Legal Services	The Centre for Spanish-Speaking Peoples
Kensington-Bellwoods Community Legal Services	Unison Health and Community Services
Mississauga Community Legal Services	West Scarborough Community Legal Services
Neighbourhood Community Legal Services	West Toronto Community Legal Services
North Peel and Dufferin Community Legal Services	Willowdale Community Legal Services

Southwest Region – 15

Chatham-Kent Legal Clinic	Justice Niagara
Community Legal Assistance Sarnia	Legal Assistance Windsor
Community Legal Clinic—Brant, Haldimand, Norfolk	Legal Clinic of Guelph and Wellington County
Elgin-Oxford Legal Clinic	Neighbourhood Legal Services (London and Middlesex) Inc.
Grey-Bruce Community Legal Clinic	Niagara North Community Legal Services
Halton Community Legal Services	Waterloo Region Community Legal Services
Hamilton Community Legal Clinic	Windsor-Essex Bilingual Legal Clinic
Huron Perth Community Legal Clinic	

Central East Region – 13

Centre des Services Communautaires de Vanier	Kingston Community Legal Clinic
Clinique Juridique Populaire de Prescott et Russell Inc.	Lake Country Community Legal Clinic
Clinique Juridique Roy McMurtry Legal Clinic	Northumberland Community Legal Centre
Community Advocacy and Legal Centre	Peterborough Community Legal Centre
Community Legal Clinic—Simcoe, Haliburton, Kawartha Lakes	Renfrew County Legal Clinic
Community Legal Services Ottawa	The Legal Clinic
Durham Community Legal Clinic	

North Region – 10

Algoma Community Legal Clinic	Lake Country Community Legal Clinic
Clinique Juridique Communautaire Grand Nord Community Legal Clinic	Nipissing Community Legal Clinic
Elliot Lake and North Shore Community Legal Clinic	Northwest Community Legal Clinic
Keewaytinok Native Legal Services	Sudbury Community Legal Clinic
Kinna-aweya Legal Clinic	Timmins-Temiskaming Community Legal Clinic

Specialty Clinics¹ – 13

Advocacy Centre for Tenants Ontario	Industrial Accident Victims Group Ontario
Advocacy Centre for the Elderly	Injured Workers' Consultants Justice for Children and Youth
ARCH Disability Law Centre	Justice for Children and Youth
Canadian Environmental Law Association	Landlord's Self-Help Centre
Community Legal Education Ontario	Queen's Prison Law
HIV and AIDS Legal Clinic Ontario	Toronto Workers' Health and Safety Legal Clinic
Income Security Advocacy Centre	

Student Legal Aid Services Societies² – 7

Community and Legal Aid Services Program (Osgoode Hall Law School)	Downtown Legal Services (University of Toronto)
Community Legal Aid University of Windsor	Lakehead University Community Legal Services
Community Legal Services (University of Western Ontario)	Queens Legal Aid
	University of Ottawa Community Legal Clinic

1. Specialty Clinics represent specific individuals, such as seniors, or people living with AIDS, and deal with specific areas of law, such as disability law or tenant law.

2. Student Legal Aid Services Societies operate out of Ontario's seven law schools.

Appendix 2: Legal Aid Ontario's Branches and Corresponding Responsibilities

Source of data: Legal Aid Ontario

Branch	# of Full-Time Employees	Responsibilities
17 District and Area Offices	161	Manage the roster of lawyer memberships, client certificates and duty counsel services. They are the first line of appeal for clients whose applications for legal aid are rejected.
Audit and Compliance Unit	7	Audits lawyer billings to ensure compliance with its billing rules. This unit conducts random and targeted audits of lawyers' billings, and when errors or patterns are identified, it makes recommendations to Legal Aid Ontario for billing process improvements and topic-specific communication and training for Legal Aid Ontario's rostered lawyers. When an error is found, the unit will provide information to help lawyers submit bills accurately, and will recover funds when overpayments are made.
Complaints Department	5	Assists with resolving incoming complaints in all areas, such as about lawyers, Legal Aid Ontario policy, Legal Aid Ontario staff, duty counsel, and clinic services. Legal Aid Ontario considers complaints to be opportunities to create a depository of issues, to identify trends, and to evaluate how it is performing as an organization. Legal Aid Ontario's complaints policy provides for resolution of complaints at the local level before the complaint is dealt with by the provincial complaints department. In addition to complaint resolution, the Complaints Department acts as the liaison between Legal Aid Ontario and the Office of the Ombudsman.
Client Service Centre and Account Services	121	Staff working at the call centre take certificate applications over the phone, assess financial eligibility, and answer clients' questions (for example, about their contribution agreements).
Corporate, Policy, Administration and Other	226	Make Legal Aid Ontario corporate and policy decisions. Administrative and Other includes providing legal research to private bar lawyers and clinics, finance, human resources, accounting, communications, facilities, general counsel and others.
Duty Counsel	196	Gives immediate legal assistance to those appearing in court. Duty Counsel are available in all of Ontario's more than 50 courthouses, and about 30 remote and fly-in locations.
Staff in Support of Duty Counsel Operations	91	Provide support to Duty Counsel operations in advancing a client's legal matter through triage, procedural information and referrals (e.g., Legal Aid Worker and Paralegal).
Criminal, Family and Refugee Law Offices	81	Offers eligible clients a range of legal services related to criminal, family law and refugee law.
Information Technology	54	Responsible for the support, strategy, architecture and development of all information technology work. The unit supports all of Legal Aid Ontario employees and about 1,000 clinic employees.
Internal Audit Unit	4	Provides independent and objective services to support Legal Aid Ontario's management team and Board of Directors achieving their strategic goals. Assurance and consulting services conducted by the Internal Audit Unit are designed to improve the effectiveness of governance practices, internal controls risk management, and add value across Legal Aid Ontario, by making audit recommendations for improvement of processes.
Investigations Department	5	Protects Legal Aid Ontario from fraud and provides strategies to reduce financial and reputational risk to the organization. This department also acts as the liaison between Legal Aid Ontario and the Law Society of Ontario. Investigations usually fall into two categories: lawyer related and client related. Lawyer-related cases involve billing irregularities and lawyer misconduct, while client cases usually involve financial eligibility concerns.
Lawyer Services and Payments	30	Provides billing supports and payments to private-sector lawyers who bill Legal Aid Ontario for legal aid work.
Total Full-Time Employees	981	

Appendix 3: Audit Criteria

Prepared by the Office of the Auditor General of Ontario

1. Roles and responsibilities are clearly defined and accountability requirements are established to provide legal aid services to low-income Ontarians.
2. Clients' needs and eligibility are properly assessed and verified in a timely and equitable manner, and matched with the most appropriate legal services available.
3. Effective processes are in place to ensure that legal aid services meet minimum quality assurance standards and client needs. Quality reviews of services provided by lawyers and community legal clinics are conducted on a timely basis, and appropriate actions are taken to address any issues identified.
4. Appropriate and effective controls are in place over the billing and payment to lawyers and community legal clinics and collection of client contributions.
5. Management information systems are effective in providing timely, accurate and complete information for decision-making on eligibility criteria, billing structure, program and service delivery, workload management, funding arrangement, and operating costs and forecasts.
6. Appropriate performance measures are in place to monitor and report publicly on the effectiveness of legal aid services. In addition, reasonable targets are established to allow evaluation of performance relative to these targets and periodic public reporting. Corrective actions are taken on a timely basis when issues are identified.

Appendix 4: Significant Events Relating to Legal Aid Ontario's Deficits in 2015/16 and 2016/17

Prepared by the Office of the Auditor General of Ontario

Date	Event
December 2013	Legal Aid Ontario submits a business case to the Ministry of the Attorney General (Ministry) to expand financial eligibility over 10 years in order to be more in line with Statistics Canada's 2011 Low-Income Measure, which is \$22,903 for a single person.
June 2014	The Ministry approves the business case as part of the June 2014 Ontario Budget.
August 2014	Legal Aid Ontario receives confirmation from the Ministry that it has approval to proceed with requested annual 6% increases to the gross income financial eligibility threshold for the first three years (from 2014/15 to 2016/17). Subsequently, the Province commits additional funding for another four years (from 2017/18 to 2020/21).
February 2015	Legal Aid Ontario observes that the expanded financial eligibility thresholds have not produced the expected increase in certificates and it will not be able to use all the available funding by March 31, 2016. Legal Aid Ontario is required to return to the Province any financial eligibility funding that it does not use by that time.
June 2015	Legal Aid Ontario's Board approves the expanding of its non-financial eligibility criteria for vulnerable clients. In a short period of time, from February to June 2015, the decision is made to expand non-financial eligibility across seven areas of law, all with the same implementation date. Legal Aid Ontario does not calculate the expected final costs presented to the Board in a single, comprehensive report.
June 2015– March 31, 2016	The number of applicants who are eligible for certificates increases dramatically. Legal Aid Ontario issues 108,259 certificates in 2015/16, or 20,980 more certificates than it issued in 2014/15, and spends more than it anticipated.
March 31, 2016	Legal Aid Ontario has a deficit of \$14 million for the fiscal year ended March 31, 2016. Despite the deficit, Legal Aid Ontario's senior management is optimistic that future surpluses will offset what it calls a "short term" deficit; therefore, it makes no policy changes.
June 1, 2016	Legal Aid Ontario management proposes a strategy to the Board to tighten the non-financial eligibility criteria, which were expanded in June 2015, in order to decrease the certificate issuance.
December 2016	Legal Aid Ontario decides to suspend the non-financial eligibility criteria, which were expanded in June 2015, in order to further decrease certificate issuance and address the growing deficit.
March 31, 2017	Legal Aid Ontario's deficit is \$26 million for the fiscal year ended March 31, 2017, bringing the total over two years to \$40 million.

Appendix 5: Jurisdictional Comparison of Clinic Law Services in Canada*

Prepared by the Office of the Auditor General of Ontario

Province or Territory	Description of Clinic Law Services Delivered	Delivery of Services
Alberta	Clinic law services include income support and government benefits.	Delivery is integrated through Alberta's legal aid program, Legal Aid Alberta.
Manitoba	Clinic law services include residential tenancies, mental health, government benefits, public interest law, and other cases accepted on a discretionary basis.	Delivered through the Public Interest Law Centre, which is an independent office from Legal Aid Manitoba but partially funded by Legal Aid Manitoba.
Ontario	Clinic law services include the Ontario Disability Support Program appeals, housing matters, the Ontario Works Program, human rights, employment, and other.	Delivered by 80 independent community legal clinics across the province that are funded by Legal Aid Ontario.
Quebec	Clinic law services include social assistance, landlord and tenant, auto insurance, employment insurance, old age security pension, consumer protection, occupational accidents, disability insurance, and other.	Delivery is integrated through Quebec's legal aid program, La commission des Services Juridiques.
Newfoundland and Labrador	Clinic law services include workers compensation appeals, Mental Health Review Board, employment insurance appeals, Canada Pension Benefit Appeals, and social assistance appeals.	Delivery is integrated through Newfoundland and Labrador's legal aid program, Newfoundland and Labrador Legal Aid Commission.
Nova Scotia	Clinic law services include Canada Pension Disability, employment insurance, income assistance, residential tenancies and landlord-tenant issues.	Delivery is integrated through Nova Scotia's legal aid program, Legal Aid Nova Scotia.
Nunavut	Clinic law services include landlord and tenant issues, employment law problems, human rights issues, and other.	Delivery is integrated through Nunavut's legal aid program, the Legal Services Board of Nunavut.
Northwest Territories	Clinic law services include housing, landlord and tenant issues, employment rights, Worker's Health and Safety Commission claims, wills and estate advice, mental health and guardianship reviews, elder abuse, debtor, creditor, and small claims, Canada Pension Plan, employment insurance, and other.	Delivered through Outreach Legal Aid Clinic, which is funded by the Northwest Territories legal aid program, Legal Aid Commission.
Yukon Territory	Clinic law services include employment insurance, Canada Pension Plan and Canada Pension Plan Disability Insurance, social assistance benefits, landlord and tenant issues, and disability issues.	Delivered through The Neighbourhood Law Centre, which is funded by the Yukon Territory legal aid program, Yukon Legal Services Society.

* Provinces or territories not listed do not provide clinic law services funded by their legal aid plan. However, some clinic services may be provided by not-for-profit organizations not funded by the government.

Chapter 3

Section 3.06

Metrolinx—GO Station Selection

1.0 Summary

On September 27, 2017, the Standing Committee on Public Accounts (Committee) passed the following motion: “that the Auditor General conduct a value-for-money audit on the proposed Metrolinx GO stations at Kirby and Lawrence East.” The Auditor General stated during the debate on the motion that “we would look at the supporting business case and the decision-making and the process leading up to the selection of those two stations” and “whether or not the business case...supports the decision-making that went into it.”

The stations were two of 12 proposed GO stations that Metrolinx in June 2016 recommended be built. The building of new GO stations became part of an initiative that the Province had already begun to improve the regional rail network of the Greater Toronto and Hamilton Area (GTHA). The Committee’s motion arose from controversy around the Kirby and Lawrence East stations highlighted by media reports between March and August 2017.

We found that the Minister of Transportation and the City of Toronto influenced Metrolinx’s decision-making process leading up to the selection of the two stations. As a consequence, Metrolinx inappropriately changed its recommendations on the Kirby and Lawrence East stations. Metrolinx’s initial business cases concluded that the stations’ costs and disadvantages significantly outweighed

their benefits. Metrolinx overrode that conclusion and recommended its Board approve them because the Minister of Transportation and the City of Toronto had made it clear they wanted these stations.

The sequence of events leading up to Metrolinx’s changed recommendations is included in **Figure 1**.

In Metrolinx’s updated February 2018 analysis, the expected benefits of the 12 proposed stations increased due to the inclusion of new assumptions. The analysis also evaluated the stations using assumptions that are not in line with Metrolinx’s current practices for transit planning.

When we completed our audit, Metrolinx had put the construction of all 12 proposed GO stations out for tender. Our audit focused on the process that led to Metrolinx’s decision to recommend that the Kirby and Lawrence East stations be built.

The following are some of our specific findings:

- **The Minister did not use the legislated channels available to him to direct Metrolinx’s regional transportation planning work; instead, he and the City of Toronto influenced Metrolinx to override its own GO station planning process.** Under the *Metrolinx Act, 2006*, the Minister of Transportation can give written directives to Metrolinx regarding any matter under the Act. A written directive to Metrolinx from the Minister to add the Kirby and Lawrence East stations would have demonstrated greater

Figure 1: Sequence of Events Involving Kirby and Lawrence East Stations

Source of data: Metrolinx

Date	Event
January 2016	Metrolinx shortlisted 17 station locations to be assessed through business case analysis after conducting six planning stages outlined in Figure 4 .
January 21, 2016	Metrolinx finalized the Terms of Reference for three external consulting firms contracted to undertake business case analyses on the 17 shortlisted station locations.
May 2016	The external consultant firms submitted draft initial business cases for each the 17 station locations to Metrolinx for review.
June 1, 2016	In an email to the Ministry of Transportation, Metrolinx's CEO outlined a preliminary list of 10 stations he anticipated would be included in the Regional Express Rail program. He indicated that Kirby was one of the stations that would not move forward at this time. He also indicated that the City (Toronto) would like to include Lawrence East, while Metrolinx believes there is not a strong case for its inclusion.
June 2, 2016	The co-ordinating consultant firm submitted the first draft of the Summary Report of the 17 initial business case results. It does not recommend Kirby and Lawrence East at this time (they are two of the seven stations included in the 'not recommended' category).
June 9, 2016	Metrolinx's CEO briefed the Minister of Transportation (Minister) in person on the status of the station selection process. In an email to the Metrolinx Board Chair, Metrolinx's CEO noted that the briefing with the Minister was "so-so" and that his interpretation is that he (the Minister) is disappointed Kirby and Highway 7-Concord are not included.
June 14, 2016	Metrolinx staff took another look at Kirby and Highway 7-Concord to see if adding express service would improve the business case results enough to support the inclusion of at least one of these stations. The results did not change staff's recommendations against including these two stations.
June 15, 2016	At an in camera Board meeting, the Metrolinx Board decided to support the 10 stations recommended by Metrolinx in a draft staff report to the Board (Kirby, Lawrence East and Highway 7-Concord were not recommended at this time).
June 16, 2016	Metrolinx received draft news releases from the Ministry announcing 14 new stations (including Kirby, Lawrence East, Highway 7-Concord and Park Lawn).
June 20, 2016	During a special teleconference Board meeting, the Metrolinx Board Chair indicated that Lawrence East had been added, and that the Minister believed another station was needed at Kirby. No approval was requested at this meeting; the purpose of the meeting was to update the Board.
June 22, 2016	The Ministry of Transportation published a news release announcing the building of the Lawrence East GO station.
June 24, 2016	The Ministry of Transportation published a news release announcing the building of the Kirby GO station.
June 28, 2016	At a public Board meeting, Metrolinx staff submitted a report to the Board recommending the addition of 12 stations, including Lawrence East and Kirby, and the Board approved the list.
March 27, 2017–ongoing	On March 27, 2017, a Toronto Star article first raised questions about the Minister of Transportation's possible influence on the recommendation of Kirby station. In the following months, Metrolinx's station selection process, and in particular the recommendation and approval of Kirby and Lawrence East, was the subject of several news articles.
August 29, 2017	The Minister of Transportation sent a letter to the Metrolinx Board Chair indicating that Metrolinx should not proceed with Kirby and Lawrence East Stations until Metrolinx staff and the Board were satisfied that they are justified.
September 20, 2017	The Standing Committee on Public Accounts received a draft motion to consider that the Auditor General conduct a special audit on the selection of the Kirby and Lawrence East stations.
September 27, 2017	The Standing Committee on Public Accounts passed the motion requesting that the Auditor General conduct a special audit on the selection of the Kirby and Lawrence East stations.
September 29, 2017	Metrolinx released an adjusted Summary Report on the two stations' evaluations that significantly softened the language around the stations' poor evaluation results from June 2016.

Date	Event
February 26, 2018	Metrolinx released an updated analysis that dramatically improved the stations' initial negative evaluations. The new analysis relied on three assumptions about how future GO service as a whole will be faster, more accessible, and more appealing to riders. It is not certain that these improvements will actually be in place when the stations are built.
March 1, 2018	At a public Board meeting, having received a staff report and updated business case analysis for the shortlisted stations, Metrolinx's Board approved the continued delivery of all 12 stations previously approved in June 2016.
March 29, 2018	Metrolinx and Infrastructure Ontario issued a Request for Qualifications for the New Stations, to be built under a Design-Build-Finance AFP contract. Requests for Proposals for qualified bidders are planned to be released in Winter 2018/19.

transparency and accountability in that it would have signalled clear ownership of the decision. The public would have benefited from knowing that a government policy decision was overriding the results of Metrolinx's business-case analysis. Instead, the Ministry of Transportation went so far as to issue news releases announcing the Kirby and Lawrence East stations before the Board had even met to make its final recommendations.

- **Metrolinx's response to the influence was to make the Kirby and Lawrence East evaluation results look better.** Metrolinx's 2016 original business-case analyses of the Kirby and Lawrence East stations noted that both stations were expected to result in a net loss of GO ridership, a net increase in vehicle use (driving) in the region and an overall decrease in fare revenue. The business-case analyses did note positively that the stations aligned with municipal land-use policy, which slightly improved their evaluation results, but they still concluded overall that these stations were "low-performing" and "should not be considered further during the next ten years." However, the Metrolinx Board Chair and Chief Executive Officer guided the process whereby the Metrolinx Board ultimately supported the decision to add these two stations.
- **Metrolinx's lack of a rigorous transit-planning process that weighs all costs and benefits against established criteria enabled Metrolinx to deviate from**

the recommendations of the original business-case analyses and find a way to justify building the Kirby and Lawrence East stations. Metrolinx removed Kirby and Lawrence East from the original list of "not recommended" stations and put them into a new category it created of "low" performing stations. It put the remaining "not recommended" stations into another new category it created of "very-low" performing stations. These new categories were used in Metrolinx's June 28, 2016, report to the Board, which recommended building all but the "very-low" performing stations. In other words, Metrolinx made the Kirby and Lawrence East stations appear to have better evaluation results than the "very-low" performing stations to ensure the Board would approve building them.

This report contains five recommendations, with nine action items, to address our audit findings.

Overall Conclusion

Our audit concluded that the ultimate selection by Metrolinx of the proposed GO stations at Kirby and Lawrence East was clearly influenced by the Minister of Transportation and the City of Toronto. Their selection was not entirely based on thorough analysis of reliable and relevant information against established criteria. The 2016 analysis on which the selection was ultimately based did not specify how

relevant factors, especially economic and strategic factors, should be weighed against each other. Economic criteria were also adjusted to better align with the ultimate decision made.

The publicly available information included in the June 2016 staff report to the Board of Directors to justify the approval did not highlight important details, especially that Metrolinx planning staff believed the Kirby and Lawrence East GO stations should not be considered for the next 10 years because of the significant delays and potential ridership loss they were expected to cause. Metrolinx's updated analysis of the new stations, published in February 2018, presented a best-case scenario that assumed future changes to the GO system that, to varying degrees, are not certain to be fully implemented as planned when the stations are completed. The reanalysis also evaluated the stations using assumptions (such as auto-operating cost savings; growth in the value of time) that are not in line with Metrolinx's current practices for evaluations of this kind.

OVERALL METROLINX MANAGEMENT RESPONSE

Since the preliminary selection of 12 GO Station sites in 2016, Metrolinx made several important improvements to its Business Case methodology. Metrolinx published an improved Business Case Guidance in March 2018, establishing the criteria and the analytical methods and parameters that constitute the economic factors of any business case. Metrolinx also established a formal and transparent decision process with multi-stage approvals whereby business cases are presented to the Metrolinx Board. Further design and analysis is currently underway on the GO Stations projects, and there is a further decision point with updated business case analysis before the stations are approved for procurement and full construction funding.

In 2019, Metrolinx will implement further improvements, including:

- In April 2019, publishing the complete Business Case Guidance (v1), to provide prescriptive direction on the criteria for the strategic factors of any business case, increase the consistency with which sensitivity analysis is performed and develop a procedure for approving criteria changes and incorporating up-to-date assumptions in financial and economic analysis;
- convening annually an Advisory Panel for Project Evaluation, comprising experts from academia, public policy and government, to ensure that the Business Case Guidance is up-to-date and based on the latest research; and
- publishing business cases ahead of Board meetings, adding a cover decision note that clearly presents the recommendations and the rationale drawing from the business case, the sensitivity analysis and other explicit external considerations not captured in the business case.

Finally, Metrolinx welcomes the Auditor General's recommendations pertaining to clarifying its relations with the Ministry and municipalities in planning the regional transportation system.

2.0 Background

Metrolinx (formerly the Greater Toronto Transportation Authority) was created by the Province in 2006. Under the *Metrolinx Act, 2006 (Act)*, Metrolinx has a duty to provide leadership in coordinating, planning and implementing a regional transportation network. The Greater Toronto and Hamilton Area (GTHA) that Metrolinx serves comprises the Cities of Hamilton and Toronto, and the Regions of Durham, Halton, Peel and York. Home to 7.2 million people, the GTHA population is expected to grow by about 110,000 each year, to over 10 million residents by 2041. In addition to the number of residents, over 3 million Ontarians commute to work in the GTHA.

2.1 Metrolinx's Roles and Responsibilities

Figure 2 outlines Metrolinx's roles and responsibilities.

In addition to its leadership role in regional transportation planning, Metrolinx operates GO Transit, which serves the entire GTHA, as well as the Union–Pearson Express, which links Union Station with Pearson Airport.

Municipalities across the region also undertake local transportation planning, and own and operate independent local transit services, such as the Toronto Transit Commission and Durham Regional Transit. Hence, to fulfill its role, Metrolinx relies on co-ordination and collaboration with and between independent stakeholders, including cities and local transit providers.

Metrolinx is governed by a Board of Directors. Board members are appointed by the Lieutenant Governor in Council on the recommendation of the Minister of Transportation.

Approximately one-third of Metrolinx's operating revenue comes from provincial subsidy (\$341 million in 2017/18); the remainder comes from fare revenue (from GO Transit and the Union–Pearson Express), non-fare revenue (such as rental and advertising income) and service fees from operating PRESTO, the regional fare payment system. Metrolinx relies almost entirely on capital

funding from the Province (\$3.4 billion in 2017/18) to pay for construction and maintenance of assets and infrastructure.

2.2 Overview of Regional Transportation Planning

One of Metrolinx's key responsibilities under the Act is to create an integrated regional transportation system for the GTHA. This means interconnecting the GTHA's infrastructure of highways and roads, subways, buses, light rail and other forms of transportation. The objective is to enable the 7.2 million residents—as well as the more than 3 million Ontarians who work in the region and the goods that need to travel as part of that work—to move quickly and reliably within the GTHA.

2.2.1 The Transit Component of Regional Transportation Planning

Metrolinx's first Regional Transportation Plan, *The Big Move*, was a 25-year plan adopted by the Metrolinx Board in November 2008.

The plan identified disconnected and varied transit services as one of the key challenges for transit in the region as follows:

The GTHA's public transit system is currently comprised of nine separately-governed local

Figure 2: Metrolinx's Roles and Responsibilities

Source of data: Metrolinx

Core Role	Responsibilities
Planning	<ul style="list-style-type: none"> Develop and co-ordinate the implementation of a long-term (25- to 30-year) Regional Transportation Plan for the GTHA, to be reviewed every 10 years Also plan for regional transportation needs in the short and medium term Consult with municipalities and other stakeholders to ensure local transit priorities are reflected in the Regional Transportation Plan and shorter-term plans Undertake business-case analyses to assess costs and benefits of potential projects
Building	<ul style="list-style-type: none"> Work with Infrastructure Ontario to procure projects financed through Alternative Financing Procurement Oversee and lead construction of transit projects in the GTHA Facilitate and manage the procurement of local transit vehicles, equipment, facilities and services on behalf of municipalities
Operating	<ul style="list-style-type: none"> Operate GO Transit trains and buses, Union–Pearson Express service and programs such as Smart Commute Manage and administer the PRESTO integrated regional fare-payment system

transit agencies and one regional transit provider. This patchwork of systems is poorly integrated, making travel across boundaries by public transit an inconvenient, frustrating, unattractive and costly option for many travelers. Given that one out of every four trips in the GTHA crosses a regional boundary, these arrangements need to change if transit is to attract a larger share of trips.

Under the Act, the Regional Transportation Plan must be reviewed at least every 10 years. In March 2018, following a three-year review process, the Board approved the updated Regional Transportation Plan, which extends to 2041.

2.2.2 2041 Regional Transportation Plan

The 2041 Plan carries forward the original vision of *The Big Move*, “to achieve a transportation system for the GTHA that is effective, integrated and multi-modal” (taking into account all forms of transportation in the region). The updated 2041 plan further refined this vision into five core strategies:

1. Complete the delivery of current regional transit projects (including GO Regional Express Rail, Light Rail Transit, and Bus Rapid Transit projects);
2. Connect more of the region with frequent rapid transit;
3. Optimize the transportation system;
4. Integrate transportation and land use; and
5. Prepare for an uncertain future.

2.2.3 Stakeholders and Key Players in Regional Transit Planning

There are three main stakeholders Metrolinx must work with for regional transit planning: the Ministry of Transportation, city and regional governments in the GTHA, and municipal transit providers. **Figure 3** summarizes the different entities Metrolinx interacts with in regional transit planning.

2.3 Overview of Plans for GO Rail Network

Two initiatives announced in 2014 put Metrolinx on the path of selecting new station locations for its GO rail network. One was introduced by the Province (Regional Express Rail, **Section 2.3.1**) and the other by the City of Toronto (SmartTrack, **Section 2.3.2**). Both of these initiatives have been integrated by Metrolinx into its updated *2041 Regional Transportation Plan*.

2.3.1 The Regional Express Rail Initiative

In April 2014, the Province announced that \$13.5 billion would be invested in the Regional Express Rail initiative. This is an initiative to transform the GO rail network from a largely rush-hour service into a more frequent, all-day, regional transit service.

Metrolinx was tasked with implementing this initiative over a 10-year period (i.e., to be completed by 2024). To begin, it undertook a review of the existing GO network in 2014 and 2015 to identify how this network could be enhanced. At the same time, Metrolinx’s GO Transit division had been separately reviewing potential sites for new GO stations. This new-station planning work was ultimately brought into the scope of the Regional Express Rail initiative.

2.3.2 The SmartTrack Plan

During the 2014 mayoral election for the City of Toronto, the ultimately successful candidate campaigned on a transit plan called SmartTrack. This plan proposed to construct new GO stations along existing GO rail corridors running through Toronto.

At the first Regional Stakeholder Forum held on May 29, 2015, the Metrolinx CEO pointed out to stakeholders that SmartTrack overlaps and is congruent with the Regional Express Rail initiative. Through 2015 and 2016, Metrolinx worked with the City of Toronto on integrating SmartTrack with

Figure 3: Entities Metrolinx Interacts with in Regional Transit Planning

Prepared by the Office of the Auditor General of Ontario

Entity	Role in Regional Transit	Interaction with Metrolinx
Ministry of Transportation (Province)	<ul style="list-style-type: none"> • Sets policy priorities and policy framework for transportation in the province and the region • Funds transit and transportation capital investments • Through Minister's letters of direction, can amend the Regional Transportation Plan or direct steps to be taken for Plan implementation • Can introduce initiatives (e.g., the Regional Express Rail initiative) 	<ul style="list-style-type: none"> • Minister of Transportation issues mandate letters to Metrolinx and may issue letters of direction • Minister of Transportation recommends appointments to Metrolinx's Board of Directors • Ministry receives funding requests from Metrolinx for transit projects, and reviews Metrolinx's supporting business cases and other analysis in deciding whether to approve requests • Ministry provides direction and feedback on assumptions and inputs used in Metrolinx's analyses • Ministry provides grants funding approximately one-third of Metrolinx's annual operating costs and virtually all capital costs¹ • Province can commit funding for one-off large-scale initiatives
City and regional governments in the GTHA ²	<ul style="list-style-type: none"> • Own municipal transit agencies • Responsible for land-use planning and budget approvals within the municipality (including transit routes and stations proposed by municipal transit agencies and Metrolinx) 	<ul style="list-style-type: none"> • Metrolinx and GTHA governments work together to ensure local objectives are reflected in the Regional Transportation Plan (GTHA governments share local transportation plans and priorities, and employment and population forecasts, with Metrolinx planners) • Metrolinx co-ordinates with GTHA governments to integrate regional transit into the municipality (including infrastructure, routes, fares and schedules) • GTHA governments provide more or less support for Metrolinx's planned transit projects in their municipality
Municipal transit agencies ³	<ul style="list-style-type: none"> • Propose municipal transit plans to their municipal government for approval • Develop and operate transit within the municipality 	<ul style="list-style-type: none"> • Metrolinx co-ordinates with agencies to integrate regional transit with local transit
Consultants	<ul style="list-style-type: none"> • Prepare business cases, which assess potential transit investments from strategic, financial, economic and deliverability perspectives 	<ul style="list-style-type: none"> • Metrolinx establishes terms of reference for consultant work, and collaborates with consultants in finalizing business cases

1. For the five fiscal years from 2013/14 to 2017/18, the Province contributed an average of \$238 million/year for Metrolinx's operating costs and \$2.6 billion/year for Metrolinx's capital costs.

2. There are 30 municipal governments in the GTHA: two single-tier governments (City of Toronto and City of Hamilton); and four regional municipal "upper-tier" governments (Halton Region, Peel Region, York Region and Durham Region), which contain 24 incorporated "lower-tier" municipalities.

3. There are nine municipal transit agencies in the GTHA: Toronto Transit Commission (Toronto); Hamilton Street Railway (Hamilton); Oakville Transit, Burlington Transit and Milton Transit (Halton Region); Brampton Transit and Mississauga Transit (Peel Region); York Region Transit/VIVA (York Region); and Durham Region Transit (Durham Region). There are also eight specialized paratransit agencies in the GTHA serving people with disabilities: Burlington Handi-Van, Durham Region Transit Specialized Services, York Region Transit Mobility Plus, Hamilton Accessible Transportation Services (ATS), Milton access+, Oakville care-A-van, Peel TransHelp, and TTC Wheel-Trans.

the Regional Express Rail initiative. This included evaluating and selecting new station locations on existing GO rail corridors.

2.3.3 New Station Evaluation and Selection Process

Metrolinx conducted a multi-step evaluation to select which new GO stations should be built. Five key criteria were used to assess whether stations would benefit the GO network. In order to be recommended, new stations should:

- improve service and add riders;
- minimize impacts on trip time for existing riders;
- be appropriately spaced with adjacent stations;
- support regional and municipal plans; and
- be well-adapted to their local (urban/suburban) context.

There were six planning stages as outlined in **Figure 4**.

3.0 Audit Objective and Scope

On September 27, 2017, the Legislature’s Standing Committee on Public Accounts (Committee) passed a motion requesting “that the Auditor General conduct a value-for-money audit on the proposed Metrolinx GO stations at Kirby and Lawrence East.” The motion was presented in light of controversy surrounding Metrolinx’s June 2016 recommendation to its Board that these two stations be built.

We accepted this assignment under Section 17 of the *Auditor General Act*, which states that the Committee can request the Auditor General to perform special assignments. The Committee agreed that this audit would be included in the next year’s Annual Report of the Office of the Auditor General.

Our objective was to assess whether Metrolinx’s selection of the proposed GO stations at Kirby and Lawrence East was based on thorough analysis of reliable and relevant information to support the regional transit network.

Figure 4: Six Planning Stages for New Station Selection

Source of data: Metrolinx

Stage	Timeline
1. Identify an initial list	<ul style="list-style-type: none"> • December 2014: Metrolinx receives final consultant report identifying and evaluating more than 120 potential new station sites (sites included those previously identified by municipalities, and those with strategic potential for the transit network)
2. Focus the analysis	<ul style="list-style-type: none"> • March 2015: Metrolinx cut initial 120+ sites to 56 location options (sites scored based on plans and land use, transportation connectivity and technical feasibility)
3. Evaluate stations	<ul style="list-style-type: none"> • September 2015–January 2016: Metrolinx uses 40 measures to assess each of the 56 locations (measures fall into four categories: strategic, economic, technical/operational and revenue)
4. Engage stakeholders	<ul style="list-style-type: none"> • February–March 2016: Metrolinx hosts regional open houses with members of the public and sets up a website to receive feedback on the new stations (Metrolinx uses municipal and public feedback to inform Stage 5, Refine the list)
5. Refine the list	<ul style="list-style-type: none"> • January 2016: Metrolinx uses nine metrics (see Appendix 2) to screen the 56 options down to 17 station locations (24 individual station sites, with some analyzed as part of a cluster); refined list made up of sites most compatible with Regional Express Rail network service planning, and locations showing current or future promise in connecting to rapid transit and offering development potential
6. Prepare initial business cases	<ul style="list-style-type: none"> • January 2016: Metrolinx hires three consulting firms to prepare business cases for each of the 24 stations at 17 locations • May 2016: Draft versions of business cases received by Metrolinx and circulated for internal review • Early June 2016: Metrolinx works to finalize the new stations it expects to recommend to its Board

Before starting our work, we identified the audit criteria we would use to address our audit objective (see **Appendix 1**). These criteria were established based on a review of applicable legislation, Hansard debates, directives, policies and procedures, internal and external studies, and best practices.

Senior management at Metrolinx reviewed and agreed with the suitability of our objective and related criteria.

We focused on activities of Metrolinx in the three-year period ending March 2018.

We conducted the audit between December 5, 2017, and June 20, 2018, and obtained written representation from Metrolinx that, effective November 9, 2018, it has provided us with all the information it is aware of that could significantly affect the findings or the conclusion of this report.

We did our work primarily at Metrolinx's head office in Toronto. In conducting our audit work, we reviewed:

- applicable legislation and binding documents including the *Metrolinx Act, 2006* and the *Growth Plan for the Greater Golden Horseshoe (2017)*;
- Metrolinx's 2008 and 2018 regional transportation plans;
- Official and Secondary Plans of cities and regions within the GTHA;
- Metrolinx's *2018 Draft Business Case Guidance*;
- transit planning research, including approaches to regional transportation planning in the United Kingdom, the United States and Australia;
- best practices in governance and transit assessment in Metropolitan Vancouver, British Columbia, and Minnesota, United States; and
- a variety of other documents and correspondence.

Furthermore, we reviewed in detail the business cases undertaken by Metrolinx in support of planning and development of projects for the regional transportation network. With regard to the

new stations, these included the 17 business cases undertaken in 2016 to select new stations, as well as the updated business case undertaken in 2018 on the 12 previously approved stations. We also interviewed relevant staff members in order to:

- gain an understanding of the modelling tools used to forecast future ridership, and the economic and financial models used to estimate how transit investments will affect the region;
- confirm the sources and derivation of values used in the economic modelling;
- gain an understanding of how different teams contribute to the planning process at Metrolinx, including:
 - the service planning group (which plans, for example, train routing and timetabling);
 - the capital projects group (which deals with procurement and construction); and
 - the planning and analytics group (which does modelling and economic analysis); and
- gain an understanding of provincial, municipal and stakeholder relationships, insofar as they affect how transit projects are planned, funded, approved and implemented.

In addition to planning staff, we met with Metrolinx senior management and the Metrolinx Chief Planning Officer to better understand the planning and decision-making processes from an organizational perspective. In order to validate our findings, and to gain additional perspective on Metrolinx's governance, we also interviewed three of Metrolinx's current Board Members, who have served in these positions since before 2016.

In our review of the station selection process, we reviewed correspondence within Metrolinx, and between Metrolinx and other stakeholders.

We met with leading researchers in transportation analysis and modelling from the University of Toronto, to obtain their perspectives on best practices in transit planning, estimating ridership growth and the transportation planning environment in Ontario.

We also engaged a consultant with expertise in the field of transportation planning to assist us on this audit.

We conducted our work and reported on the results of our examination in accordance with the applicable Canadian Standards on Assurance Engagements—Direct Engagements issued by the Auditing and Assurance Standards Board of the Chartered Professional Accountants of Canada. This included obtaining a reasonable level of assurance.

The Office of the Auditor General of Ontario applies the Canadian Standards of Quality Control and, as a result, maintains a comprehensive quality control system that includes documented policies and procedures with respect to compliance with rules of professional conduct, professional standards and applicable legal and regulatory requirements.

We have complied with the independence and other ethical requirements of the Code of Professional Conduct of the Canadian Professional Accountants of Ontario, which are founded on fundamental principles of integrity, objectivity, professional competence and due care, confidentiality and professional behaviour.

4.0 Detailed Audit Observations

4.1 Metrolinx Overrode Planning Evidence to Accommodate External Influence on Station Selection Decision

Metrolinx appropriately gathered comprehensive information for selecting new GO stations; however, it did not have a rigorous process for weighing all costs and benefits against established criteria.

The information Metrolinx gathered on the Kirby and Lawrence East stations from January to June 2016 showed that the costs from an economic perspective significantly outweighed the benefits.

Despite this, Metrolinx recommended the Kirby and Lawrence East GO stations in June 2016, on the basis of undefined “strategic considerations.” With such a vague process for selecting stations, any decision can be justified.

This section overviews the business-case analyses done on the proposed new GO stations in June 2016 and outlines Metrolinx’s decision-making process, which was influenced by the Minister of Transportation and the City of Toronto, leading Metrolinx to override the results of its initial business-case analyses.

4.1.1 Business-Case Analysis of 17 Shortlisted Stations Was Comprehensive

Metrolinx had shortlisted 17 station locations by January 2016, using the six planning stages found in **Figure 4**.

Kirby was one of seven stations considered for the Barrie line in June 2016; the locations of those seven stations are shown in **Figure 5**.

Lawrence East was one of five stations considered for the Stouffville line in June 2016; the locations of those five stations are shown in **Figure 6**.

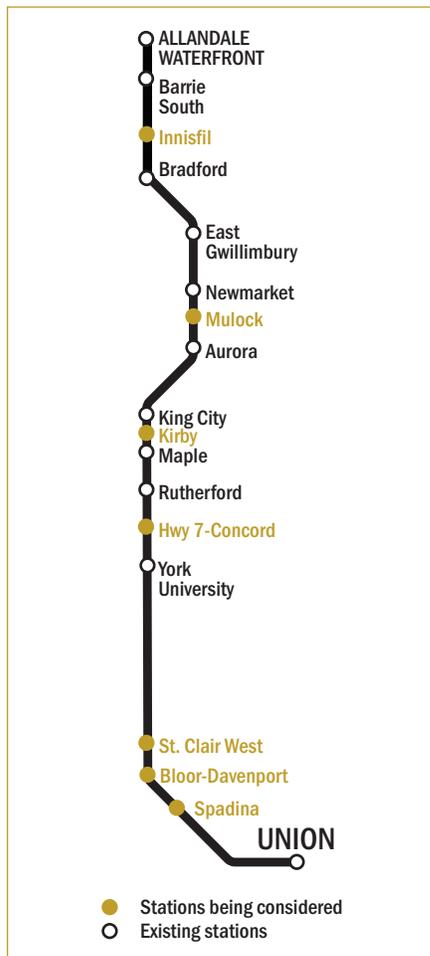
The other five of the 17 shortlisted stations (in alphabetical order) were Breslau, Liberty Village, Park Lawn, St. Clair West (Kitchener) and Whites Road (these stations are on different GO corridors and are not shown in the figures noted above).

Metrolinx hired three consulting firms to undertake a business-case analysis of each of the 17 shortlisted stations. One of the three consulting firms was also responsible for preparing a Summary Report of the business-case analysis results. There were four components to the business-case analysis: Strategic, Economic, Financial, and Deliverability/Operations. These components are described in **Figure 7**.

The business-case analysis evaluated the new stations over a 60-year period, from 2022 to 2081. The analysis incorporated annual ridership demand, which was estimated using average

Figure 5: Seven Proposed New Station Locations Being Considered in June 2016 for the Barrie Line

Source of data: Metrolinx

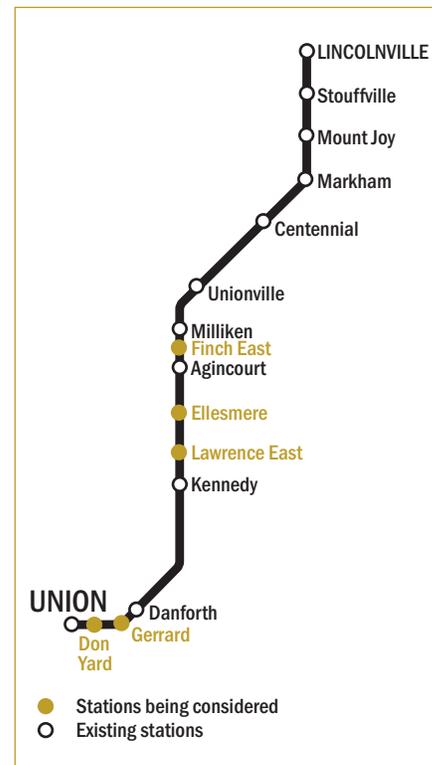


ridership growth rates for each line, and 2031 population and employment forecasts provided by GTHA municipalities that conformed to provincial growth plan targets (under the *Places to Grow Act, 2005*, the Ministry of Municipal Affairs and Housing issues regional growth plans that guide government investments and land-use-planning policies).

Consultants submitted their initial business-case analyses and the Summary Report to Metrolinx for review in May and early June 2016. The Summary Report recommended that 10 stations be added; the seven stations it did not recommend included the Kirby and Lawrence East GO stations.

Figure 6: Five Proposed New Station Locations Being Considered in June 2016 for the Stouffville Line

Source of data: Metrolinx



4.1.2 Business-Case Analysis Concluded Kirby GO Station Should Not Be Recommended

For the 2031 forecast year, the Kirby GO station was expected to result in:

- ridership loss of over 57,000 trips in that year;
- additional car travel of almost 40,000 kilometres per day (for commuters who switch from GO transit to driving); and
- an annual loss of over \$900,000 in fare revenue.

The analysis estimated that these forecasted results would translate into a net economic cost to the GTHA of \$478 million over 60 years.

From a strategic perspective, a Kirby GO station did conform to broad provincial and regional growth policies, and was aligned with the City of Vaughan's vision for the development of the area.

Figure 7: Considerations within Four Components of Business-Case Analysis

Source of data: Metrolinx

Strategic Component

- **Policy alignment**—The station location should align with policies in the area’s plan for growth (being sensitive to whether the location is urban, built-up or rural); and local land-use and transportation policies.
- **Development potential and intensification**—The location’s development patterns should support transit (taking into account the people, jobs and development currently within 800 metres of the location).
- **Real-estate-market demand**—The station should be well-situated in relationship to current and future real-estate-market demand.
- **Operational system**—The station should be an appropriate distance (not less than 1.5 km) from existing and other potential new stations.
- **Connectivity and ridership drivers**—Will the station lead to more or fewer overall GO riders? How well does the station connect to other existing or planned transit? What key destinations and places of interest are within 800 metres of the station?

Economic Component

- **Overall**—Will transit riders will be added or lost with a new station? (Time delays can be converted into loss of ridership, which in turn means loss of fare revenue and increases in car/vehicle use.)
- **Travel time savings**—What are the journey time changes for existing GO customers? What are the time savings for new GO customers switching to transit from other modes of transportation?
- **Vehicle operating cost savings**—If longer travel times on GO transit mean riders will switch to car (vehicle) travel, how many more vehicle kilometres will be travelled? How much more will it cost drivers to travel that kilometre distance?
- **Decongestion on road network**—To what extent does the new station reduce or increase congestion on the road network?
- **Safety**—If the new station results in fewer or more vehicle kilometres travelled, to what extent will the number of collisions in the area be affected?
- **Greenhouse gas emissions**—If the new station results in fewer or more vehicle kilometres travelled, what will be the change in greenhouse gas emissions?

Financial Component

- **Affordability and capital cost**—How much will it cost to build the station? How much will it cost to operate and maintain the station, including labour and station costs, and ticketing machine operating and maintenance costs?
- **Incremental fare revenues**—In the first 60 years after the station is built, how much additional fare revenue will the station generate?

Deliverability/Operations Component

- How easy will the station be to construct and operate? (For example, do adjacent buildings, existing infrastructure, or regionally protected lands or waterways pose problems for constructing the station?)
- How will residents be affected by the construction process and operation of the station?

The one strategic criterion the station did not meet was to improve transit service and increase ridership. As the analysis indicated, the area around Kirby GO station is not currently serviced by frequent local transit and is not close to key destinations, and travel time delays would translate to overall ridership loss.

The overall conclusion of the business-case analysis was that “the benefits which could be real-

ized by a Kirby station are not large enough to outweigh the negative impacts to GO Transit and the economy.” Another finding was that for every dollar spent on the new station, “transportation users and society would pay an additional \$3.60.” In other words, the additional costs to the region because of increased auto travel and travel time delays for GO passengers would be more than three-and-half times the costs to build and operate the station.

4.1.3 Business-Case Analysis Concluded Lawrence East GO Station Should Not Be Recommended

For the 2031 forecast year, a Lawrence East GO station was expected to result in:

- ridership loss of over 148,000 trips in that year;
- additional car travel of almost 7,000 kilometres per day (for commuters who switch from GO transit to driving); and
- an annual loss of nearly \$1.3 million in fare revenue.

The analysis estimated that these forecasted results would translate into a net economic cost to the GTHA of \$367 million over 60 years.

From a strategic perspective, a Lawrence GO station did align with the City of Toronto's growth objectives and transit plans. The two strategic criteria the station did not meet were (i) to improve transit and increase ridership; and (ii) having a sufficient demand for real estate development to justify the station. Even though the City of Toronto was planning to develop the area, the analysis predicted that employment densities, population densities and real estate market demand would all remain low.

The overall conclusion of the business-case analysis was that the “area’s low employment and population densities and limited real estate market demand may not support RER [Regional Express Rail] service at this time”; and “its negative value results from the net loss in ridership due to the additional time required for trains to serve the

station.” In other words, while the station would satisfy the City of Toronto’s growth and transit objectives, the analysis showed that it would have an overall negative impact on the regional transit network and its users.

Figure 8 shows the business-case analysis results for the first 60 years if the Kirby and Lawrence East GO stations are built.

4.1.4 The Minister of Transportation Influenced Metrolinx to Approve the Kirby Station

The Minister of Transportation was the MPP representing the Vaughan riding, where a Kirby station would be located. On June 9, 2016, the Metrolinx CEO briefed him in person on the station-selection status. The Metrolinx CEO let the Minister know that neither Kirby nor Highway 7–Concord (another station in the City of Vaughan) were included as recommended stations. The Metrolinx CEO stated in an email later that day to the Metrolinx Board Chair that he interpreted the Minister to be “disappointed” by the news. The Metrolinx CEO further informed the Board Chair that he was discussing an “alternative analysis” with Metrolinx’s Chief Planning Officer.

On June 14, 2016, Metrolinx’s CEO informed the Board Chair by email that planning staff had taken another look at Kirby and Concord stations, to assess how the stations would perform assuming future implementation of express train service. The thought was that adding express train service

Figure 8: Estimated Impacts over 60 years with the Addition of Kirby and Lawrence East Stations

Source of data: Metrolinx

	Kirby	Lawrence East	Total
Net loss of riders (millions of trips)	3.3	12.8	16.1
Net additional time for travellers (millions of person-hours)	17.7	37.6	55.3
Net additional auto travel (millions of vehicle-kilometres)	688.1	181.7	869.8
Net loss of fare revenues (\$ million)	17.4	32.7	50.1
Capital costs (\$ million)	98.4	22.7	121.1
Net economic loss (\$ million)	(477.8)	(367.4)	(845.2)

would shorten the travel time for those riders not getting off at the Kirby and Concord stations, as the express trains would not stop at them. With shorter travel times, the results of the business-case analysis for a Kirby GO station would not be as negative—the shorter travel times should lead to increased ridership, reduction in car travel and additional fare revenues. However, he noted:

Unfortunately, while [express train service] did “improve” the business case, both stations still perform relatively poorly. Based on this, staff would suggest that both stations be put into the “future consideration” category. I have the impression this will be looked at unfavourably at this point. I am going to think overnight if I have any other ideas. If we cannot develop a technical rationale, we may receive some direction on one or both of these.

4.1.5 The City of Toronto Influenced Metrolinx to Approve the Lawrence East Station

The City of Toronto was targeting the Lawrence East area for growth. Because a GO station in this area would support such growth, the City of Toronto did its own evaluation of the Lawrence East area as a potential location for a GO station. The City sent its evaluation to Metrolinx in spring 2016.

On June 1, 2016, the Metrolinx CEO noted in an email to the Ministry of Transportation that the City of Toronto wanted the Lawrence East station but that Metrolinx’s business-case results did not support this station.

On June 11, 2016, the Metrolinx CEO pointed out to the Metrolinx Board Chair by email that the City’s evaluation of the Lawrence East location was not all that different from Metrolinx’s business-case results. He challenged the City to help Metrolinx demonstrate that Lawrence East will perform better than in both Metrolinx’s and the City’s analyses.

On June 13, 2016, City of Toronto and Metrolinx staff met to discuss the Lawrence East station. In

briefing the Metrolinx Board Chair about this meeting in a June 14 email, the Metrolinx CEO noted that “no new specific information was provided. We are left with the results from both our and the city’s technical evaluation that the site performs relatively poorly. My proposal is that I write to [the Deputy City Manager of Toronto] and request that the city make a submission that sets out the strategic and technical case for the inclusion of the station.”

On June 15, 2016, the Metrolinx Board held a special meeting before a scheduled public Board meeting scheduled for June 28. The Metrolinx Board Chair explained in an email to other Board members that the purpose for the meeting was as follows:

Before our June 28 public board meeting, the Minister and Mayor Tory want to make an announcement about the Smart Track stations Mayor Tory will be recommending to Council. They want this to be a positive announcement reflecting City-Province-Mx [Metrolinx] cooperation. We did not want the Minister doing so without the input of the board in advance. To permit the joint announcement and preserve confidentiality, we agreed to this special meeting. We will then revisit the same issues in public session on June 28 but by then, it would be too late to do other than approve the staff report. Thus the real substantive meeting is this one on Wednesday [June 15].

The Metrolinx Board was informed at this Board meeting that 10 new stations would be recommended, not including Lawrence East (or Kirby). The Metrolinx Board Chair also informed Board members that the City of Toronto would like a Lawrence East station.

On June 16, 2016, the Ministry of Transportation asked Metrolinx to review draft news releases announcing new stations. Four of the news releases announced stations that Metrolinx was planning not to recommend: Kirby and Lawrence East, as well as Highway 7—Concord and Park Lawn.

4.1.6 Metrolinx Planning Staff Tried to Justify Recommending Kirby and Lawrence East Stations

In response to the Minister's and the City of Toronto's attempts to influence the station selection, Metrolinx planning staff tried to justify including the Kirby and Lawrence East stations by changing the criterion used in the business-case analysis to recommend which stations should be built.

An unpublished June 2016 draft of the Summary Report (initially prepared by the co-ordinating consultant and subsequently updated in consultation with Metrolinx) classified the 17 proposed stations into three distinct groups: "recommended" (five of the 17 stations); "contingent" (another five of the 17 stations); and "not recommended" (the remaining seven of the 17 stations, including Kirby and Lawrence East).

Metrolinx was planning in June 2016 to recommend to its Board both the five "recommended" stations and the five "contingent stations" (10 stations in total). In other words, "contingent stations" "made the cut" while "not recommended stations" did not.

On June 20, 2016, Metrolinx planning staff emailed senior management that they had changed the dividing line between the contingent and the not recommended groups. Originally, stations with a net economic cost of \$250 million or more were in the not recommended group; the amount was increased to \$300 million. This enabled Don Yard, with a net economic cost of \$281 million, to move from the not recommended to the contingent group.

The email further states that "if we [increase the amount] even more to include Lawrence, then it would include Ellesmere and Whites, but Kirby would still [be not included]." (Lawrence East's net economic cost was \$367 million while Kirby's was \$478 million.) In other words, increasing the amount to include Kirby would result in other, undesired stations being included in the contingent group.

Thus, Metrolinx's planning staff's attempts to justify Kirby and Lawrence East stations in this way ultimately did not work. We noted in this regard that on July 7, 2016 (after the Metrolinx Board had approved Kirby and Lawrence East as recommended stations), Metrolinx planning staff still had concerns about how the stations had been grouped. An internal review document of the business cases stated that the cut-off point for station selection seemed "to be set arbitrarily" and some "valid basis" for their inclusion needed to be provided.

4.1.7 Metrolinx Created a New Group to Justify Recommending Kirby and Lawrence East Stations

Metrolinx split the "not recommended" group into two subgroups, calling one "low-ranking" (which would be recommended for construction) and the other "very-low-ranking" (which would be not recommended for construction). Kirby and Lawrence East were the only two stations in the "low-ranking" group. Metrolinx defined low-ranking stations as "sites with poor economic performance but advantaged by strategic factors or sensitivities."

As explained in **Sections 4.1.2** and **4.1.3**, the business-case analyses had already taken "strategic" considerations into account. But in those analyses, the strategic benefits—aligning with Vaughan's and Toronto's growth objectives and transit plans—were not large enough to outweigh the high net economic costs.

Metrolinx overrode these business-case analysis results in its report to the Board. The report stated that "Metrolinx should... [i]nclude strategic considerations in addition to the results of the Initial Business Cases and the network fit analysis to also support strategic considerations to include factors like overall priorities of the various levels of government."

In March 2018, Metrolinx published its *Draft Business Case Guidance*, which states that business cases are only one of five inputs Metrolinx considers in decision-making. As shown in **Figure 9**,

Figure 9: Inputs for Metrolinx’s Decision-Making

Prepared by the Office of the Auditor General of Ontario



Note: The five inputs in gold are referenced in Metrolinx’s *Draft Business Case Guidance*. Our audit found that there was a sixth input, influence from stakeholders, which we have added in this figure to the five inputs identified by Metrolinx.

Metrolinx considers public engagement, policies and other investments, emergent trends and conditions, and capacity to deliver in addition to business cases. Based on our review of the process which led to the approval of Kirby and Lawrence East stations, a sixth input—stakeholder influence—was also an important input in Metrolinx’s decision-making.

Repeatedly adding further “strategic considerations” to the decision-making process makes it possible to justify any decision. Similarly, putting so much priority on these vague strategic considerations—and less weight on net economic costs—makes the decision-making process seem arbitrary. This is especially concerning because it resulted in Metrolinx choosing just those two stations that the Minister and the City of Toronto influenced it to choose.

Metrolinx’s Board Chair recognized this in a June 13, 2016, email to other Board members. At this point, Metrolinx was expecting to recommend

just the 10 stations and not Kirby or Lawrence East. The Chair wrote:

[T]here will be disappointed local communities both in Toronto and across the GTHA which will be very disappointed not to have achieved a station. The Minister will be bearing the political burden of explaining these outcomes which is why staff have worked so hard to be principled and evidence-based in reaching their conclusions. Absent that, our conclusions could be seen as arbitrary and essentially political which could open a Pandora’s box of new demands across the region.

Part of what was seen as a means to address the potential public perception of arbitrary decisions was to try to change the variables considered in decision-making.

Throughout June 2016, Metrolinx’s CEO and Board Chair corresponded frequently on the matter of the Minister’s support for Kirby GO station, and the City of Toronto’s desire for a Lawrence East GO station, neither of which were supported by the results of Metrolinx’s business case analysis. Ultimately, the apparent need for alignment and co-operation between the City, the Province, and Metrolinx could be perceived to have compromised the Metrolinx Board’s fiduciary responsibility.

In other jurisdictions, other practices ensure greater accountability when a decision is made to proceed—for political reasons—with transit investments that have a significant net economic cost. For example, when such situations are encountered in the United Kingdom, the most senior civil servant in each department has a duty to seek a Ministerial direction if they think a spending proposal does not promise good value for money. In May 2016, the Permanent Secretary of the Department for Transport wrote to the Secretary of State for Transport to seek Ministerial direction on the request to increase pre-construction funding on a proposed pedestrian bridge. He was concerned that there were several risks to the successful delivery of the project, which was ultimately cancelled in August 2017.

Since 2003, the Minnesota Department of Transportation has been governed by a Cost-Effectiveness Policy when undertaking cost-benefit analysis. The policy requires that if a project's net economic costs are estimated to be too high, further justification must be established. Varying levels of managerial approval must be obtained and documented at each stage when decisions are made to advance these projects toward development.

RECOMMENDATION 1

To support co-ordinated, accountable and transparent decision-making for transit investments in the Greater Toronto and Hamilton Area, we recommend that Metrolinx establish a clear framework for how:

- criteria used in business cases are established and changed;
- inputs outside of business cases (such as public engagement, policies and other investments, emergent trends and conditions, and capacity to deliver) are distinct from the considerations included in business cases;
- both inputs outside of business cases and the criteria used in business cases are weighted in the decision-making;
- Metrolinx should request official Ministerial direction when the Province's objectives are not in alignment with Metrolinx's business cases, plans, and decisions; and
- Metrolinx should request formal City or municipal recommendations when municipal stakeholders' objectives are not in alignment with Metrolinx's business cases, plans and decisions.

METROLINX RESPONSE

Metrolinx accepts the Auditor General's recommendation. Metrolinx has already taken several steps to consolidate its decision supporting methodology, such as the Draft Business Case Guidance published in March 2018.

Metrolinx will publish the complete Business Case Guidance (v1) in April 2019. The Guidance will provide a prescriptive direction for business case criteria. These criteria will be tracked through successive business cases—if they need to be adjusted, the adjustments must be documented and justified explicitly. Metrolinx will also develop a supporting procedure document to clarify how decision processes are informed by business cases throughout the project lifecycle.

Metrolinx business cases focus on transportation benefits and costs. Investment decision-making should also take into consideration emergent trends and conditions, public engagement, non-transportation-related policies and the market's capacity to deliver. Metrolinx management will bring forward to the Board options for incorporating these in a more transparent form.

Metrolinx will seek formal direction from the Minister of Transportation and clear recommendations from municipalities, when major changes to business cases, plans and decisions are suggested, for more transparency and expeditious delivery.

RECOMMENDATION 2

To confirm whether the Kirby and Lawrence East GO stations should be built, we recommend that the Ministry of Transportation independently assess whether they should proceed at this time and whether these stations will benefit the regional transportation network.

METROLINX RESPONSE

Metrolinx accepts this recommendation and will support the Ministry of Transportation in this work as required.

MINISTRY OF TRANSPORTATION RESPONSE

The Ministry of Transportation (MTO) accepts the Auditor General’s recommendation. The government is reviewing all expenditures, and MTO will work with Metrolinx to develop proposals for government on which investments are to proceed, including stations.

4.1.8 Metrolinx’s 2018 Reanalysis of the 12 Stations Increased Their Benefits

In August 2017, the Minister of Transportation instructed the Metrolinx Board Chair to hold off on proceeding with the Kirby and Lawrence East stations until Metrolinx staff and the Board were satisfied that they are justified. In February 2018, Metrolinx released an updated analysis of the 17 shortlisted stations, concluding that the 12 stations that had been recommended in June 2016 (including Kirby and Lawrence East) were justified.

The reanalysis introduced three new assumptions to three newly planned initiatives not included in the 2016 analysis: fare integration, express service, and station platforms that are level with train doors (“level boarding”). **Figure 10**

explains these initiatives and shows how they increased the economic benefits of the 12 stations by a total of \$5.3 billion over the first 60 years after the stations are built.

The economic benefits of the 12 stations were overstated by about \$2.9 billion because of two out-of-date assumptions used in Metrolinx’s calculations. Metrolinx has since released updated economic values in its March 2018 *Draft Business Case Guidance*. The assumptions had to do with savings to GO riders resulting from reduced car use and reduced travel time associated with the 12 new stations. **Figure 11** explains the issue with Metrolinx’s calculations of reduced car use, and the resulting overstated savings of \$393 million. **Figure 12** explains the issue with Metrolinx’s calculations of reduced travel time, and the resulting overstated savings of \$2.9 billion.

A further concern with Metrolinx’s incorporation of the three newly planned initiatives in its reanalysis, and the resulting \$5.3 billion in economic benefits, is the likelihood that the initiatives will not be in place by the time the stations are built. For example:

- Fare integration is only in the early planning stages.

Figure 10: 2018 Reanalysis Assumptions and Their Impacts over 60 Years

Source of data: Metrolinx

Assumption	What It Means	Impacts ¹ (\$ million)			Total
		On Kirby	On Lawrence East	On 10 Other Stations	
Fare integration ²	GO Transit and municipal transit fares will be identical	n/a	145	2,285	2,430
Express service ³	Trains serving certain outer stations will run non-stop past certain inner stations	425	296	1,239	1,960
Level boarding ⁴	Train doors will be level with train platforms, speeding up entry and exit	39	47	859	945
Total		464	488	4,383	5,335

1. The impacts increased the economic benefits of the stations by the amounts indicated.
2. Metrolinx’s 2018 reanalysis applied fare integration only to Toronto stations (i.e., excluding Kirby, Innisfil, Mulock and Breslau). It assumed that the cost of a Toronto trip would be the same on GO as on the TTC, with free transfers between the two.
3. Metrolinx’s 2018 reanalysis assumed express trains would bypass new stations on the Lakeshore West, Barrie and Stouffville lines, avoiding extra stoppage trip time for passengers coming from outer stations.
4. Metrolinx’s 2018 reanalysis assumed that all new stations would be built for level boarding. This reduces stoppage trip time from two minutes to about 1.5 minutes for riders travelling through the stations.

Figure 11: Issue with Metrolinx’s Assumption of Cost Savings from Reduced Car Use over 60 Years

Prepared by the Office of the Auditor General of Ontario

Issue: Do new riders who switch to GO Transit:

- give up their cars altogether? or
- save on reduced driving costs but keep their cars?

Estimated Cost Savings from Giving Up Cars: \$0.66/km	Estimated Cost Savings from Reduced Driving Costs: \$0.18/km	Overstatement of Savings from Metrolinx’s Use of \$0.66/km Value (\$ million)			
		Kirby Station	Lawrence East Station	10 Other Stations	Total
Amount includes all the costs of having a car: insurance, licence and registration, vehicle depreciation, financing, fuel, maintenance and tires.	Amount only includes the costs of operating a car: fuel, maintenance and tires.	79.0	1.5	312.8	393.3

- Express service does not currently exist on the Barrie and Stouffville lines. When Metrolinx looked at implementing it on the Stouffville line in 2016, it concluded that significant infrastructure costs, major property acquisition requirements and unacceptable community impacts constituted “fatal flaws” to its implementation. Metrolinx told us that it has since focused on how to reduce the significant infrastructure costs of express service for the Barrie and Stouffville lines, although its February 2018 updated station analysis does not include any information on this planning work. Metrolinx informed us it is planning to require the contractor it procures for the station work to achieve express service, and it is exploring options such as constructing short “passing tracks” to enable express trains to bypass non-express trains. Nevertheless, an achievable and sufficiently cost-effective express-service solution has not yet been finalized.
- Metrolinx’s 2018 business case for level boarding found that it poses many challenges, such as modifications to existing trains and stations, and will take many years.
- According to Metrolinx’s March 2018 *Draft Business Case Guidance* document, the \$0.66/km rate is no longer considered appropriate when there is no evidence that new GO riders will completely give up their vehicles. Although Metrolinx is undertaking further research in this area, currently the extent to which transit users give up their cars as a result of a new transit investment is unclear.
- A consultant hired by Metrolinx in March 2018 to determine how other jurisdictions calculate transit-user savings reported that Metrolinx should significantly lower the \$0.66/km rate.
- The same December 2014 memo from the Ministry of Transportation cited in **Figure 12** stated that Metrolinx should use a 0% value-of-time growth rate because a growth rate of 1.6% could have a “significant impact on the [economic value] of each project and a potentially significant impact on the ranking or prioritization of a group of projects.” The memo also noted that organizations in other jurisdictions, including Transport Canada and the U.S. Transportation Research Board, do not assume time grows in value when they assess the economics of transportation projects.

Further issues with Metrolinx’s assumption of economic benefits of \$2.9 billion as presented in **Figures 11** and **12** are as follows:

Figure 12: Issue with Metrolinx’s Assumption of Savings from Reduced Travel Time over 60 Years

Prepared by the Office of the Auditor General of Ontario

Issue: Should the value of time GO riders save:

- increase every year? or
- stay the same?

Metrolinx’s Assumption	Direction to Metrolinx from Ministry of Transportation*	Overstatement of Savings from Metrolinx’s Use of 1.6%/year Value (\$ million)			
		Kirby Station	Lawrence East Station	10 Other Stations	Total
Increase value of time by 1.6% every year until 2044 (and stays the same after that).	No increase (0%) in the value of time.	126	27	2,332	2,485

* In a December 2014 memo, the Ministry of Transportation shared research findings with Metrolinx that there had been no real growth in market wages in the GTHA for 35 years, and that Metrolinx should therefore use a 0% value-of-time growth rate in business cases.

RECOMMENDATION 3

To improve the accuracy of the analyses on which Metrolinx bases its future transit-planning decisions, we recommend that Metrolinx:

- establish a regular interval at which inputs and assumptions used in business cases are reviewed for their relevance and reliability; and
- use the most up-to-date inputs and assumptions in its future business-case analyses.

METROLINX RESPONSE

Metrolinx accepts the Auditor General’s recommendation. Through Metrolinx’s multi-stage approval process, the latest scope and costs of a project are assessed at each stage in a project’s life cycle to ensure accurate understanding of costs and benefits.

Metrolinx will regularly review the Business Case Guidance to incorporate up-to-date inputs and assumptions in the financial and economic analysis (e.g., value of time, auto operating costs, inflation, etc.). Metrolinx will assess the potential impacts of these changing inputs on business cases underway at the time.

Metrolinx will establish an Advisory Panel for Project Evaluation to ensure that Metrolinx’s

Business Case practices are up to date and based on the latest research. The Advisory Panel will comprise experts from academia, public policy and government.

4.2 Metrolinx Limited the Clarity and Transparency of the Information It Provided to the Public in Support of Decisions

Throughout the station evaluation process, Metrolinx revised both published analysis and supporting documentation. This obscured the net economic costs estimated in the original business cases, making the results of the business-case analysis—both on Metrolinx’s website and in the published report to the Board—much less clear and transparent.

4.2.1 Initial Business-Case Terminology Changed to Make Kirby and Lawrence East Acceptable

As described in **Section 4.1.6**, an unpublished June 2016 draft of the Summary Report (of the initial business cases prepared by three external consultants) classified the 17 stations into three distinct groups: recommended, contingent and not recommended. This is in line with the objectives of

the business-case analysis as stated in the Terms of Reference, where the co-ordinating consulting firm was to “[p]repare [an] evidence-based summary of recommended stations for construction within [a] 10-year horizon.” The consulting firms were requested to come up with the “recommended course of action” for Metrolinx regarding the 17 stations.

Figure 13 summarizes the justification for these classifications, and the recommended course of action for each type of station.

Metrolinx did not post the Summary Report on its website until September 2017. When it did, it posted an edited version of the Summary Report provided by the consultants. These edits included changing the consultants’ group name of “Recommended” stations to “Best Performing,” and “Not Recommended” to “Low Performing.” Metrolinx’s renaming of the groups and removal of the word “recommended” made the results of the consultants’ analysis less clear to the reader and obscured the negative evaluation of the Kirby and Lawrence East stations arrived at by the consultants.

The report to the Board used the same revised group names and, after being revised twice from its original June 10, 2016 version, went even further in obscuring the consultants’ negative analysis of the Kirby and Lawrence stations. This is summarized in **Figure 14**.

4.2.2 Sensitivity Analyses Not Included in 2018 Reanalysis Report

As mentioned in **Section 4.1.8**, Metrolinx released an updated analysis of the 17 shortlisted new stations in February 2018. This public 2018 Reanalysis Report is available on Metrolinx’s website as *Technical Report: GO Expansion RER New Stations Business Case Analysis*. The accompanying staff report brought to the Metrolinx Board recommended “[t]hat staff continue the delivery” of all 12 previously recommended stations. However, we noted that the Reanalysis Report presented only a “best-case” scenario that assumed that three initiatives that significantly increased the stations’ economic benefits (fare integration, express service

Figure 13: Initial Grouping of 17 Stations in Draft Summary Report

Source of data: Metrolinx

Status	Station	Reason for Status	Recommended Course of Action
Recommended	Gerrard	Satisfy municipal, regional and provincial goals	Can be implemented in near-term and provide significant local and overall regional benefits
	Liberty Village		
	Innisfil		
	Breslau		
	Spadina		
Contingent	Mulock	Marginal overall benefit	Should not be undertaken without more detailed study
	Finch		
	St. Clair West (Kitchener)		
	Don Yard		
	Bloor-Davenport		
Not Recommended	Lawrence East	Projected poor economic performance, lack of fit at the regional or network level, or high combined impact on corridor running times	Should not be considered further during the next 10 years
	Ellesmere		
	Whites Road		
	Kirby		
	St. Clair West (Barrie)		
	Highway 7-Concord		
	Park Lawn		

Figure 14: Revisions to Board Report Concerning Kirby and Lawrence East Stations

Source of data: Metrolinx

Station	June 10, 2016 (Draft)	June 19, 2016 (Draft)	June 28, 2016 (Final)
Kirby	<p>Not recommended for inclusion in RER program:</p> <p>New development around the location would draw new riders, but not in sufficient numbers to offset the delays to large numbers of upstream riders, potentially deterring some people from taking GO</p>	<p>Aligns with municipal planning policies and provides opportunity to attract significant contributions from adjoining landowners</p> <p>Requires additional work with the local municipality and development community to ensure transit oriented development is optimized, as well as piloting the location for enhanced first and last mile access by modes other than automobile</p> <p>Need to develop strategies to offset travel time impacts on customers with origins/destinations to the north of the proposed station</p>	<p>Located in area subject to new development</p> <p>Low forecast ridership</p> <p>Subject to additional work with municipality and landowners</p> <p>Subject to corridor service planning and further analysis of service implications</p>
Lawrence East	<p>Not recommended for inclusion in RER program:</p> <p>Located in a low-density industrial area with limited potential for new ridership; delay to existing riders is greater than the time saved by new riders shifting to this station yields potential net loss to corridor ridership</p>	<p>In concert with municipality and local landowners, opportunities exist for redevelopment of existing industrial and commercial land uses</p> <p>Connectivity to major bus routes may yield higher ridership with fare integration</p> <p>Need to plan for station in the context of the municipality's Scarborough transit network plans</p> <p>Need to develop strategies to offset the travel time impact on customers with origins/destinations to the north of the proposed station</p>	<p>Located in a low-density industrial and residential area; low forecast ridership, subject to additional work with municipality/landowners; connectivity to major bus route may yield higher ridership with fare integration</p> <p>Subject to corridor service planning and further analysis of service implications</p>

and level boarding) would be in place when the stations are expected to begin operating in 2024. What the report lacked was “sensitivity analyses,” which would have presented a range of estimates about the economic benefits of the stations if, for example, any of the initiatives were not implemented or were implemented differently than assumed under the best-case scenario. Metrolinx did undertake such sensitivity analyses internally, assessing how the estimated benefits of each station

changed with the addition or removal of each initiative. However, it did not include a range of possible benefits in the report published for stakeholders and the public.

Similarly, the 2018 Reanalysis Report did not include sensitivity analyses for different assumptions about vehicle-operating costs and the value of time, presenting only one scenario, which maximized the stations' economic benefits. We noted that in a separate 2015 business case, Metrolinx

actually did prepare sensitivity analyses showing the different evaluation results using a \$0.20/km vehicle-operating cost and a 0% growth rate for the value of time. Metrolinx could have provided similar sensitivity analyses in the 2018 public report but did not.

RECOMMENDATION 4

To help decision-makers and stakeholders understand the expected benefits of proposed investments, we recommend that Metrolinx:

- use language that is clear and understandable in its reports to the Board and those it posts on its website for the public; and
- include and clearly disclose sensitivity analyses in its published business-case results.

METROLINX RESPONSE

Metrolinx accepts the Auditor General's recommendations. Metrolinx will include a cover note with business cases presented to Metrolinx's Board. This note will specify the recommendation and identify how other factors outside of the business case, such as the funding status, procurement and commercial issues, stakeholder and public input, and project risks have been factored in.

Metrolinx will include the results of sensitivity analysis in its published business case results moving forward.

Metrolinx will provide more prescriptive guidance on sensitivity analysis in the complete Business Case Guidance (v1), which will be released by April 2019. This will include a consistent set of sensitivity analyses to be applied across projects, as well as guidance for developing project-specific sensitivity analysis.

4.3 Under the Act, Metrolinx Must Reconcile Leadership in Planning and Collaboration with Stakeholders

4.3.1 Transit Planning Must Keep Sight of Region's Best Interests

Multiple parties have vested interests in the future state of the GTHA, and specifically in planning transportation in the GTHA. Those interests differ as transit ridership and transit needs vary across the region. In 2017, for example, there were as many as 530 million people riding the TTC in Toronto, compared to just 3 million people riding Oakville Transit in Oakville. Between those groups are riders of GO Transit's regional services, which numbered 69 million in 2017.

Regional transportation planning is concerned with growth and development, and how to integrate the movement of people and goods throughout the region. As the regional transportation planner for the GTHA, Metrolinx must develop a 30-year vision for a transportation network that serves the region's best interests.

Cities and municipalities also plan for future growth and development by determining what uses the land in their boundaries will be put to. This includes considering the local transit system and how it can support Official Plans for how the municipality wants population and employment to be distributed.

Metrolinx's Board Chair characterized this difference in local and regional perspectives in a June 13, 2016, email to Board members about the Lawrence East GO station: "The City values the local service in particular while [Metrolinx] staff focus on the trade-offs and aim for the best overall balance for the network."

Collaboration is essential to Metrolinx's task. Metrolinx and municipalities try to reach agreement on transit projects built on municipal property and connecting to local transit. Metrolinx and provincial government decision-makers communicate back and forth, with the government informing

Metrolinx about provincial priorities, and Metrolinx providing leadership, analysis and advice on which projects will best realize the 30-year plan.

It is important to note that Metrolinx has the power to plan and propose projects, but it must depend on collaboration with municipalities to put them into effect. That is, Metrolinx relies on municipalities for permits, approvals and transit-supportive land use in order to deliver projects. Without the support of the local municipality, implementing regional transit projects in the GTHA is extremely difficult.

An example to illustrate this is one of *The Big Move's* planned priority projects: Hurontario rapid transit from Port Credit to downtown Brampton. Metrolinx proposed the route for this project, and the Province committed \$1.6 billion to it in April 2015. However, in October 2015, Brampton City Council voted against the Brampton portion of the route because some councillors felt the proposed route through the city's downtown would not have enough riders and lacked potential for future growth. As a result, the light rail service, expected to open in 2022, will terminate at the Brampton Gateway Terminal at Steeles Avenue instead of the Brampton GO station in downtown Brampton.

4.3.2 Stakeholder Interests Can Inappropriately Override Regional Interests

In its leadership role of regional transportation planning, Metrolinx is mandated to plan and achieve what is best for the region. What is best for the region may not always align with the desires of certain stakeholders and interested parties.

In past cases of such misalignment, the distinct positions of Metrolinx and opposing stakeholders were clear. For example, when Brampton City Council voted against Metrolinx's approved route for Hurontario rapid transit, Metrolinx provided the best analysis and advice regarding the region's interests, but the City—with its decision-making authority—overrode that analysis and advice.

In the above case, Metrolinx advised the adoption of a transit project that a municipality did not want built, and the municipality blocked it. The case of the Kirby and Lawrence East GO stations is the opposite misalignment: municipal stakeholders (an MPP, the City of Toronto) wanted transit projects built that Metrolinx had concluded were not in the region's best interests. However, Metrolinx succumbed to the influence of the MPP/Minister of Transportation and the City of Toronto and overrode its initial, objective analysis.

The appropriate way to address the misalignment would have been for the Minister to use the legislated channels available to him to direct Metrolinx. The *Metrolinx Act, 2006*, provides for the Minister of Transportation to give written directives to Metrolinx, including direction to amend the regional transportation plan, and to take specific steps towards its implementation. These directives can be made public, such as the Minister's mandate letter for the 2017/18 fiscal year (posted on Metrolinx's website), or can be sent directly to Metrolinx, as occurred in April 2012, when the Minister directed Metrolinx to develop an implementation plan for Toronto light rail transit projects and related criteria.

Written directives ensure greater accountability in that they ensure clear ownership of decisions that significantly affect the regional transportation network. In cases where ministerial direction aligns with Metrolinx's recommendations, Metrolinx gains further explicit support from the Province in advancing transit projects. However, in cases where a directive is misaligned with Metrolinx's position as regional transit planner, the public benefits from the full knowledge that a government policy decision is overriding Metrolinx's planning recommendation.

Metrolinx could have taken the position that its best analysis and advice do not support the Kirby and Lawrence East GO stations. If the Province and the Minister were committed to the stations for other reasons, a ministerial directive could have been issued, with the Province and Minister "owning" the decision in a transparent manner.

As noted in **Section 4.1.7**, transportation planning in the United Kingdom makes effective use of this safeguard: the most senior civil servant in each department has a duty to seek a ministerial directive if they think a spending proposal does not promise good value for money.

RECOMMENDATION 5

To help Metrolinx effectively carry out its duties as a regional transportation planner, we recommend that the government of the day review the *Metrolinx Act, 2006*, and determine whether greater clarity regarding Metrolinx's roles and responsibilities in the planning of the regional transportation system would benefit Ontarians.

METROLINX RESPONSE

Metrolinx accepts this recommendation and will support the Province in this work as required.

MINISTRY OF TRANSPORTATION RESPONSE

The Ministry of Transportation is currently reviewing the *Metrolinx Act, 2006*, and will be developing proposals that would clarify roles and responsibilities with respect to planning and decision-making.

Appendix 1: Audit Criteria

Prepared by the Office of the Auditor General of Ontario

1. Roles of key stakeholders involved in the new station planning process are clearly defined and effective communication protocols are established for timely contribution to the planning process.
2. Comprehensive business cases clearly set out the analysis of the achievable benefits, costs, and impacts of potential investments to support evidence-based decision-making. All key assumptions and significant changes to the forecasted projections and benefit cost analysis should be clearly documented and properly supported.
3. Proposed stations are thoroughly evaluated by qualified individuals using a clear and appropriate framework for alignment with the regional transit network.
4. All decisions to proceed with the new stations are supported by thorough analysis of reliable and relevant data.
5. Sufficient details of the supporting analysis and evidence are publicly posted on Metrolinx's website to justify the decisions on the proposed stations.

Appendix 2: Key Criteria Used to Refine List of Potential Stations

Source of data: Metrolinx

Category	Objective	Measure/Metric
Strategic/Economic Planning	Connectivity and ridership drivers	Number of trips involving the new station (users boarding or disembarking).
		Connections to other higher order transit modes and potential to improve network and/or corridor service.
		Connections to key destinations.
	Travel time savings	Time savings associated with the new station.
	Market potential	Proximity of new station to future market demand.
	Development potential	Proximity of new station to area with future development and intensification potential. Extent to which station could support this development.
	Policy alignment	Alignment of new station with Growth Plan policy.
Financial/Technical	Affordability	Expected costs to construct the station.
	Ease of construction	Feasibility and constraints associated with the new station site.

Chapter 3

Section 3.07

Metrolinx—LRT Construction and Infrastructure Planning

1.0 Summary

Metrolinx is the regional transportation agency responsible for **planning** an integrated regional transit system for the Greater Toronto and Hamilton Area (GTHA), overseeing transit **capital projects**, and **operating** GO Transit trains and buses, the Union Pearson Express and the PRESTO fare payment system. Metrolinx’s responsibilities are set out in the *Metrolinx Act, 2006* (Act).

In November 2008, Metrolinx formally adopted its first Regional Transportation Plan. It was a 25-year plan setting out the priorities, policies and programs for a regional transportation system for the GTHA. Among its top 15 transit priorities in the first 15 years were five “rapid transit” projects that would allow people to travel quickly in special vehicles that have “exclusive right of way” (other vehicles are not allowed on the lanes). The high capacity of the special vehicles and the exclusive right of way make this transport more “rapid,” or faster, than transport like traditional buses and streetcars, which are smaller vehicles that travel on lanes shared with other vehicles.

Our audit looked at Metrolinx’s regional planning responsibilities and work, and its oversight of a number of its rapid transit capital projects that have been designated as “light rail transit” (LRT): Eglinton Crosstown, Finch West,

Sheppard East, Scarborough Rapid Transit, Hamilton and Hurontario. We focused on the Eglinton Crosstown, as this was the only project in construction during our audit.

We found that Metrolinx incurred about \$436 million in sunk and additional costs between 2009 and 2018 because of problems with how the transit-planning process evolved for the GTHA and how Metrolinx carries out its responsibilities. **Figure 1** summarizes this based on the LRT projects our audit examined:

- *Sunk Costs Resulting from Project Changes.* After the LRT projects were announced or agreed on, the provincial and municipal governments changed their decisions on what to build and when to build, even though significant investments had already been made. For instance, the City of Toronto overrode previous decisions on the Scarborough transit project three times, ultimately resulting in the cancellation of the Scarborough RT project altogether. As well, the Sheppard LRT has been delayed for more than 10 years from its initial expected completion in 2013.
- *Costs Over and Above Original Contract Values.* Metrolinx had to spend extra money to get the consortium already designing and constructing the Eglinton Crosstown LRT (AFP consortium) to settle claims and commit to complete the project by its original completion date of 2021. As well, Metrolinx had to

Figure 1: Sunk and Additional Costs on the LRT Projects, 2009–2018

Prepared by the Office of the Auditor General of Ontario

	\$ million
Sunk Costs Resulting from Project Changes¹	
Cancellation of Scarborough RT project (see Section 4.1)	75
Delay in Sheppard LRT project (see Section 4.1)	50
Subtotal	125
Costs Over and Above Original Contract Values²	
Eglinton Crosstown LRT settlement (see Section 4.4.2)	237
Amendments to LRT vehicles contract (see Section 4.6.1)	49
Subtotal	286
Additional Contract Management Costs	
Oversight, administrative, contingency-plan and legal costs for vehicles contract ³ (see Section 4.6.2)	25
Potential increase to program management consultant contracts (see Section 4.5)	n/a ⁴
Subtotal	25
Total	436

1. These costs resulted from problems with how the transit-planning process works in Ontario. Projects can be cancelled and delayed because of provincial and municipal government decisions. The investments made to that point lead to no result.
2. These costs resulted from how Metrolinx carried out its responsibilities. This required Metrolinx to spend money that it never planned to.
3. For the vehicles contract, these consist of oversight, administrative, contingency-plan and legal costs Metrolinx spent to manage the LRT vehicle supplier's slow response to quality and schedule issues that caused concerns for Metrolinx.
4. For the program management consultant contracts, these may entail amendments to increase their upper limits because significant portions of their values were spent earlier on in the contracts.

negotiate changes to the light rail vehicles contract with the vehicle supplier because of revised projects and timelines.

- **Additional Contract Management Costs.** Metrolinx incurred additional contract management costs after raising concerns about the vehicle supplier's poor performance in designing the vehicles. They included paying consultants and lawyers to help it try to cancel the contract and resolve the dispute. In addition, Metrolinx's current rate of use of program management consultants poses a risk that additional money will be needed to complete the delivery of the projects.

Regarding the **construction of the Eglinton Crosstown LRT**, our audit found that:

- **Under the Alternative Financing and Procurement (AFP) contract, Metrolinx had limited remedies available to it to hold the AFP consortium responsible for project delays as long as the consortium certified**

it would still finish the project on time. The AFP consortium consists of ACS, AECON, EllisDon and SNC-Lavalin. Under an AFP contract awarded in July 2015, the AFP consortium was to provide Metrolinx with a detailed six-month work schedule and update it monthly. If it were to find that it was unable to meet the substantial completion date, it would have to submit a report identifying the reasons for the delay and a plan for eliminating or reducing the delay. The AFP consortium began falling behind schedule in 2017. Metrolinx had the right under the AFP contract to ask for additional information from the AFP consortium in order to perform a detailed assessment of the work schedule if the AFP consortium indicated that project completion would be delayed or if in Metrolinx's opinion the consortium had fallen significantly behind the work schedule; however, Metrolinx did not do so because the AFP consortium represented

that it could still finish on time. The AFP consortium continued to submit schedules with increasing delays throughout 2017, and Metrolinx communicated its concerns about the delays, but the AFP consortium did not adequately address them. In December 2017, Metrolinx met with senior consortium management, at which time the AFP consortium was still certifying it would meet the contracted completion date of September 2021 and indicated that in February 2018 it would provide solutions to mitigate schedule delays. However, the AFP consortium instead filed a claim against Metrolinx in February 2018 for extension of the project completion date to October 2022. The claim also requested compensation because Metrolinx allegedly was not helping the AFP consortium overcome scheduling and cost challenges. The AFP contract with the consortium does not provide Metrolinx with adequate remedies to address project delays that it knows of early in the project; the remedies take effect only when the AFP consortium has declared that it will not meet the completion date.

- **The AFP contract did not fully transfer responsibility for the risks of project delays and cost overruns to the AFP consortium, as evidenced by Metrolinx having to pay the AFP consortium \$237 million to hold it to the completion date of September 2021.** In an AFP project, a private-sector consortium is paid a premium to bear the risks of project delays and cost overruns. However, under the Eglinton Crosstown LRT AFP contract, the responsibility for these risks was not fully transferred to the AFP consortium. In August 2018, Metrolinx settled the AFP consortium's claim against it, paying the AFP consortium \$237 million to hold the AFP consortium to the contracted completion date of September 2021. In addition, Metrolinx agreed to accept later delivery dates for the pedestrian bridges adjacent to the existing West Don River Bridge and a Salvation Army building.
- **Metrolinx and Infrastructure Ontario developed a risk register to negotiate the settlement to the claim, but Metrolinx did not have sufficient documentation of evidence linking the settlement amount to the AFP consortium's claims that Metrolinx was partially responsible for project delays.** We reviewed the settlement negotiation process and confirmed that Metrolinx and Infrastructure Ontario used a risk register, based on their analysis of the AFP contract, to estimate a settlement amount. However, Metrolinx could not provide us with sufficient documentation confirming whether the project delays were or were not in part its responsibility and factoring that assessment into the settlement amount. We noted as well that the AFP consortium also did not provide information that linked responsibility for project delays to compensation amounts, either before or when it initiated its claim.
- **Approvals of designs and the AFP consortium's delivery schedule were affected by the AFP consortium's late submission of designs and the designs' poor quality as reported by Metrolinx's technical advisors.** Deficiencies in the designs submitted by the AFP consortium included missing system elements (for example, signalling and fire detection equipment in tunnels). As well, the AFP consortium has constructed parts of the project before having the overall design approved by third parties, creating a risk that it will later need to make unplanned and less-than-optimal modifications because the completed work is not in compliance with the AFP contract (such modifications are made at the consortium's own cost). Metrolinx's technical advisors observed that if design issues are not resolved, the Eglinton Crosstown LRT may not be found at the end of scheduled

construction to be fully compliant with the requirements in the AFP contract and/or may not function properly. If elements of the project are found to be non-compliant, there is a risk that reworking will be necessary or that Metrolinx and the AFP consortium will have to negotiate a settlement to resolve the situation before substantial completion can be certified.

Regarding **program management services**, our audit found that:

- **Metrolinx did not adequately forecast the extent of program management services required, and there is a significant risk it will have to increase its consultant contract upper limits before contracts expire between 2020 and 2022.** Since 2010, Metrolinx has signed three major contracts with one consulting firm to provide program management services for the LRT and other major projects. The total value of the contracts is \$272 million. Metrolinx did not formally identify before entering into the contracts the extent of work the consultants were to perform or reasonable costs for that work. The first contract had its term extended, with its end date going from 2015 to 2022, and had its value increased from \$44 million to \$127 million between 2010 and 2017. Over half has been spent on the other two contracts only two years into their initial five-year term, ending in 2020. Metrolinx has the option to extend the term of these two contracts up to five more years, that is, up to 2025.
- **Better value for money may be achieved with more competitive bidding for consulting services.** Consulting services above \$100,000 that are obtained through a stand-alone contract should be competitively procured; however, consulting work assigned to subconsultants under a main consultant's contract are not subject to this requirement regardless of the amount. We noted a number of cases where Metrolinx requested that particular subconsultants be assigned to perform consulting services over a number of years. For example, Metrolinx paid a subconsultant firm \$21 million between 2014 and 2018 (to support contract administration, reporting and scheduling for the LRT projects). In these cases, Metrolinx could not provide documentation showing why it did not consider competitive procurement, which could have resulted in obtaining the services at a potentially lower cost and given the opportunity for other qualified vendors to have access to the work. In addition, even though Metrolinx specifically requests the subconsultants be added to the contract, it pays fees to the main consultant to “administer” the subconsultants' work. Given the frequency with which the subconsultants were used and the amounts spent on some of them, it could have been more cost-effective for Metrolinx to have competitively procured these services itself.
- **Metrolinx assigned to the consulting firm approximately \$1.5 million of work that did not relate to the projects specified in the contracts.** For example, Metrolinx spent about \$1.2 million on unrelated project management services for the Union Pearson Express; and about \$367,000 for advice on reorganizing Metrolinx's capital project group.
- **At the time of our audit, Metrolinx staff overseeing consultants did not adequately check that consultants performed the work to support the hours charged on their invoices.** Consultant invoices are reviewed only by contract administrators for basic compliance (for example, that the correct rate was charged for the type of consultant submitting the invoice). The staff overseeing consultants' work did not adequately review invoices for whether the hours charged were reasonable for the work performed.

- **Metrolinx has not addressed the consulting firm’s underperformance in a timely manner.** By 2017, Metrolinx had worked with the consulting firm for seven years and had still not formally assessed its performance. In fall 2017, Metrolinx noted that the consulting firm was underperforming and worked with the firm to try to address the issues. Only after we were finishing our audit, in August 2018, did Metrolinx complete its first formal evaluation of the firm. The issues Metrolinx has dealt with could have been addressed earlier if consultant performance was properly evaluated and actions taken to address any underperformance.

Regarding **vehicle purchasing**, our audit found that:

- **Metrolinx committed to purchasing LRT vehicles and to delivery dates without adequate contract provisions addressing the possibility plans could change.** In 2010, Metrolinx signed a contract with Bombardier to receive 182 light rail vehicles for the Toronto LRT projects starting in 2013. A 2009 study commissioned by Metrolinx identified several uncertainties about the vehicle specifications that could cause delays. These uncertainties (such as whether the vehicles would be “low floor,” with no steps between the entrance and the cabin, the size of the vehicles, and the technology to be used), were resolved and the specifications agreed upon before the vehicle contract was signed. However, the procurement of the vehicles was finalized before the main AFP contracts to design and build the LRT projects were in place. The vehicle procurement provisions did not adequately address the possibility of changes to project plans that would alter when and how many vehicles would be needed.
- **Contract changes resulting from changes in government direction cost Metrolinx about \$49 million.** The Toronto LRT projects

did change considerably after the contract with Bombardier was signed. The number of vehicles needed changed and the dates when the vehicles should be delivered were pushed back. As a result, Metrolinx had to negotiate extensively with Bombardier to postpone the initial delivery of the vehicles from 2013 to 2017 (subsequently deferred to 2018) and reduce the number of vehicles from 182 to 76. Metrolinx paid Bombardier \$19 million for costs associated with the disrupted schedule. After the number of vehicles was reduced, the new total of 76 vehicles cost \$30 million more than they would have under the initial contract.

- **Bombardier’s slow response to quality and schedule issues cost Metrolinx about \$25 million.** After Metrolinx completed its negotiations with Bombardier to revise the vehicle delivery schedule, it raised concerns about Bombardier’s progress in designing the vehicles. In October 2014, Metrolinx’s then CEO wrote Bombardier that “we are losing confidence in Bombardier’s ability to deliver service-ready vehicles without a substantial change in approach.” He cited problems like parts that were “out of dimension, patched and clearly without the quality to meet reliability and the required design life” for the vehicles. Metrolinx spent \$25 million in oversight, administrative, contingency-plan and legal costs to manage the situation.

Overall Conclusion

Metrolinx’s ability to cost effectively plan and deliver an integrated transportation system has been impacted by requested changes to plans by both municipal and provincial governments, resulting in project delays and unnecessary costs being incurred. As well, Metrolinx assumed financial risks associated with the purchasing of light rail vehicles without construction contracts in place.

The Eglinton Crosstown LRT is the only light rail transit project currently under construction. It is being built using the alternative financing and procurement (AFP) model, where risks are transferred to the private sector. However, under the contract with the AFP consortium, Metrolinx retained some responsibility for the risk that the project will not be delivered on time and on budget. Halfway through this project, Metrolinx settled a claim with the AFP consortium, using half of its contingency fund to continue to ensure that the project will be delivered on time. Metrolinx did not have sufficient documentation of evidence linking the settlement amount to the AFP consortium's claims that Metrolinx was partially responsible for project delays.

Furthermore, Metrolinx has been contracting program management consulting services (some of which pertain to the Eglinton Crosstown) without documenting what work is expected to be completed and the estimated cost of that work. Improvements can be made to Metrolinx's oversight and review of the consulting work performed.

This report contains 16 recommendations with 33 action items.

OVERALL METROLINX RESPONSE

The Metrolinx Light Rail Transit (LRT) program includes the largest transit infrastructure projects in the country. The Auditor General's recommendations will support our delivery of quality, cost effective and timely transit solutions for the region.

Actions taken by Metrolinx since mid-2018 that relate to the recommendations include the development of enhanced business case guidance and enhanced governance over the life of projects, the evaluation of our program management consultants through the vendor performance management system and appraisal program, and implementing enhanced invoice review and approval procedures for our program consultants.

The alternative financing and procurement (AFP) model is required to be used to procure and deliver large, complex transit projects. It is appropriate to continually review and improve the remedies within AFP contracts so that provincial agencies can use them to better manage these contracts.

Metrolinx resolves scope- and schedule-related claims arising during construction projects. We do this by following the dispute resolution process outlined in the project agreements, following standard legal practice. In order to quantify the Province's retained liability, we use an industry-best-practice approach to assign the probabilities and values to each claim, and we worked with an independent third party for the Eglinton Crosstown LRT claim. We are confident that the settlement represents value to taxpayers and the Province.

Metrolinx has adopted an integrated delivery team approach in managing and overseeing the LRT projects, using program management services consultants to manage the construction of the projects. This will ensure that Metrolinx is able to meet the demands of its capital program, while considering future resource needs. Also, we have implemented improvements to the contractual oversight of our consultants.

Further to the above actions, we will develop detailed action plans with timelines to fully address each of the report's recommendations.

2.0 Background

2.1 The Need for Transportation Planning

The Greater Toronto and Hamilton Area (GTHA) consists of two single-tier municipalities (Toronto and Hamilton), four regional municipalities (Durham, Halton, Peel and York) and 24 local municipalities. It is one of the fastest-growing

regions in North America. Its population is expected to increase by 41% between 2016 and 2041, from 7.2 million to 10.1 million.

One-quarter of the new population growth and one-fifth of the growth in transit trips is projected to be in areas where travel has been dominated by people driving cars and other vehicles on roads. In these areas, only 4% of trips during the morning peak period are made on transit. The resulting increase in road congestion will pose challenges to the mobility of people and goods.

A 2006 Metrolinx study noted that road congestion in the GTHA cost commuters \$3.3 billion a year. These costs arise from travel delays, environmental impacts, increased vehicle costs and greater likelihood of collisions. The same study estimated a further annual economic cost of \$2.7 billion from workers stuck in traffic and on transit having less productive time. Looking ahead to 2031, these costs to GTHA commuters and the economy are projected to balloon to \$7.8 billion and \$7.2 billion annually—hence the need for and importance of transit planning.

2.2 Metrolinx's Role and Responsibilities

Metrolinx is an agency of the Government of Ontario mandated to do transportation planning for the GTHA and the GO Transit service area outside of the GTHA. Metrolinx was created by the *Greater Toronto Transportation Authority Act, 2006*, now the *Metrolinx Act, 2006* (Act).

According to Section 5(1)(a) of the Act, Metrolinx is to provide leadership in the co-ordination, planning, financing and development of an integrated transportation network in the GTHA.

To fulfill its leadership role in planning the network, Metrolinx released its first Regional Transportation Plan in 2008, called *The Big Move*. Metrolinx notes in *The Big Move* that the Plan is to:

- take into account all modes of transportation (for example, regular transit, rapid transit,

bus, light rail and heavy rail, as well as vehicle travel on roads and highways);

- use “intelligent” transportation systems (that is, fit transportation infrastructure and vehicles with information and communication technology that makes travel more efficient);
- integrate local transit systems with each other and with the GO Transit system; and
- work toward easing congestion and commute times, and reducing transportation-related emissions that contribute to smog and greenhouse gases.

Under the Act, the transportation network itself must:

- conform with the transportation policies of the Province and municipalities, and their respective growth plans; and
- support a high quality of life, a sustainable environment and a strong, prosperous and competitive economy.

The Big Move identified 15 top transit priorities to be implemented in the first 15 years, shown in **Appendix 1**.

Under the Act, Metrolinx must update its Regional Transportation Plan at least every 10 years. In 2018, Metrolinx released the update, called the *2041 Regional Transportation Plan*. Like *The Big Move*, the *2041 Regional Transportation Plan* had the objective of building more frequent rapid transit routes to serve more people with transit that is fast, frequent and reliable.

2.2.1 Different Modes of Transit

Transit can be regular or rapid. Rapid transit carries commuters on high-capacity vehicles on lanes where, for at least part of the route, the vehicles have exclusive right of way—pedestrians and non-transit vehicles are not allowed on the lanes. The high capacity and the exclusive right of way make this transport more “rapid,” or faster, than transport like traditional buses and streetcars, which are smaller vehicles in comparison and which travel on mixed-traffic lanes that are shared with other

Figure 2: Different Modes of TransitSources of data: York Region Rapid Transit Corporation presentation at the 4th Annual Urban Transit Infrastructure Conference 2018 and Metrolinx

Mode of Transit	Route Travelled	Capacity ¹	Capital Cost per Kilometre (\$ million)
Regular bus	Mixed-traffic roads (i.e., sharing the lane with other vehicles)	900–3,000	<1
Bus rapid transit (BRT) ²	<ul style="list-style-type: none"> Mixed-traffic routes alongside arterial roads or expressways; and/or Exclusive right of way (i.e., lanes where only transit vehicles are allowed to travel) 	1,200–10,000	40–60
Streetcar ³	Mixed-traffic lanes equipped with rail (usually sharing the lane with other vehicles like regular buses)	1,000–3,250	n/a
Regional rail (GO Transit)	Rail tracks with partially exclusive right of way (some tracks shared with freight trains)	2,200–20,000	n/a
Automated guideway transit (Scarborough rapid transit) ⁴	Fully dedicated rail tracks with exclusive right of way	3,800–4,500	n/a
Light rail transit (LRT) ²	Dedicated rail lanes with: <ul style="list-style-type: none"> partially exclusive right of way on surface roads (typically stop for traffic at intersections); and/or exclusive right of way underground 	3,100–18,000	60–170
Subway	Fully dedicated rail tracks with exclusive right of way, mostly underground	13,000–30,000	300–500

- Capacity is expressed as a range of the number of passengers that can be carried per hour past a given point in the busiest direction of the route. Ranges reflect different assumptions about factors such as the number of cars (if a train), the amount of time spent at stops and stations, and spacing between stops.
- Bus rapid transit (BRT) and light rail transit (LRT) are both “rapid transit,” with the following features to increase speed: high-frequency service, signal priority at intersections (green lights are longer and red lights are shorter for transit vehicles) and boarding through all doors (not just the frontmost door). A couple of features distinguish BRT from LRT: LRT vehicles typically travel at faster speeds than BRT vehicles, and LRT routes have fewer stops with longer distances between them (typically from 500 metres to one kilometre between stops).
- Many streetcar lanes in Toronto have been changed from mixed-traffic to partially exclusive right of way. Starting in 2014, Toronto introduced low-floor light rail streetcars to further improve service. This puts much of Toronto streetcar service into the “rapid-transit” category, comparable to light rail transit (LRT).
- Information on automated guideway transit is from Metrolinx’s January 2009 Scarborough Rapid Transit Benefits Case.

vehicles. Another feature that makes this transport more rapid is “signal priority” at intersections: green lights are longer and red lights are shorter for transit vehicles.

Subways and heavy rail vehicles that travel on routes that are 100% exclusive right-of-way are the fastest mode of transit.

Figure 2 summarizes the characteristics of different modes of transit.

2.3 The Five Light Rail Transit Projects

2.3.1 The Original Intent in *The Big Move*

Five of *The Big Move*’s priorities that were identified as rapid transit projects were subsequently funded as light rail transit (LRT) projects. Three were in Toronto:

- build Eglinton rapid transit from Pearson Airport to Scarborough Centre;
- build Finch/Sheppard rapid transit from Pearson Airport to Scarborough Centre and Meadowvale Road; and

Figure 3: Key Changes and Events Pertaining to Five LRTs, September 2018

Source of data: Metrolinx

	Eglinton	Finch/Sheppard		Scarborough	Hamilton	Hurontario
2010	Route shortened so western end begins at Weston Road, not Pearson Airport Completion date changed from 2016 to 2020	Project split into two LRTs		Completion date changed from 2015 to 2020		
		Finch West	Sheppard East			
		Completion date changed from 2013 to 2019	Completion date changed from 2013 to 2014			
2011, 2012	Tunnel work begins	Completion date changed to 2020	Completion date changed to 2021			
2013				Toronto changes project from LRT to subway*		
2015, 2016	Construction begins Completion date changed to 2021		Put on hold until Finch West completed			Brampton rejects LRT in its downtown, shortening route so northern endpoint Steeles Avenue, not downtown Brampton
2017						Request for proposals issued; construction expected to begin 2018
2018		Winning construction bidder announced; completion expected 2023			Request for proposals issued; construction expected to begin 2019	

* Toronto agreed in 2015 to reimburse Metrolinx \$74.8 million for sunk costs from this cancelled LRT.

- upgrade and extend the existing Scarborough Rapid Transit line.

Two were outside Toronto:

- build rapid transit in downtown Hamilton from McMaster University to Eastgate Mall; and
- build Hurontario rapid transit from Port Credit to downtown Brampton.

2.3.2 Key Changes and Events

Appendix 2 presents a detailed timeline of announcements and decisions affecting both the original three Toronto rapid transit projects and the original two rapid transit projects outside Toronto. By 2009, all five projects were proceeding as LRTs. **Figure 3** shows the subsequent changes and events pertaining to each of the projects between 2010 and 2018.

Two key changes were the splitting of Finch/Sheppard into Finch West and Sheppard East, and the cancellation of the Scarborough LRT (Toronto replaced the project with a subway). As a result, the three Toronto LRTs are: Eglinton, Finch West and Sheppard East, along with the Hamilton LRT and the Hurontario LRT outside Toronto.

In 2009, the government directed Metrolinx to work with Infrastructure Ontario to deliver the projects using the alternative financing and procurement (AFP) approach. See **Appendices 3 and 4** for a description of the AFP approach and the issues that we identified in our 2014 audit of the AFP model and its impact on the LRT projects.

Figure 4 summarizes the current status of the five LRT projects.

2.3.3 Metrolinx's Responsibilities and Relationships with Other Key Players

Metrolinx is responsible for the planning and delivery of these projects. More specifically, Metrolinx is responsible for developing project cost estimates, proposing project budgets for approval and managing the cost once the proposed budget is approved by the Province's Treasury Board. In accordance with direction from Treasury Board and the Ministry of Transportation, Metrolinx is also responsible for approving the terms and conditions for owning, constructing, operating and maintaining the new assets created by these projects.

Since the projects were designated and beginning to proceed as LRTs in 2010, Metrolinx spent

Figure 4: Overview and Status of the LRT projects, September 2018

Source of data: Metrolinx and Infrastructure Ontario

Project Description	Status	Target In-Service Date	Private Sector To
Eglinton-Crosstown			
<ul style="list-style-type: none"> • Located along Eglinton Avenue • Connects Weston Road and the TTC Kennedy Station. • Length: 19 km (10 km underground) • 25 stations and stops, linking to and intersecting with 54 TTC bus routes, three TTC subway stations, the Union-Pearson Express, and three GO train lines (Kitchener, Barrie and Stouffville) 	In construction	Late 2021	Design, build, finance and maintain for 30 years (TTC to operate)
Finch West			
<ul style="list-style-type: none"> • Located along Finch Avenue West • Connects the Finch West TTC station and Humber College • Length: 11 km 	In construction	2023	Design, build, finance and maintain for 30 years (TTC to operate)
Hurontario			
<ul style="list-style-type: none"> • Located along Hurontario Street • Connects Port Credit GO Station and Steeles Avenue • Length: 20 km 	Request for proposals issued, contract award expected in 2018	2023	Design, build, finance, operate and maintain for 30 years
Hamilton			
<ul style="list-style-type: none"> • Spans the lower city of Hamilton (along Main Street, King Street, and Queenston Road) • Connects McMaster University to Eastgate Square • Length: 14 km 	Request for proposals issued, contract award expected in 2019	2025	Design, build, finance, operate and maintain for 30 years
Sheppard East			
<ul style="list-style-type: none"> • Located along Sheppard Avenue • Connects Don Mills TTC Station to Morningside Avenue • Length: 13 km 	n/a (on hold pending completion of Finch West)	n/a	n/a

\$3.9 billion on construction and \$959 million on administering and managing the projects as of September 2018.

As of August 2018, 35 Metrolinx employees, 14 Infrastructure Ontario employees and 50 consultants were integrated with the Metrolinx LRT delivery project teams, with support from other employees and consultants from other areas such as finance.

To fulfil these responsibilities, Metrolinx must work with a number of other key players. As the Eglinton Crosstown LRT is the project furthest along, **Figure 5** outlines who those key players are and their relationships to each other and Metrolinx.

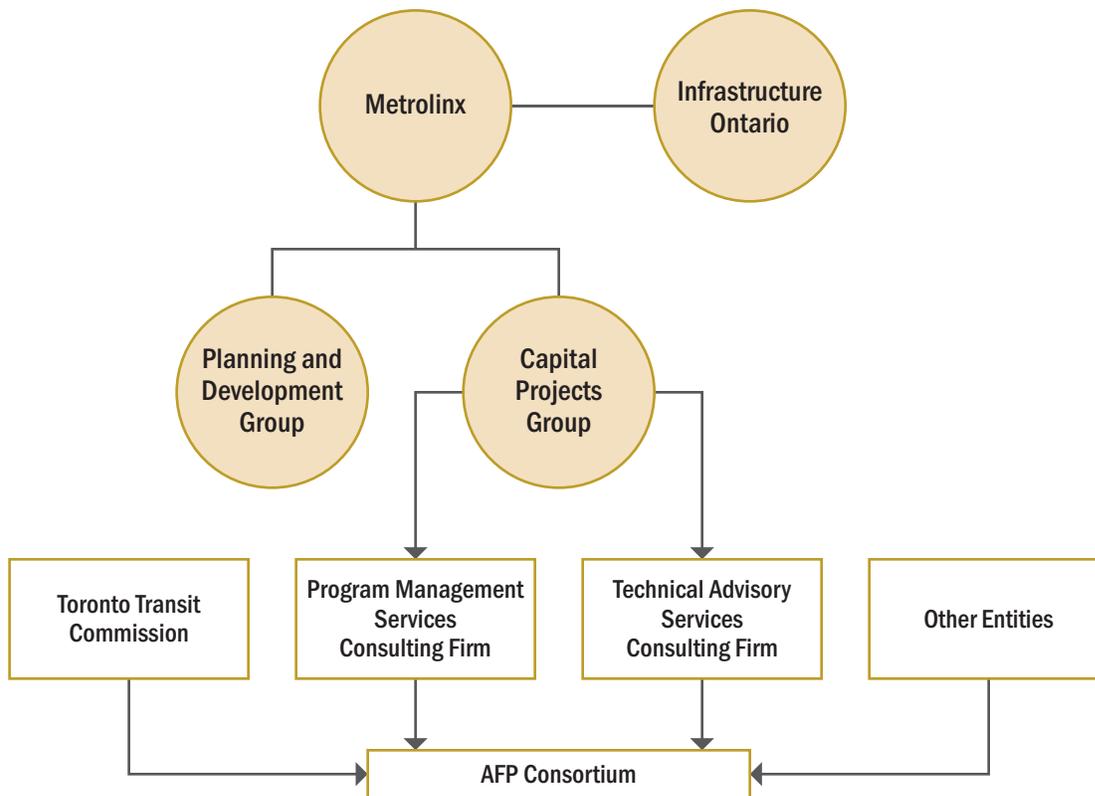
2.4 Eglinton Crosstown LRT

The Eglinton Crosstown LRT will be a 19-kilometre light rail corridor running along Eglinton Avenue from Weston Road in the west to the TTC Kennedy subway station in the east. Ten kilometres will be underground. The LRT will have 25 stations and stops, linking to 54 bus routes, three subway stations and various GO Transit lines. The Crosstown is expected to provide service that is up to 60% faster than bus service today.

Construction started with underground tunnels in 2011. The Crosstown Transit Constructors built the Western section (west of Yonge Street) and the

Figure 5: Key Players in the Eglinton Crosstown LRT Project

Prepared by the Office of the Auditor General of Ontario



- **Metrolinx:** undertakes the planning for the project and oversees its delivery through its Planning and Development Group and Capital Projects Group.
- **Infrastructure Ontario:** administers the AFP contract and provides legal support.
- **Toronto Transit Commission:** reviews and approves all designs submitted by the AFP Consortium that affect it. Will operate the light rail vehicles on the LRT.
- **Technical Advisory Services Consulting Firm:** reviews and approves all designs submitted by the AFP Consortium, and observes and audits construction activities.
- **Program Management Services Consulting Firm:** reviews project progress for compliance with the terms of the contract.
- **Other Entities:** Toronto City government issues permits to the AFP Consortium in compliance with bylaws. Telecommunications and utility companies work with the AFP Consortium during construction.
- **AFP Consortium:** under its contract with Metrolinx, it is designing and constructing the LRT and will maintain it for 30 years. It submits all designs to **Technical Advisory Services** consultants and submits those designs affecting the TTC to the TTC. It works with the **Other Entities** noted above to get approvals and permits, and facilitate construction.

Aecon Dragados Joint Venture built the Eastern section (east of Yonge Street).

During this construction, Metrolinx, together with Infrastructure Ontario, issued a request for proposals for the Eglinton Crosstown project, including a maintenance facility, stations, rail lines, and all related systems and components. A competitive procurement process was followed, and a consortium made up of ACS, AECON, EllisDon and SNC-Lavalin submitted the winning bid for the AFP contract. (In this report, we refer to this consortium as the AFP consortium.) The contract was awarded to the AFP consortium in July 2015.

The underground tunnels were handed over to the AFP consortium once completed—the Western section was fully handed over to the AFP consortium by April 2017 and the Eastern section substantially handed over in August 2017, with one subsection still outstanding.

2.5 2041 Regional Transportation Plan

On March 8, 2018, the Metrolinx Board of Directors unanimously approved the *2041 Regional Transportation Plan*—successor to the 2008 plan, *The Big Move*. The 2041 Plan built on the original vision of *The Big Move*, which was to provide people with access to fast, frequent and reliable transit and make it easier to use transit or travel by bike or on foot.

The 2041 Plan reflects the advice of the Metrolinx Board to the Province on improving the co-ordination and integration of all modes of transportation in the GTHA. It is to guide Metrolinx's actions between now and 2041, as well as guide all stakeholders in setting transportation priorities. However, like *The Big Move*, it is not binding on the Province or municipalities, and there is no committed long-term funding for delivering the 2041 Plan.

As well, there is no legislative requirement for Metrolinx to develop a plan for how to implement its Regional Transportation Plan.

3.0 Audit Objective and Scope

The objective of our audit was to assess whether Metrolinx has effective systems and processes in place to:

- plan and deliver the Eglinton Crosstown and its other Light Rail Transit projects in a cost-effective and timely manner; and
- evaluate, monitor and report activities and progress toward achieving project deliverables and milestones.

Before starting our work, we identified the audit criteria we would use to address our audit objective (see **Appendix 5**). These criteria were established based on a review of applicable legislation, policies and procedures, and internal and external studies. Senior management at Metrolinx reviewed and agreed with the suitability of our audit objective and related criteria.

We focused on activities of Metrolinx in the nine-year period ending March 31, 2018, and considered relevant data and events subsequent to this period.

We conducted our audit between November 2017 and August 2018. We obtained written representation from Metrolinx that, effective November 9, 2018, it had provided us with all the information it was aware of that could significantly affect the findings or the conclusion of this report.

Our audit was conducted primarily at Metrolinx's head office and at the project office for the Eglinton Crosstown project. In conducting our work, we interviewed the Metrolinx staff and consultants responsible for planning and implementing the Light Rail Transit (LRT) projects. We reviewed pertinent information and analyzed relevant data since the 2009 announcement of these projects. We toured the Eglinton Crosstown project to understand the scope of the work being undertaken.

We interviewed staff from the Toronto Transit Commission (TTC) and obtained relevant information from them on the construction of the

Eglinton Crosstown at the interchange stations (that is, the stations that will serve both the Eglinton Crosstown LRT and a TTC subway line).

We also interviewed staff from Infrastructure Ontario and obtained pertinent information from them on the use of the alternative financing and procurement approach to deliver the LRT projects.

As well, we interviewed others on the delivery of LRT projects in their jurisdictions, including the City of Ottawa’s Auditor General’s Office, the BC Auditor General’s Office, Partnerships BC and the Region of Waterloo.

Our audit included a review of complaints received by the Ontario Ombudsman and audits completed by the Ontario Internal Audit Division in the last five years. We considered these in determining the scope and extent of our audit work.

We conducted our work and reported on the results of our examination in accordance with the applicable Canadian Standards on Assurance Engagements—Direct Engagements issued by the Auditing and Assurance Standards Board of the Chartered Professional Accountants of Canada. This included obtaining a reasonable level of assurance.

The Office of the Auditor General of Ontario applies the Canadian Standards of Quality Control and, as a result, maintains a comprehensive quality control system that includes documented policies and procedures with respect to compliance with rules of professional conduct, professional standards and applicable legal and regulatory requirements.

We have complied with the independence and other ethical requirements of the Code of Professional Conduct of the Canadian Professional Accountants of Ontario, which are founded on fundamental principles of integrity, objectivity, professional competence and due care, confidentiality and professional behaviour.

4.0 Detailed Audit Observations

4.1 Metrolinx Not Effectively Fulfilling Its Mandate to Lead Transportation Planning

Under the *Metrolinx Act, 2006*, Metrolinx is mandated to develop and adopt a transportation plan for the GTHA and plan, co-ordinate and set priorities for its implementation. *The Big Move* (the first transportation plan adopted by Metrolinx in 2008) was to serve as the blueprint for a more sustainable transportation future to guide and direct decision-making. The aim of the plan was to achieve a transportation system for the GTHA that is effective, integrated and multi-modal.

However, while the transportation plan guides Metrolinx’s decisions and actions, there is no legislative requirement for the provincial government and municipalities to follow the plan. As well, the transportation plan is not linked to long-term funding and only serves to identify projects that should be funded to achieve the goals set out in the plan. It is at the discretion of the provincial government and municipalities to decide which project (if any), they want to fund from the plan.

For example, as shown in the timeline in **Appendix 2**, since the Province announced funding for the transit priorities in Toronto as LRT projects in 2009, there have been frequently changing circumstances and decisions of what to actually build on those priority routes that have not only delayed the implementation of the projects (that is no transit getting built to serve riders) but also wasted money that could have been used to build transit.

The cancellation of the Scarborough Rapid Transit project, for example, and the delay of the Sheppard LRT project cost \$125 million:

- **Scarborough Rapid Transit project cancellation cost \$75 million.** In July 2013, the City of Toronto decided to pursue a subway option to replace existing

Scarborough rapid transit rather than the approved LRT option. At the time of the cancellation, Metrolinx had already spent about \$75 million on a Scarborough LRT, including preliminary engineering costs, design costs, and management and administrative costs. The City of Toronto has agreed to reimburse Metrolinx for these costs, and this amount will be offset against the provincial contribution to the Scarborough subway project.

- **Sheppard LRT project delay cost \$50 million for professional services that would need to be procured again.** As of June 2018, Metrolinx had spent \$101 million of provincial funding on the Sheppard East LRT: \$51 million for route-preparation and infrastructure work, including the grade separation of the Stouffville GO line from Sheppard Avenue, and \$50 million on professional services such as contract administration, early design work and site surveys. While the infrastructure work would have benefits for Metrolinx even though the project is delayed, we noted that the \$50 million spent on professional services has little future benefit, since the work and services will likely have to be redone and procured again once the project is ready for construction. This money was spent under the understanding that the project would be completed in 2013 as intended. However, the project experienced significant delays and is now on hold until 2023.

In 2013, Metrolinx proposed an investment strategy to the provincial government whereby there would be a steady stream of annual funding for the Province or municipalities to use to support the planning and implementation of the unfunded projects in *The Big Move*. The strategy was intended to create dedicated resources to fund transit planned projects. However, the recommended funding tools were not established, and funding for transit projects continues to be at the discretion of the governments.

RECOMMENDATION 1

To effectively fulfill its mandate to implement the transportation plan for the GTHA, we recommend that Metrolinx consider securing provincial and municipal approval for the Regional Transportation Plan and work with the provincial government to agree on long-term funding for the projects in the Plan in order to minimize the risk of project delays and cancellations.

METROLINX RESPONSE

Metrolinx accepts the recommendation.

Metrolinx worked closely with municipalities and the provincial government in the development of the *2041 Regional Transportation Plan*. Most partner municipalities have already passed resolutions confirming their endorsement of the Plan.

Long-term sustainable funding would assist in the advancement of the delivery of the regional transportation network. Metrolinx will discuss options for long-term funding with the Ministry of Transportation.

4.2 The Province and Municipal Governments, Not Metrolinx, Decided on Light Rail for Five Rapid Transit Projects

In March 2007, Toronto announced the *Toronto Transit City Light Rail Plan*, proposing seven new light rail transit (LRT) lines throughout Toronto. Three months later, in June 2007, the Ontario Government announced *MoveOntario 2020*, a plan to build 52 rapid transit projects in the Greater Toronto and Hamilton Area (GTHA). *MoveOntario 2020* included *Transit City's* seven LRT lines and identified other rapid transit projects as LRT projects. Thus, when Metrolinx issued its first Regional Transportation Plan for the GTHA in 2008, the Toronto City government and the provincial

government had already decided on the LRT option for many of the projects.

4.2.1 Metrolinx Did Not Fully Assess Whether LRT Was the Best Option for the Projects

The Toronto City government and the provincial government decided from the beginning (as part of *Transit City*) that the Toronto rapid transit projects would be LRT. In February 2010, the City, the Province and Metrolinx reached a consensus to proceed with LRTs in Toronto using provincial funding of \$8.15 billion. Metrolinx proceeded with planning the projects from that point on as LRTs without analyzing whether LRT was the best option.

Metrolinx stated that it completed a high-level analysis of ridership demand for the routes that forecast that ridership would range from 2,700 to 13,700 passengers per hour going in a single direction, which exceeds the capacity for bus rapid transit (BRT). For that reason, Metrolinx's initial business cases in 2009 did not include analysis comparing BRT and LRT. We noted, however, that BRT systems implemented in other cities (for example, Ottawa, Canada; Istanbul, Turkey; New Jersey, United States; and Bogota, Colombia) handle 7,300 to 40,000 passengers per hour.

In 2014, Metrolinx conducted further analyses to update the business cases for four of the LRT projects—Finch West, Sheppard East, Hurontario and Hamilton (an update to the Eglinton Crosstown was done in 2012, and no update was done on the Scarborough RT as it had been cancelled in favour of a subway). The analyses included evaluating the BRT option for all but the Hurontario project, which Metrolinx determined had too high a long-term capacity need for BRT.

We found that, despite the fact that the draft analyses clearly showed the need to further review whether it is appropriate to proceed with the LRT option for three of the four projects, Metrolinx took no action to address the results of its analysis. It indicated that it discussed these results with the

Ministry of Transportation in meetings, but it was not able to provide details of what was shared or discussed at these meetings.

For the Finch West and Sheppard East rapid transit routes, Metrolinx found that of the options analysed (BRT, LRT, subway, or elevated light metro/skytrain), “while an LRT will provide improved reliability, crowding relief and [a more comfortable experience] for riders, these benefits could be accomplished to a similar degree at less cost with BRT.” The reports also stated that further analysis and investment consideration should be done for BRT along the routes, and that the existing planned LRT service might not offer significant time savings for riders, particularly those making short trips.

However, Metrolinx also noted that “the sunk costs already invested in [these] project[s] and potential reputational risks facing Metrolinx as a result of changes in investment decision-making at this stage along the [corridors] should be carefully considered.” The business cases state that these updates are a “health check” on the projects’ existing scope and technology, and that they are part of the due diligence appropriate for a public investment of this magnitude (about \$1 billion). Metrolinx added that it could learn from the reanalysis even if it did not result in changes to the project.

Similarly, for the Hamilton LRT, its evaluation of the BRT option concluded that BRT is the highest-performing investment option under a medium land-use-intensification scenario, although LRT has greater long-term capacity, which would be the best option under a higher-intensity land-use scenario. The relative success of both LRT and BRT depends on the level of land-use intensification expected on the corridor. While the LRT option was tested against all land-use scenarios, the BRT option was tested against only the medium intensification scenario.

Given this result, Metrolinx recommended in late 2014 that an intermediate business case, considering the changing context and alternative

options, be completed before an investment decision was made. However, Metrolinx did not do any further analysis before the Province committed to funding the LRT in May 2015.

The results of these analyses were discussed internally with the then CEO in late 2014. However, Metrolinx did not act on its findings to then critically assess whether it was planning and building the transit projects that would best serve the region.

RECOMMENDATION 2

To ensure that future transit projects meet needs cost effectively and that maximum value is obtained from the money spent, we recommend that Metrolinx:

- objectively evaluate evidence to recommend—and obtain provincial and municipal government support for—transit projects and options that most cost effectively address the identified transit needs of Ontarians (e.g., ridership demand); and
- undertake these analyses in a timely manner to provide the best advice to decision-makers before significant investments are made on the projects.

METROLINX RESPONSE

Metrolinx accepts the recommendation.

Metrolinx's Business Case Guidance establishes standards in evaluating evidence to ensure that future transit projects meet transportation needs cost-effectively. Financial and economic analysis in business cases tests and confirms value for money. Metrolinx will publish the complete Business Case Guidance (v1) in spring 2019.

Metrolinx's project governance process requires that progressively detailed business cases for each project are prepared and approved prior to the next stage of project development. This process was approved by the Metrolinx Board of Directors in December 2017 and was

implemented in March 2018. Metrolinx will publish a supporting procedure document to clarify how decision processes are informed by business cases throughout the project lifecycle.

4.3 Metrolinx's 2041 Regional Transportation Plan Is Lacking Action Plans

4.3.1 No Timeline for Restoring Regional Connectivity Lost Due to Reduced Project Scope

One of Metrolinx's planning goals is regional connectivity. In its Regional Transportation Plan, Metrolinx is to consider and recommend to decision-makers a network where different modes of transportation come together seamlessly. However, changes driven by provincial and city governments' decisions have resulted in a less connected network, and the plan does not have timelines for restoring lost connections.

The original vision for the LRT projects was to connect major hubs and employment centres. Two key connections were lost in February 2010, when provincial funding was fixed at \$8.15 billion. The Province, Metrolinx, the City of Toronto and the TTC reached a consensus to shorten two lines:

- On the Eglinton Crosstown, the connection to Pearson International airport was removed, so the westernmost point of the route will end at Weston Road. This changed Metrolinx's initial vision of this LRT connecting the airport, one of the largest employment centres in the GTHA, to Kennedy subway station, a major connection hub.

The City of Toronto is now leading the planning to extend the Eglinton Crosstown west to the airport and east to Malvern. Metrolinx's role is to provide support when requested by the City and co-ordinate the planning for the section outside of Toronto—for example, it will update ridership forecasts and a business case it prepared in 2016 on the extension to the airport.

- On the Finch/Sheppard LRT, the connection between the Finch West and Don Mills subway stations was removed, so the originally envisioned continuous line became two separate LRTs that do not connect with each other.

A third connection was lost when Brampton City Council voted in October 2015 against the Hurontario LRT route running through its Main Street. The Hurontario project was intended to connect the Port Credit GO station to downtown Brampton through Mississauga. The LRT will now end at Steeles Avenue without connecting to the Kitchener line at the Brampton GO station.

These changes have forced Metrolinx to implement its plan in a piecemeal manner. The *2041 Regional Transportation Plan* issued in 2018 does not have timelines to restore the connections, so it is not known when or even if these projects will reach their full potential in serving transit users.

4.3.2 No Action Plan to Deliver the Projects in the *2041 Regional Transportation Plan*

The *2041 Regional Transportation Plan* was released as an update to Metrolinx's first transportation plan from 2008. It focuses on the priorities and projects that have been carried forward from the 2008 plan and identifies other potential projects to achieve by 2041 to improve transit. While it identifies where the GTHA's transit needs are, it does not rank the needs, and it does not propose an implementation plan to address the needs.

In March 2018, after releasing the *2041 Regional Transportation Plan*, Metrolinx published the paper, *Making it Happen*. It is intended to start a conversation among stakeholders on what actions need to be taken to implement the 2041 Plan. However, this paper is limited to discussing what needs to be done, without proposing a plan for *when* specific actions should be taken.

Metrolinx informed us that it will continue to work with stakeholders to plan the implementation of the *2041 Regional Transportation Plan* by holding

Regional Roundtable meetings. The meetings bring together GTHA city managers and chief administrative officers. Metrolinx will report on these meetings and other planning activities in its five-year strategic plans and annual business plans.

Metrolinx has not prioritized projects in the 2041 Plan. Metrolinx first developed a project prioritization framework in 2010 and later updated it in 2015. This framework was used to rank unfunded projects in the 2008 Plan—*The Big Move*—and provide advice to the provincial government. However, it has not been used since 2015. One reason for this is that dedicated funding for transit that Metrolinx proposed in 2013 did not come to pass. Metrolinx had proposed that the provincial government pass legislation to provide a steady stream of funding for transit (e.g., a share of the HST and tolls charged for highway use, but none of the proposed funding streams was enacted.)

Metrolinx informed us it will be updating the prioritization framework as part of the implementation of the *2041 Regional Transportation Plan*.

RECOMMENDATION 3

To have transit projects planned and built with the greatest benefit to the Greater Toronto and Hamilton Area (GTHA) as a whole, we recommend that Metrolinx:

- develop an action plan to identify and address the growing connectivity needs of the GTHA regional transportation network as a whole, given that previously envisioned connections have been lost with changes in light rail transit project plans;
- update its prioritization framework to guide the delivery of the projects identified in the *2041 Regional Transportation Plan*;
- prepare and propose a funding strategy for approval by the Province and municipal governments;
- prepare an action plan with execution timelines correlated with the funding strategy; and

- publicly report on its status in meeting its action plan.

METROLINX RESPONSE

Metrolinx accepts the recommendation.

The *2041 Regional Transportation Plan* is a blueprint for creating an integrated and layered transit network that outlines comprehensive regional connectivity.

Metrolinx is developing a prioritization framework for projects identified in the *2041 Regional Transportation Plan*. The framework will take into account connectivity needs and emphasize completing network connections. Metrolinx is developing this prioritization framework in consultation with municipalities through the Regional Roundtable, a governance body consisting of heads of each regional municipality, Metrolinx and the Province.

Upon confirmation of funding, Metrolinx will work closely with the Province of Ontario to develop an action plan and publicly report on it.

4.4 Metrolinx Needs to Better Manage Risks in the Eglinton Crosstown LRT Project

The total budget for the Eglinton Crosstown LRT is about \$11.3 billion, plus a contingency fund budget of \$672 million. The budget includes the cost of the AFP contract (signed in July 2015) for designing, building and financing the project and maintaining the LRT for 30 years. Additional to the AFP contract cost are costs for tunnel construction, property acquisition, light rail vehicles, and professional services (mainly consultants).

Figure 6 shows the budget breakdown and what has been spent as of September 2018.

4.4.1 Metrolinx Had Limited Remedies Available to Hold the AFP Consortium Responsible for Project Delays As Long As the Consortium Certified It Would Still Finish the Project on Time

When Metrolinx awarded the AFP consortium the AFP contract in 2015, it expected the AFP consor-

Figure 6: Eglinton LRT Project Budget and Amounts Spent as of September 2018 (\$ million)

Source of data: Metrolinx

	Budget ¹	Adjustments to Budget	Revised Budget	Amount Spent
AFP construction ²	5,544	316	5,860	2,956
AFP maintenance	3,560	–	3,560	0
Subtotal	9,104	316	9,420	2,956
Tunnel construction	710	3	713	687
Property acquisition	256	–	256	245
Light rail vehicles	388	–	388	214
Professional services ³	652	114	766	672
Subtotal	2,006	117	2,123	1,818
Contingency ^{2,4}	672	(262)	410	0
Total	11,782⁵	171	11,953	4,774

1. Budget figures are from Treasury Board submission in 2013 and the AFP contract in 2015.

2. Metrolinx reallocated \$316 million, which comprises \$262 million out of the contingency budget to the construction budget to account for the claim settlement (\$237 million) and variations under construction (\$25 million) plus \$54 million from another group in capital prospects.

3. Metrolinx has allocated a portion of work from another group of capital projects to the Crosstown Project and intends to use the funds of \$114 million to pay for the current budget overage of \$20 million in professional services.

4. The adjustment of \$262 million to the construction budget for the settlement (\$237 million) and variations (\$25 million).

5. This total does not include nonrecoverable HST of \$254 million.

tium to complete the Eglinton Crosstown LRT by September 2021. Under the AFP contract, the AFP consortium is responsible to finish the project by this date and within budget. However, the AFP contract does not provide Metrolinx with strong remedies if the AFP consortium falls behind schedule while still maintaining it will finish the project on time.

Under the AFP contract, the AFP consortium is to provide Metrolinx with a detailed six-month work schedule and update it every month. When it finds it is unable to meet the substantial completion date, it must submit a report identifying the reasons for the delay and a plan for eliminating or reducing the delay.

The AFP consortium began falling behind schedule in 2017. Metrolinx had the right under the AFP contract to ask for additional information from the AFP consortium in order to perform a detailed assessment of the work schedule if the AFP consortium indicated that project completion would be delayed or if in Metrolinx's opinion the consortium had fallen significantly behind the work schedule; however, Metrolinx did not do so because the AFP consortium represented that it could still finish on time. The AFP consortium continued to submit schedules with increasing delays throughout 2017, and Metrolinx communicated its concerns about the delays (as shown in **Figure 7**), but the AFP consortium did not adequately address them.

In December 2017, Metrolinx met with senior consortium management, at which time the AFP consortium was still certifying it would meet the contracted completion date of September 2021 and indicated that in February 2018 it would provide solutions to mitigate schedule delays. However, the AFP consortium instead filed a claim against Metrolinx in February 2018 for extension of the project completion date to October 2022. The claim also requested compensation because Metrolinx should have done more to help the AFP consortium when, for example, in its view, the City of Toronto took too long to grant it permits, and Metrolinx and TTC technical experts repeatedly rejected the AFP consortium's unacceptable designs.

RECOMMENDATION 4

To better control the risk that AFP projects are not completed on time and within budget, we recommend that Infrastructure Ontario develop tools and remedies for incorporation into AFP contracts to address early indications of project delays.

INFRASTRUCTURE ONTARIO RESPONSE

Infrastructure Ontario (IO) is committed to continuously improving our processes and tools, including incorporating lessons learned from past projects to enhance the development and delivery of future projects.

For example, IO has implemented increased schedule reporting requirements based on lessons learned during the construction of the Eglinton LRT project. These requirements give IO and its partners (Metrolinx in this case) the ability to request more insight into construction schedules and enables earlier detection of potential project delays. These requirements also increase the obligation of consortia to report their plans and strategies to mitigate the effects of potential project delays. These requirements have already been applied to the Finch West LRT project and will be incorporated into future LRT projects.

Additionally, as part of IO's vendor performance program for AFP contracts (introduced in 2017), construction contractors may be assigned infractions that impact future procurement scores if satisfactory rectification plans and schedules are not delivered in accordance with the requirements of the project agreement.

We will continue to look for additional ways to further strengthen scheduling requirements and additional schedule reporting measures, and will add such measures to the AFP contracts, where appropriate. Additional

Figure 7: Timeline of Events Around Project Delays

Source of data: Metrolinx

Date	Description of Action/Event
July 2015	<ul style="list-style-type: none"> Metrolinx and Infrastructure Ontario enter into an AFP contract for an amount of \$9.1 billion for the completion of the Eglinton Crosstown LRT by September 2021.
December 2016	<ul style="list-style-type: none"> Metrolinx's technical advisors report to Metrolinx senior management that the AFP Consortium is falling behind schedule.
January 2017	<ul style="list-style-type: none"> Metrolinx issues a letter to the AFP Consortium requesting that it address the schedule slippage and provide an updated schedule for completing the project on time in accordance with the AFP contract.
March 2017	<ul style="list-style-type: none"> The AFP Consortium provides updated schedule indicating they are still on track to meet the original substantial completion date.
June 2017	<ul style="list-style-type: none"> Metrolinx informs the AFP Consortium that it is not meeting the updated schedule and needs to do more to address delays.
July 2017	<ul style="list-style-type: none"> The AFP Consortium provides an updated schedule that changes the project completion date by eight weeks (November 2021 instead of September 2021). The AFP Consortium tells Metrolinx that the delays are due to factors such as the City of Toronto taking too long to approve permits, issues with the Canadian Pacific/Metrolinx Agreement, and design changes requested by Toronto Hydro and telecommunication companies.
September 2017	<ul style="list-style-type: none"> Metrolinx's technical advisors recommend a detailed review of the AFP Consortium's reasons for the delays and what can be done about them.
October 2017	<ul style="list-style-type: none"> Metrolinx issues a letter to the AFP Consortium to correct schedule deficiencies on the critical path of the project.
November 2017	<ul style="list-style-type: none"> Metrolinx's technical advisors formally communicate to Metrolinx's senior management that the AFP consortium has failed to provide complete, fully co-ordinated and timely design submissions.
December 2017	<ul style="list-style-type: none"> Metrolinx sends another letter to the AFP Consortium requesting that it address delay concerns and requesting a meeting with the AFP Consortium senior management staff. At the meeting held December 15, 2017, the AFP Consortium agrees that there are schedule concerns and that they will be addressed in the next update to the schedule, to be provided in February 2018.
February 2018	<ul style="list-style-type: none"> The AFP Consortium provides an updated schedule that changes the completion date by a year (October 2022 instead of September 2021). The AFP Consortium files a notice-of-delay event against Metrolinx as allowed under the terms of the AFP agreement. It requests a one-year extension of the schedule and compensation, alleging that Metrolinx has not met its obligations and not exerted enough effort to facilitate the processes for approving designs (especially the TTC's design approval) and obtaining city permits.
March 2018	<ul style="list-style-type: none"> Metrolinx refutes the AFP Consortium's claims and requests that it comply with the AFP agreement by specifying the reasons for the delay, provide a recovery plan and updated its work schedules to eliminate or reduce the delay.
July 2018	<ul style="list-style-type: none"> The AFP Consortium files a notice of action in the Ontario Superior Court of Justice requesting compensation for increased costs, damages and expenses; and a one-year extension to complete the project.
August 2018	<ul style="list-style-type: none"> Metrolinx's technical advisors reiterate the concerns it noted to Metrolinx in their November 2017 communication and state that if these issues are not resolved, the finished Eglinton Crosstown LRT may not be fully compliant with the requirements of the AFP contract. Metrolinx applies to the court to stay any claim by the AFP Consortium concerning delays until the project is substantially completed. Metrolinx and the AFP Consortium settle the claim for \$237 million plus other concessions described in Section 4.4.2.

requirements may include cost performance index reporting and resource loaded schedules to be included as appropriate, providing IO and Metrolinx with the ability to predict with greater certainty areas of potential future delay before a consortium files a claim.

4.4.2 Settlement to Hold the AFP Consortium to the Contracted Completion Date Cost Metrolinx \$237 Million

In an AFP project, a private-sector consortium is paid a premium to bear the majority of the risks of project delays and cost overruns. Under the Eglinton Crosstown LRT AFP contract, the responsibility for some risks was not fully transferred to the AFP consortium, and Metrolinx eventually settled the claim against it based on its analysis of the risk allotment in the contract.

Metrolinx initially refuted the claim, noting that the AFP consortium failed to explain and provide support for the specific events or circumstances that might give it the right to request compensation for delay costs. Metrolinx also noted that, despite the delays the AFP consortium was experiencing, the AFP consortium was still certifying up until December 2017 that it would meet the contracted completion date of September 2021, despite a schedule slippage of about 13 weeks noted by Metrolinx.

In August 2018, Metrolinx settled the claim for \$237 million, using a portion of the project contingency fund (which is included in the Treasury Board approval of about \$12 billion for this project). In addition, Metrolinx agreed to accept later delivery dates for the pedestrian bridges adjacent to the existing West Don River Bridge and a Salvation Army building. Of the \$237 million, \$100 million was classified as incentive and acceleration compensation subject to clawback if the AFP consortium does not achieve substantial completion on or before September 29, 2021. In return, the AFP consortium committed to a clean slate for all claims known or ought to

be known at the time of the settlement. Although this is supposed to protect Metrolinx from existing and future claims during construction, we will not be able to determine if this provision is kept until construction is completed.

As part of the government's decision to use the AFP approach on this project, Metrolinx, in conjunction with Infrastructure Ontario, completed a value-for-money (VFM) assessment that detailed the many risks (such as contamination and permit delays) the project could encounter. In its agreement with the AFP consortium, it retained responsibility for some, but not all, of these risks. At the time that the VFM assessment was performed (before the contract was signed), Metrolinx and Infrastructure Ontario determined that Metrolinx was retaining about \$563 million of risks. When we reviewed this assessment in light of the claim, we determined, with input from Infrastructure Ontario, that approximately \$66 million of those risks could relate to factors identified in the claim prior to the awarding of the contract. We confirmed the \$66 million with Infrastructure Ontario. However, the settlement amount exceeded this amount.

In the claim, the AFP consortium identified areas where delays had occurred, holding Metrolinx responsible for them. However, the claim did not include support for the AFP consortium's position that Metrolinx was responsible for the delays. For example, for delays relating to design submissions, it did not provide evidence of how it had been ensuring that it was meeting TTC design standards. Also, Metrolinx noted that the AFP consortium had not followed appropriate procedures in case of delays, such as submitting information about each individual delay event as it occurred, to allow Metrolinx to investigate any problems associated with delays, monitor the AFP consortium's progress and take action where appropriate. Metrolinx agreed to a settlement amount that it determined to be a portion of estimated total risk exposure but did not ask the AFP consortium for documentation to support the claim amount.

We reviewed the settlement negotiation process and confirmed that Metrolinx and Infrastructure Ontario used a risk register, based on their analysis of the AFP contract, to estimate a settlement amount. We noted that Metrolinx did not have sufficient documentation of evidence linking the settlement amount to where it had determined that the delays were of its own making.

As noted earlier, it is understood that under an AFP contract, a private-sector contractor (the AFP consortium in this case) is responsible for managing the majority of the risks associated with delivering a project on time and on budget. By agreeing to settle the claim using a portion of its project contingency fund, Metrolinx accepted shared responsibility for the Eglinton Crosstown being completed on time and on budget.

RECOMMENDATION 5

To hold the AFP consortium to the requirements of the AFP contract that the Eglinton Crosstown Light Rail Transit project be completed on time and on budget, we recommend that Metrolinx:

- take prompt action as soon as it becomes aware of delays and hold the AFP consortium accountable for the contract requirement to submit action plans to eliminate or reduce delays;
- properly validate all future claims and only pay for costs that have been found to be its responsibility;
- in future instances where a claim is filed against it:
 - document its analysis linking the allegations in the claim to what actually happened and obtain evidence to support the claim, before entering into negotiations with the claimant; and
 - document the analysis and support associated with all aspects of the settlement arrived at.

METROLINX RESPONSE

Metrolinx accepts the recommendation.

In making use of the AFP model for the Eglinton Crosstown LRT, Metrolinx is provided with a different set of tools to drive contractor accountability than would be the case on a traditionally delivered construction contract. If the AFP consortium fails to deliver a project that is independently certified as compliant by the substantial completion date, it faces significant financial consequences, including the withholding of a substantial completion payment valued in the hundreds of millions of dollars. In exchange for assuming those risks, the consortium is afforded significant latitude to use means and methods of its choosing to complete the project by that date, including discretion to make and modify its own detailed work schedule, which may include slippage of some tasks and acceleration of others. With full awareness of these terms, the consortium provided a fixed substantial completion date of September 29, 2021.

Metrolinx will continue to hold the AFP consortium accountable for delay events. Further, Metrolinx will work with Infrastructure Ontario on future procurements to review specific contractual terms to strengthen the remedies available in the case of delays, claims and disputes.

The settlement with the consortium mitigates the risk of future claims. Should further claims be submitted, Metrolinx will ensure the claim review process linking the allegations to the details observed on the ground is thoroughly documented.

RECOMMENDATION 6

To provide for clarity and a shared mutual understanding of risk responsibility between public-sector and private-sector parties to AFP contracts, we recommend that Infrastructure

Ontario ensure AFP contracts are drafted reflecting the maximum feasible transfer of risk to the private sector established in the initial value-for-money assessment justifying the use of AFP for the project.

INFRASTRUCTURE ONTARIO RESPONSE

Infrastructure Ontario (IO) consistently reviews the drafting of its contracts, including AFP contracts, to ensure that the allocation of risks in the contract maximize value for money and that the risks are clearly apportioned to the party best suited to manage them. As an example, since the signing of the Eglinton LRT project agreement, IO has made drafting clarifications to the LRT template Project Agreement to better articulate the financial risks associated with site contamination and unknown or mislocated utilities.

The review process for IO contract drafting balances commercial feedback and lessons learned from projects with industry-standard risk assessments so that risks are shared or borne by the party best able to manage the risk, as appropriate.

IO will continue to look for additional ways to manage and mitigate the risks retained by the public sector.

4.4.3 Metrolinx Not Dealing Effectively with Delays and Risks Resulting from Poor Designs and Hasty Construction

As noted in **Figure 5**, Metrolinx and Infrastructure Ontario staff, together with its program management consultants and technical advisors, and other entities (the TTC, the City of Toronto and utility companies) review designs submitted to them by the AFP consortium for compliance with specifications. Metrolinx's technical advisors also provide technical expertise, observe and audit the AFP consortium's construction activities and

produce monthly reports highlighting project risk areas. In addition, Metrolinx staff produce a separate monthly report highlighting progress, compliance and project risk areas.

Metrolinx staff and the technical advisors have noted in their reports that in many instances, the AFP consortium has failed to provide complete, fully co-ordinated or timely design submissions. The technical advisors formally communicated these concerns to Metrolinx in November 2017 and again in August 2018. The technical advisors observed that if these issues are not resolved, the Eglinton Crosstown LRT may not be found at the end of scheduled construction to be fully compliant with the requirements in the AFP contract and/or may not function properly. If elements of the project are found to be non-compliant, there is a risk that reworking will be necessary or that Metrolinx and the AFP consortium will have to negotiate a settlement to resolve the situation before substantial completion can be certified.

Metrolinx has limited contractual tools to hold the AFP consortium accountable to submit complete and fully co-ordinated designs. The extent of Metrolinx's involvement in addressing issues noted from design reviews was to hold discussions with the AFP consortium, track the issues, or request re-submissions. Metrolinx may address process deficiencies such as delays or incomplete documentation in the re-submissions of designs by issuing a non-conformance report.

These are reports that specify how the AFP consortium is not meeting requirements. Under the AFP contract, Metrolinx may also deduct fines from its payments to the AFP consortium if it identifies repeat instances where the AFP consortium is not meeting requirements (a failure that the AFP consortium self-reports is not eligible for payment deduction). Metrolinx informed us that, by April 2018, it had issued only one non-conformance report because of design issues and had not deducted any fines.

Issues noted from the review of the designs submitted by the AFP consortium include:

- **Incomplete designs missing technical details submitted for review.** We found that as of September 2018, of the 2,655 designs submitted, 1,663 (63%) had issues requiring the AFP consortium to either resubmit (for 254, or 10%, of the designs) or provide more information showing how it is addressing a noted problem (for the remaining 1,409, or 53%, of the designs). For example, missing details and deficiencies in the designs include system elements, such as signalling and fire detection equipment in the tunnels. The technical advisors noted that if the designs do not embed these elements properly, the elements may end up mounted on surfaces. This is not what the AFP contract requires, is not the ideal placement and can cause delays if additional work is required to, for instance, remove finished construction to embed the elements properly. As of September 2018, Metrolinx had not accepted the AFP consortium's designs in this case.
- **Designs not submitted in logical sequence or too fragmented.** In order to expedite construction on the project, the AFP consortium has submitted partial designs to Metrolinx for review. However, the technical advisors have noted that the submissions are sometimes provided in an illogical sequence or are too fragmented. This has necessitated inefficient extra reviews, which are undertaken without all required information provided. For example, the AFP consortium has submitted some station designs before submitted designs for excavation and shoring work (work to temporarily support or prop up structures in danger of collapse during construction), which precedes station construction. The AFP consortium has also submitted station designs before providing a complete hazard log, so the technical advisors cannot evaluate if the station designs are safe and control the risk of hazards.

In addition, the TTC requires designs to be compliant and approved by it for all construction within 60 metres of TTC property. From the TTC's understanding in relation to the interchange stations (Kennedy, Cedarvale and Eglinton), the AFP consortium was to submit about 15 design packages. However, the AFP consortium has submitted over 60 initial designs for Kennedy station, 50 for Cedarvale and 70 for Eglinton, and has had to resubmit over 100 designs for Kennedy, 50 for Cedarvale and 100 for Eglinton. These resubmissions of designs for further review contributed to project delays and increased costs. For example, the AFP consortium submitted partial designs for water main, fire and sanitary work for Cedarvale Station and proceeded to install the elements needed for these parts of the station. However, the designs for these parts did not fit with the overall station design for utilities and mechanical services. As a result, the overall design needs to add redundant backflow preventers (devices to limit water flow from affecting equipment) that the AFP consortium did not initially plan for. The overall design also conflicted with the TTC's plans for installing its own maintenance equipment. The AFP consortium has resubmitted the overall design six times but, as of September 2018, the TTC had not approved it because it still was not meeting TTC requirements.

- **Commencing construction before completion of design review.** Metrolinx's technical advisors noted that commencing construction prior to design review creates the possibility of non-compliant construction, which may not accommodate the required functionality or meet the commitments in the AFP contract. Examples where the AFP consortium had started construction prior to completion of design review include construction of station-enabling works in advance of completion of station design and construction of the

maintenance and storage facility handover platform in advance of demonstration the design is viable and acceptable to the operator (i.e., TTC). In both cases, construction proceeded before Metrolinx's final design review. In response to this, Metrolinx is working with its technical advisors to identify and understand the risks associated with the AFP consortium choosing to proceed with construction prior to completion of the review of the final designs.

RECOMMENDATION 7

To rectify the design submission and content problems being experienced so that there are no undue delays in the future and to ensure that the Eglinton Crosstown Light Rail project is built according to agreed-upon requirements, we recommend that Metrolinx work with the AFP consortium to:

- promptly resolve issues identified by Metrolinx's technical advisors and the TTC regarding designs that do not meet project requirements and specifications; and
- minimize the number of partial designs submitted to facilitate design review and approval by Metrolinx's technical advisors and the TTC.

METROLINX RESPONSE

Metrolinx accepts the recommendation.

Metrolinx will continue to work with the AFP consortium to bring to its attention issues identified by our project team. Metrolinx will make clear that those issues must be addressed as part of the process for the AFP consortium delivering a project which is compliant with project requirements and certified as such by the Independent Certifier.

As permitted by the project agreement, Metrolinx will continue to encourage the AFP consortium to submit its designs in a size and

sequence that optimizes the design process and conserves the resources of all parties. In the particular case of construction in close proximity to TTC assets, Metrolinx will continue to enforce the specific design review and approval provisions that were included in the AFP contract.

4.4.4 Metrolinx Underestimated Costs of Additional Bus Services

The Eglinton LRT project has caused and will continue to cause TTC service disruptions; Metrolinx agreed to pay the TTC the additional operating costs incurred by the TTC because of those disruptions, as provided for in the project budget. These additional costs are for the TTC to run buses on alternative routes while the LRT is being built.

Metrolinx did not consult the TTC when it initially budgeted these costs at \$19 million in December 2014. This initial budget has been fully used up. In August 2016, Metrolinx asked the TTC to provide an estimate for the remainder of the project. The TTC projected costs of \$72.5 million.

In October 2016, the TTC sent Metrolinx a letter explaining the cost estimate and breaking down costs by year from 2017 to 2021. In December 2016, the TTC provided Metrolinx a detailed report highlighting additional service requirements in all areas affected by the LRT construction.

RECOMMENDATION 8

To support accurate and transparent budgeting of costs on all transit projects, we recommend that Metrolinx continually consult with relevant stakeholders on cost estimates as part of the budget-setting and cost-monitoring processes.

METROLINX RESPONSE

Metrolinx accepts the recommendation.

Metrolinx works with local transit partners to ensure impacts are proportionately mitigated. While the TTC's chosen option in this

circumstance was the augmentation of its bus operations to sustain existing service levels, here or elsewhere, other options with varying costs, benefits, customer impacts and feasibility merit consideration.

In order to address this recommendation, Metrolinx will develop a policy addressing the issue of disruptions to municipal transit service providers to provide itself and stakeholders with greater certainty on this issue.

4.5 Metrolinx’s Use of Consultants for Program Management Services Is Not Cost-Effective

Since 2010, Metrolinx has signed three major contracts with one firm to provide program management services for the LRT and other major projects. **Figure 8** summarizes the contracts. The total value of the contracts is \$272 million.

Figure 9 specifies the services the firm is providing under the three contracts and the amounts charged for those services as of June 2018.

4.5.1 Metrolinx Cannot Support the Contract Amounts with an Assessment of Expected Work and What that Work Should Cost

Metrolinx first contracted with the firm through a competitive procurement in 2010. As shown in **Figure 8**, the contract was for the firm to oversee the implementation and management of the Eglinton Crosstown, Finch West, Sheppard East and Scarborough LRT projects, as well as a bus rapid transit (BRT) project in York Region.

We noted that Metrolinx procured the consulting firm to provide program management services for the LRT projects without adequately detailed documentation to demonstrate that it had assessed the extent of the required services against the level and type of resources required to deliver the projects. The procurement was done and the initial contract value was determined under the direction of the then Vice President of Project Implementation, based on his past experience of transit projects in the United States. This was a task-based contract with an upper limit of \$44 million; that is, it was understood that the contract was based on reimbursement for actual work requested by Metrolinx and performed by the consultant to the satisfaction

Figure 8: Three Contracts with One Firm for Program Management Services

Source of data: Metrolinx

	Contract #1	Contract #2	Contract #3	Total
Projects covered	<ul style="list-style-type: none"> Eglinton Crosstown LRT Finch West LRT Sheppard East LRT Scarborough Rapid Transit York Viva BRT 	<ul style="list-style-type: none"> Hurontario LRT Hamilton LRT GO Bus Infrastructure Program 	<ul style="list-style-type: none"> Electrification projects for the GO Transit corridors under the Regional Express Rail initiative 	
Contract term	2010–2022	2016–2020*	2015–2020*	
Contract value (\$ million)	127	40	105	272
Contract value spent as of June 2018 (\$ million)	103 (81%)	24 (59%)	73 (70%)	200 (74%)

* Metrolinx has the option to extend the contract until 2025.

of Metrolinx. Metrolinx made no guarantee or commitment to any minimum or maximum amount of work it would assign the consultant under the contract. The initial contract period was for five years, with an option to extend it for another five years, with the \$44-million upper limit covering services only in the first five years.

However, by June 2014, Metrolinx was on track to spend all of the \$44-million value of the contract. As noted in **Figure 8**, the contract was intended to cover consultant services for five major transit projects, but only two had commenced (the Eglinton Crosstown LRT was in procurement and the York Viva BRT was in construction, being managed by

Figure 9: Services Provided and Amounts Charged under the Three Contracts

Source of data: Metrolinx

Major Service Area	Description	Examples of Positions	Amounts Charged as of June 2018 (\$ million)
Program Management and Controls	<ul style="list-style-type: none"> Assist in the development and execution of the scope, schedule and budget of the projects, including risk management, cost estimates, scheduling and system administration. 	<ul style="list-style-type: none"> Senior schedulers Senior estimators Document controllers 	102
Program Management Group Support	<ul style="list-style-type: none"> Report project activities and financials, and ensure consistent reporting. Produce or update project and program management documentation, such as implementation plans, processes and procedures. 	<ul style="list-style-type: none"> Program managers Interface manager Governance specialist 	35
Compliance	<ul style="list-style-type: none"> Ensure that compliance and safety are in line with municipal, provincial and federal regulations and ensure that agreements are updated and upheld. 	<ul style="list-style-type: none"> Technical compliance support—Quality co-ordinators Deputy compliance managers Safety assurance co-ordinators 	16
Contract Administration Oversight	<ul style="list-style-type: none"> Administer the Metrolinx electronic document management system and ongoing document controls to support Metrolinx and stakeholders, and provide document management oversight to Metrolinx. 	<ul style="list-style-type: none"> Document controllers Senior contract administrators Claims manager 	16
Light Rail Vehicle Program Management Services and Dispute Resolution	<ul style="list-style-type: none"> Support the procurement of the Bombardier and Alstom light rail vehicles and the dispute-resolution process. 	<ul style="list-style-type: none"> Transit vehicle engineers Vehicle and systems manager Assistant systems managers 	8
P3/AFP Procurement Support	<ul style="list-style-type: none"> Provide advice and support with the development of AFP project agreements, and ensure they align properly with other agreements. 	<ul style="list-style-type: none"> P3/AFP specialists P3/AFP co-ordinators P3/AFP lead 	6
Other	<ul style="list-style-type: none"> Program management services for the Union–Pearson Express. Additional document control functions. Advisory services for procuring an operator for the Regional Express Rail initiative. 		17
Total			200

the York Region Rapid Transit Corporation). The Finch West and Sheppard East LRTs had not started procurement, and Scarborough Rapid Transit had been cancelled. Metrolinx explained that it spent the originally contracted amount faster than anticipated because of extra costs incurred when the TTC withdrew from the day-to-day management of the LRT projects in mid-2012. When we tried to confirm the nature and reasonableness of those extra costs, Metrolinx could not provide us with detailed evidence to show us what was done to justify paying the extra costs.

In 2014, the contract was extended, and \$75 million was added to its upper limit to cover costs for this extension. The upper limit was increased again in 2017 by another \$8 million to cover additional light rail vehicle–related work. Overall, the contract value almost tripled, with the two amendments adding \$83 million to the original \$44 million, and the contract was extended to 2022. Metrolinx did not re-tender for these extensions competitively as it valued vendor continuity and believed that at this point, introducing a potentially new consulting firm would cause delays. However, as noted earlier, only two projects were past the planning stage—this would have been an appropriate time for Metrolinx to assess the remaining work needed to be done and consider alternatives to having consultants do all of it. That is, it could have analyzed whether a mix of in-house staff, contracted temporary staff and/or consultants might be able to do the work better, faster or more cost effectively. Metrolinx indicated to us that it has assessed workforce planning to determine the configuration of in-house and consultant resources, but it was unable to clearly show how this work led to an amount of \$75 million for the extension.

Similarly, for the two other contracts awarded to the same firm, identified in **Figure 8** as Contract #2 and Contract #3, valued at \$145 million, to provide program management services on other capital projects, Metrolinx had not assessed in detail the extent of work that would be required and its cost.

A little more than two years into the contracts, Metrolinx has spent more than half of the contract values, as noted in **Figure 8**. Based on the past spending trend for program management services, costs will likely exceed the current contract values, requiring amendments to increase the contract amounts and additional funds in the coming years for the projects to be completed.

RECOMMENDATION 9

To ensure that value for money is obtained from contracted services, we recommend that Metrolinx:

- evaluate if its current use of consultants in their current capacities is justified and adjust where appropriate to reduce the dependency on one consulting firm;
- establish the scope of work and budget before procuring consultants and use this to assess proposals from bidders;
- conduct a request-for-proposal process to procure defined program management services; and
- before extending contracts, evaluate and document whether it would be more appropriate to retender.

METROLINX RESPONSE

Metrolinx accepts the recommendation.

Metrolinx will evaluate how to use program management and engineering firms (including a variety of subconsultants) to fulfill the Owner's Engineer roles that are essential to the effective delivery of capital programs. The breadth of international expertise necessary to implement these large and complex capital programs is extensive, and program success requires the highly specialized knowledge of engineers and other technical experts. Metrolinx will routinely assess the optimal distribution of responsibility between in-house and contracted resources. Over the past few months, Metrolinx has been

evaluating the use of its current consultant firm in its current capacities across all three contracts, all of which were competitively awarded between 2010 and 2016. This assessment will recommend a mix of in-house staff, contracted temporary staff and/or consultants that can optimally execute the capital program.

As part of this evaluation, Metrolinx will determine its future strategy for the program management services contracts, including consideration of whether to extend them. Metrolinx agrees to evaluate and document whether it would be more appropriate to retender. All contracts will have a clearly established scope of work and budget associated with them and will use this to assess proposals from future bidders.

4.5.2 Better Value for Money May be Achieved with More Competitive Bidding for Consulting Services

Under the contracts, the firm may subcontract other firms to do work on its behalf. For Contracts #2 and #3, the firm did identify subconsultants as part of its bid team. The firm has subcontracted \$59 million worth of work, representing 30% of the total payments under the three contracts in the last seven years.

While the use of subconsultants is common practice in the industry, in cases where Metrolinx requests their services, it should be mindful of its procurement policy, which requires competitive procurement for services valued at over \$100,000. Such competitive procurement creates the potential for Metrolinx to obtain the services at a lower cost and gives opportunities to other qualified vendors; however, we recognize that it is also necessary to ensure that newly competitively procured vendors achieve a good fit with the main consultant. We noted that in some cases, Metrolinx specifically requested the firm to engage subconsultants and has used a number of them regularly year over year. In these cases, Metrolinx

could not provide documentation showing why competitive procurement was not considered. With its extensive use of subconsultants, Metrolinx may not be following the spirit of its procurement policy, whereby competitive bidding is required to allow other qualified consulting firms the opportunity to bid for them and increase the likelihood of procuring them at a lower cost.

For example:

- Between October 2015 and June 2018, Metrolinx paid about \$7.9 million for one subconsultant firm to provide a range of services, including to advise on the functionality and skills required for a library of engineering and technical design data; develop procedures for schedule management, quality management, document control and other contract management functions; and support the alternative financing and procurement process for the projects.
- Between August 2013 and June 2018, Metrolinx paid about \$7.4 million for another subconsultant firm to provide advice on areas such as engineering and design proposals, project cost estimates and risk mitigation. This subconsultant was initially brought on for work over a nine-month period at a cost of \$50,000. However, this firm continued to be used under the three contracts.
- Between October 2014 and June 2018, Metrolinx paid about \$21 million for another subconsultant firm to support contract administration, reporting and scheduling for the LRT projects. Metrolinx specifically requested that this subconsultant firm be added to the main consulting firm's contract. Metrolinx noted that this subconsultant was to be included in the main consulting firm's annual work plan because a separate contract that Metrolinx had with the subconsultant was about to expire. Metrolinx indicated to us that it believed the services could be provided more effectively if this firm was

procured as a subconsultant rather than if it continued under a separate contract directly with Metrolinx. However, given that this firm was already working closely with Metrolinx, there may not have been a need for this firm to become a subconsultant to the main firm.

The main consultant also charges Metrolinx a markup of 2.5% of the subconsultants' charges for it to administer subconsultant agreements. Metrolinx noted that the use of markup rates is in accordance with industry standards. Given the frequency with which the subconsultants were used and the amounts spent on some of them, it could have been more cost-effective for Metrolinx to have competitively procured these services itself than contracting for them in the way it did. As of June 2018, Metrolinx had paid the main consultant around \$1.4 million in markup charges.

In addition, we noted that Metrolinx has assigned work to consultants through the contracts that does not relate to the projects specified in the contracts. This work should have been procured separately. For example:

- From 2011 to 2013, Metrolinx spent about \$1.2 million on interim program management services for the Union Pearson Express, an unrelated project, while procurement was under way for a permanent program management consultant.
- In February 2018, Metrolinx spent about \$367,000 for a subcontracted consultant's advice on reorganizing the group within Metrolinx that manages capital projects.

RECOMMENDATION 10

To ensure cost-effective planning for, and acquisition and management of, consulting services, we recommend that Metrolinx:

- thoroughly assess the nature of the work requirements under these contracts to determine whether a separate procurement, as per its policy, is warranted;

- review the rates of subconsultants to ensure they are reasonable; and
- document its review and approval that payments are only being made for work completed within the scope of the contract.

METROLINX RESPONSE

Metrolinx accepts these recommendations.

Subconsultants are always used on Metrolinx's major capital projects and are typically contracted by the main consultant to provide a wide range of technical skills and specialized knowledge.

Metrolinx will assess and review the extent and nature of consulting services required to determine the right resource to perform the work. Metrolinx will ensure that work requests are within the scope of the main contract and are appropriately procured (that is, assigned to subconsultants under the main contract or competitively procured, as appropriate).

In cases where subconsultants are used, Metrolinx will review the rates to ensure they are reasonable.

Metrolinx recently enhanced its invoice review practices for the program management services contracts, assigning invoice and timesheet review to staff directly responsible for the consultants' work. Metrolinx will ensure that all invoiced amounts relate only to work defined within the main contracts.

4.5.3 Payments Made and Work Requested through the Contracts Do Not Adhere to Best Practices

Under the contracts, the firm and Metrolinx are required to agree to an annual work plan each year, before proceeding with any work. Metrolinx can also request the firm to do work above and beyond the work plan. As noted in **Section 4.5.2**, this has led to the contracts paying for goods and services not related to the contracts. In this section, we note

areas where best practices are not being followed in Metrolinx's work-requests process. For example:

- **Work not approved before it begins.** In a number of instances, we noted that Metrolinx issued requests for subconsultants to do work they had already started or even completed. For example, Metrolinx revised a work request on September 14, 2017, for work the subconsultant did between April 1, 2017, and September 30, 2017. In another example, Metrolinx issued a work request on December 17, 2015, for work the subconsultant did between August 2015 and October 2015.
- **Work requests vague on deliverables.** Metrolinx does not always specify the scope of and rationale for work in its work requests. The work request can be as vague as to provide the support services required in a particular area. The work done can range from attending meetings to providing input on different topics as requested by Metrolinx. In cases where Metrolinx brings a subconsultant on board to advise, there are no physical deliverables. Tracking the work done can occur only by tracking the time the subconsultant spends on key deliverables and assessing the subconsultant's performance. However, as discussed in **Section 4.5.5**, Metrolinx has not done this adequately.
- **No approval limits for spending through the contracts until December 2017.** Metrolinx has a policy that defines the approval limits for signing new contracts, but until December 2017 it did not have a policy on the limits for authorizing spending under contracts once they were approved. Under Metrolinx's policy for new contracts, a director, for example, could approve a new contract only if it was worth less than \$250,000, but the same director could authorize spending for work requests under an existing approved contract for

any amount. So, for example, under the consulting contracts, a director in 2011 approved a work request to purchase a cost management tool for almost \$750,000; a director in 2016 approved contract administration work for \$1.2 million and lead project accountant support for \$1.1 million; and a director in 2017 approved a work request to develop work procedures for Regional Express Rail electrification projects for \$595,000. In December 2017, changes were made to the new-contract-signing policy whereby individuals less senior than the Chief Capital Officer are held to the same maximum-dollar limits in approving work under existing contracts as they must follow in signing new contracts.

RECOMMENDATION 11

To improve accountability for payments made and work requested under the contracts, we recommend that Metrolinx establish rigorous and disciplined processes that:

- explicitly detail all deliverables for work requests before the requests are formally approved;
- require formal approval of work requests be documented before any work begins; and
- monitor compliance with the new policy on approval limits for spending.

METROLINX RESPONSE

Metrolinx accepts the recommendations.

Metrolinx implemented a new policy on work releases under approved contracts in 2017. Metrolinx will monitor compliance with this policy. Metrolinx is also implementing more rigorous processes for work requests that are aligned with the new time sheet review processes that will address this recommendation.

The program management services provider and its subconsultants form an integrated team

with Metrolinx and Infrastructure Ontario staff and as such some of the work requests will be generalized and not include explicitly-detailed deliverables. For these instances, Metrolinx will develop guidelines for its staff on the required level of detail in work requests and monitor compliance.

4.5.4 Annual Work Plans Did Not Include Required Information

Under the three consulting contracts described in **Figure 8**, Metrolinx listed tasks for the consultant to perform, and the consultant uses that list to provide Metrolinx with a detailed annual work plan. It is to include at least: a description of the services or work to be performed; an itemized quote for the performance of the task, including the estimated hours for each Project Team Position to perform the required services or work; a schedule identifying key milestones and deliverables; any requirement for specialized services or subconsultants; and any other information Metrolinx may require. The annual work plan represents the scope of work for the year.

However, we noted that only the first annual work plan for the original contract, from August 10, 2010, to March 31, 2011, had these details. The subsequent annual work plans did not. Rather, they described tasks to be completed with no breakdown of the budgeted hours and costs per person, and no start and end dates.

Metrolinx Did Not Adequately Review the Reasonableness of Charges on Consultant Invoices

The contracts require the consultant to submit invoices and a progress report on the annual work plan every month. Until 2012, when the LRT projects transitioned from the TTC to Metrolinx and ramped up in effort and intensity, the monthly invoices included timesheets. Metrolinx stopped requiring this level of detail except if specifically

requested. Its rationale was that Metrolinx staff would be supervising the consultants' work continuously, so a summary of the consultant's hours and staff submitted with the invoices would be sufficient to replace the timesheets.

However, we found that the contract administrators reviewing the monthly invoices for payment were not directly responsible for overseeing the consultant's work. The person consultants directly report to does not review if the consultant has done the work satisfactorily and that the hours charged for the work are reasonable.

Contract administrators' review of invoices is limited and mainly checks for compliance with contract terms and that the amounts are within the approved budgets.

There is an audit provision in the contract under which Metrolinx can ask for records including timekeeping data and associated documents, but Metrolinx has never exercised this right.

Our review of the monthly progress reports found only a high-level description of tasks performed (for example, providing support; starting discussions to improve reports and oversight; participation in meetings; and involvement in developing and finalizing documents). They do not specify resources used on the tasks or when each task is expected to be completed.

During our audit, Metrolinx improved its review of invoices. Starting with the June 2018 invoice, the Metrolinx personnel directly overseeing the consultant's work review and approve invoices for payment.

RECOMMENDATION 12

To provide for effective oversight of the work done by consultants, we recommend that:

- Metrolinx enforce the requirement that annual work plans contain complete details on time estimates, key milestones and deliverables; and
- Metrolinx staff directly overseeing the work of consultants verify invoices against the specific

requirements of the detailed annual work plans and assess the reasonableness of the hours charged before payments are approved.

METROLINX RESPONSE

Metrolinx accepts the recommendation.

Metrolinx will reconfirm with the consultant firm its expectation that annual work plans and terms of reference contain sufficient detail on the time of performance, milestones and deliverables, if any, and are consistent with the strategic objectives and the Metrolinx-approved Annual Capital Plan.

A recent reorganization of Metrolinx's Capital Projects group has distributed employees of the consultant firm such that multiple Metrolinx managers are responsible for day-to-day oversight of their performance. Metrolinx implemented a revised process of invoice review beginning with the June 2018 invoice.

For those annual work plans or terms of reference that include a deliverable in addition to services, Metrolinx staff directly overseeing the consultant will verify invoices against the specific requirements of the detailed annual work plan or work request and will assure that the hours charged are reasonable before payment is approved.

4.5.5 Metrolinx Has Not Addressed Consultant's Underperformance in a Timely Manner

Metrolinx did not formally assess the quality of services provided by the consulting firm before increasing the first contract's value and time period, and awarding it two other large contracts. The first increase in the initial contract was in 2014 for \$75 million and the second increase was in 2017 for another \$8 million.

Without timely evaluation of the quality of services provided by the consulting firm, Metrolinx cannot know if the consulting firm is meeting

Metrolinx's requirements. For example, one of the first requirements under the initial contract was for the consultant to develop and maintain a comprehensive program cost-reporting system and a program Master Schedule using designated software. Between 2010 and 2014, Metrolinx spent about \$1 million through the contract to procure and implement project management tools that track costs and schedules, and manage risks. However, it could not be demonstrated that the consultants had done the work to ensure the tools fully meet Metrolinx's needs, and no formal evaluations of the consulting firm were being conducted by Metrolinx.

In the absence of conducting formal evaluations itself, Metrolinx spent about \$67,000 through another contract in December 2017 (Contract #3 in **Figure 8**) to have a subconsultant firm assess the tools and identify needs not being met. Its assessment found that the tools were not consistently used across all capital projects; there was no clear linkage to the data sources to support data for the tools; the tools lacked a system for conducting safety and quality management activities; much of the data needed to be manually prepared for reporting, increasing the risk of inaccurate data; and project managers were not accountable for the data included in the project reports.

Around this same time (fall 2017), a member of Metrolinx senior management observed that the consulting firm was "underperforming for Metrolinx, a situation which we are aggressively addressing." Metrolinx told us it worked with the consulting firm to implement several changes in the months following that observation, and that they substantially resolved those concerns. They included reorganizing the program team, changing how the consulting firm delivers services and reports to Metrolinx; requiring the consultant to develop a monthly Capital Delivery report; and selective changes and additions to consultant personnel.

In 2015, Metrolinx introduced formal Vendor Performance Review provisions. The first formal

evaluation of the consulting firm under these provisions took place in mid-2018. While Metrolinx gave the consulting firm a “good” rating in the evaluation, it did note that many areas lacked required leadership; focus had been placed on meeting reporting requirements to senior management rather than supporting the delivery teams; and co-ordination between areas was sometimes lacking.

RECOMMENDATION 13

To help Metrolinx hold its consulting firms accountable for high-quality services delivered in a timely manner, we recommend that Metrolinx develop and include in all its contracts provisions to address and mitigate, in a timely manner, issues arising from poor performance of contractors.

METROLINX RESPONSE

Metrolinx accepts the recommendation.

Metrolinx will review the contracts from program management services and will consider whether any additional provisions are required or necessary to address poor performance of contractors.

4.6 Metrolinx Procured Vehicles Early, without Fully Addressing the Risk that Plans Could Change

In August 2009, Metrolinx commissioned a study to help it decide whether to purchase vehicles under an existing TTC contract with Bombardier or initiate a new procurement for vehicles to support the implementation of the four LRT projects in Toronto: Sheppard East LRT, Finch West LRT, Scarborough RT and Eglinton Crosstown LRT. The study, completed in October 2009, identified several uncertainties about the projects that had already caused delays, and the delays could continue. The uncertainties included:

- not yet knowing whether all of the vehicles would be 100% “low-floor” (with no stairs between the entrance and the cabin);
- what would be the best diameter size of tunnels;
- the specifics of the technology to be used; and
- how to work through the engineering challenges of LRT lines crossing GO train lines, TTC subway lines and TTC bus lines.

Until these issues were resolved, schedules were uncertain and subject to change. (As of September 2009, the schedule for infrastructure construction was already six months behind.)

Although the uncertainties about the vehicle specifications, such as the low-floor requirement, the size of the vehicles, and the technology to be used, were resolved before the vehicle contract was signed, the procurement for the main AFP contracts to design and build the LRT lines had not yet begun when the vehicle contract was signed.

In June 2010, Metrolinx signed an \$870.5-million contract with Bombardier to design, produce and deliver 182 light rail vehicles, with delivery starting in 2013 for the Sheppard East LRT. Metrolinx signed the contract before the main AFP contracts to design and build the LRT projects were in place.

The date when the vehicles would be needed had changed before the contract was formally signed in June 2010 due to changes to the timing of the projects from the Ontario Government.

A few months before the contract was signed, the Ontario Government requested in its March 2010 budget that Metrolinx adjust the project plans to reduce the funds needed from the Province for the LRT projects in the first five years. This pushed back the dates when vehicles would be needed. **Figure 10** shows the new delivery dates Metrolinx projected for the different projects in the “As of 2010” column as a result of the Ontario Government’s request.

Other changes that impacted the timeline for the need for the vehicles included the changing decisions by governments on what projects to build

Figure 10: Changes in Plan for When Vehicles Would Be Needed

Source of data: Metrolinx

Project and Vehicles	As of 2009	As of 2010	As of 2012	As of 2018
Eglinton Crosstown (76)	2016	2020	2020	September 2021
Finch West (23)	2013	2019	2020	October 2023
Sheppard East (35)	2013	2014	2021	n/a ¹
Scarborough (48)	2015	2020	2020	n/a ²

1. In 2015, the Sheppard East LRT was put on hold until the completion of Finch West LRT.

2. The Scarborough LRT was cancelled in 2013.

in 2011 and 2012 as shown in **Appendix 2**, and the quality and schedule issues at Bombardier, which are further described in **Section 4.6.2**.

Despite not having the main AFP contracts in place to design and build the LRT projects, Metrolinx contracted with Bombardier for the vehicles in June 2010 without adequate provisions in the contract to address the risk of changes to plans.

4.6.1 Having To Change the Contract with Bombardier Cost Metrolinx about \$49 Million

As a result of provincial and municipal government decisions that led to new completion dates for the LRT projects and the cancellation of the Scarborough LRT, Metrolinx had to negotiate extensively with Bombardier to change the contract. In 2012, it negotiated to postpone the initial delivery of the vehicles from 2013 to 2017 (with a subsequent further postponement changing delivery to 2018). It also ultimately reduced the number of vehicles from 182 to 76 because of the cancellation of the Scarborough LRT and concerns with Bombardier's ability to provide the contracted vehicles (see **Section 4.6.2** for details). These developments meant Metrolinx incurred the following costs:

- **\$19-million cost to postpone delivery date.**

In March 2013, Metrolinx and Bombardier agreed to the revised delivery schedule to accommodate Toronto's changing plans, and reached a final settlement in August

2014. It included Metrolinx having to make a prepayment of \$65 million on the contract, covering the nine-year period from April 2013 to November 2021. This resulted in about \$16 million of interest benefit accruing to Bombardier over this nine-year period, which represents a cost to Metrolinx for changing the contract. As well, Metrolinx had to pay Bombardier \$3 million in schedule disruption costs, bringing the cost to Metrolinx of changing the delivery date to about \$19 million.

- **\$30-million cost to reduce the number of vehicles.** In December 2017, as part of a settlement discussed in detail in the following section, Metrolinx and Bombardier agreed to reduce the number of vehicles. In that settlement, the now 76 vehicles would cost Metrolinx \$30 million more than what they were priced at in the original contract. The original contract price for just 76 of the original 182 vehicles would have been \$443 million in present-day dollars (\$392 million in 2010 dollars), or about \$5.8 million per vehicle, but is now estimated at \$473 million, or about \$6.2 million per vehicle.

Metrolinx's purchases of vehicles separately for each project (as opposed to having the AFP consortiums that will build and design the LRT projects purchase the vehicles) means that Metrolinx assumes all vehicle purchase risks.

RECOMMENDATION 14

To help ensure that future transit projects are delivered as smoothly and cost-effectively as possible, we recommend that for each project Metrolinx produce a detailed, integrated plan that identifies the project’s infrastructure and vehicle needs, and adequately addresses uncertainties around the project, before fixing the timelines and starting procurement.

METROLINX RESPONSE

Metrolinx accepts the recommendation.

Lessons learned from the Toronto light rail vehicle experience informed Metrolinx’s decision to transfer additional vehicle interface responsibilities to the AFP consortium. This shift of responsibility into the AFP contract and scope is a process Metrolinx will adopt on projects going forward including the eventual Hurontario LRT consortium and in the AFP consortium’s scope for the Hamilton LRT and GO rail expansion’s major “on-corridor” procurements.

4.6.2 Bombardier’s Slow Response to Quality and Schedule Issues Cost Metrolinx about \$25 Million

Subsequent to Metrolinx completing its negotiations with Bombardier and executing an August 2014 amendment to revise the vehicle delivery schedule, it raised concerns about Bombardier’s progress in designing the vehicles.

In October 2014, Metrolinx’s then CEO wrote Bombardier that “we are losing confidence in Bombardier’s ability to deliver service-ready vehicles without a substantial change in approach.” He cited the concerns Metrolinx identified when it inspected Bombardier’s design and construction program. The problems included parts that were “out of dimension, patched and clearly without the quality to meet reliability and the required design life” for the vehicles, as well as

a general lack of preparedness of Bombardier staff for Metrolinx’s inspections.

In 2015, Bombardier missed its deadline to provide a functional pilot vehicle for testing because of quality and manufacturing issues. It was only by the end of 2017, two years after the initial deadline, that pilot vehicles were ready for testing.

With problems and delays continuing, Metrolinx tried to cancel the contract in 2016. It issued Bombardier a Notice of Default in July 2016 and a Notice of Intent to Terminate the contract in October 2016. In response, in February 2017, Bombardier filed a statement of claim in the court disputing the Notice of Default, asserting that the problems and delays were due to Metrolinx changing the scope, timelines and technical qualifications for the vehicles.

In April 2017, the court ordered the two sides to undertake a dispute-resolution process, to begin in early 2018. Metrolinx and Bombardier reached a settlement before starting this process. The December 2017 settlement included: reducing the number of vehicles from 182 to 76, moving the delivery schedule to begin in November 2018 (for the Eglinton Crosstown LRT) and increasing the liquidated damages in the contract Bombardier will have to pay if it does not deliver the vehicles in time for the Eglinton Crosstown LRT.

As of June 2018, Metrolinx had incurred about \$25 million in external costs (for consultants and lawyers), as shown in **Figure 11**.

Figure 11: External Costs Metrolinx Incurred to Monitor and Negotiate with Bombardier, September 2018 (\$ million)

Source of data: Metrolinx

Cost	Amount
Oversight and administration	9.0
Contingency plan	10.3
External legal	5.6
Total	24.9

Note: Metrolinx did not provide an estimated cost for internal resources.

RECOMMENDATION 15

To encourage suppliers to meet their contract commitments, we recommend that Metrolinx include additional provisions in contracts to protect it from incurring additional costs because of delays.

METROLINX RESPONSE

Metrolinx accepts the recommendation.

Metrolinx, in consultation with Infrastructure Ontario, will conduct a review of the contract provisions in all future procurements to ensure that sufficient remedies for delays and costs are incorporated.

4.6.3 Metrolinx Exposed to New Risks by Procuring Additional Vehicles

When the court ordered Metrolinx into dispute resolution with Bombardier in April 2017, Metrolinx was not convinced that Bombardier could meet the deadline for the Eglinton Crosstown LRT (now set at 2021). So in May 2017, a month after the court order, Metrolinx did a single-source procurement of 60 vehicles from a second supplier, Alstom, for \$530 million; 43 were intended for the Eglinton Crosstown and 17 for Finch West. If Bombardier meets the Eglinton Crosstown deadline, the 43 Alstom vehicles will be used for the Hurontario LRT.

Metrolinx's December 2017 settlement with Bombardier means that the Alstom vehicles will not be needed for the Eglinton Crosstown. Instead, as Metrolinx's contingency plan specified, they will be used for the Hurontario LRT.

This result runs counter to Metrolinx's original plan of having the winning bidder for the Hurontario project contract take on the responsibility of procuring and managing the delivery of Hurontario's light rail vehicles.

In addition, the Alstom procurement now means that the TTC will have to operate two types of vehicles on its LRTs—Bombardier on the

Eglinton Crosstown and Alstom on Finch West. The TTC has not yet determined what additional costs will result from this. Its operational costs could increase as a result of having to run two different training programs and maintaining two different pools of operators.

The TTC informed us that Metrolinx could mitigate these potential cost increases by working with the AFP consortium and the winning bidder for the Finch West LRT to design common systems, tracks, signage and switches for the two LRTs. This would help the TTC develop a common base training program to qualify operators for both vehicle types rather than having to develop two separate training programs.

RECOMMENDATION 16

To effectively manage the increased risks and costs from Metrolinx's procurement of vehicles from the second supplier Alstom, we recommend that Metrolinx:

- assess the benefits and costs of transferring the responsibility of managing the delivery of Hurontario's light rail vehicles to the winning bidder for the Hurontario AFP contract; and
- work with the Toronto Transit Commission to manage the cost of operating two types of vehicles on its light rail transit lines.

METROLINX RESPONSE

Metrolinx is in the process of transferring significant responsibilities for managing Hurontario's light rail vehicle delivery to the winning AFP bidder. Metrolinx assessed the benefits and risks of alternative approaches to vehicle supply, and in its negotiations with Alstom, the vehicle provider, obtained contract terms to transfer the vehicle contract to project bidders.

Metrolinx will work with the TTC to finalize operating agreements and costs for the Toronto LRTs.

Appendix 1: Top Transit Priorities in the 2008 Regional Transportation Plan

Source of data: *The Big Move: Transforming Transportation in the Greater Toronto and Hamilton Area, 2008*

#	Top Transit Priorities Within the First 15 Years
1	Express Rail on the Lakeshore Line from Hamilton to Oshawa
2	Rapid transit in Downtown Hamilton from McMaster University to Eastgate Mall
3	Rapid transit on Dundas Street in Halton and Peel
4	403 Transitway from Mississauga City Centre to the Renforth Gateway
5	Hurontario rapid transit from Port Credit to Downtown Brampton
6	Brampton's Queen Street AcceleRide
7	Rail link between Union Station and Pearson Airport
8	VIVA Highway 7 and Yonge Street through York Region
9	Spadina Subway extension to Vaughan Corporate Centre
10	Yonge Subway capacity improvements and extension to Richmond Hill
11	Eglinton rapid transit from Pearson Airport to Scarborough Centre
12	Finch/Sheppard rapid transit from Pearson Airport to Scarborough Centre and Meadowvale Road
13	Upgrade and extension of the Scarborough Rapid Transit line
14	Rapid transit service along Highway 2 in Durham
15	Improvements to existing GO Rail services and extension of GO Rail service to Bowmanville

Note: The priorities are not ranked and are simply listed geographically, from west to east. Priorities that were later funded as LRT projects are in bold face.

Appendix 2: Timeline of Key Announcements/Decisions on Five Rapid Transit Projects

Prepared by the Office of the Auditor General of Ontario

Date	Announcement/Decision
Rapid Transit Projects in Toronto	
March 16, 2007	<ul style="list-style-type: none"> Toronto and Chair of TTC announce the <i>Toronto Transit City Light Rail Plan</i>. The plan proposes seven new light rail transit (LRT) lines throughout Toronto: Don Mills Road, Eglinton-Crosstown, Finch West, Jane Street, Scarborough-Malvern, Sheppard East, and Waterfront West.
June 13, 2007	<ul style="list-style-type: none"> TTC approves the work plan for its project management of <i>Transit City</i> [Note: In mid-2012, TTC will withdraw from the project managing the LRTs.]
June 15, 2007	<ul style="list-style-type: none"> Province of Ontario announces MoveOntario 2020, a \$17.5-billion plan to fund 52 rapid transit projects in the GTHA (including <i>Transit City's</i> seven LRTs) over the next 12 years. Province assigns Metrolinx to oversee MoveOntario 2020 as part of its Regional Transportation Plan to be issued in 2008.
November 28, 2008	<ul style="list-style-type: none"> Metrolinx Board of Directors adopts its first Regional Transportation Plan—<i>The Big Move: Transforming Transportation in the Greater Toronto and Hamilton Area</i>. The plan presents a roadmap to implement 52 rapid transit projects by 2020. Top transit priorities within the first 15 years of the plan include: <ul style="list-style-type: none"> building Eglinton rapid transit from Pearson Airport to Scarborough Centre; building Finch/Sheppard rapid transit from Pearson Airport to Scarborough Centre and Meadowvale Road; and upgrading and extending the Scarborough Rapid Transit line.
April 1, 2009	<ul style="list-style-type: none"> Province announces \$8.6 billion in funding for: <ul style="list-style-type: none"> the three LRT priorities in Toronto (\$7.2 billion); and a bus rapid transit (BRT) in York Region (\$1.4 billion).
May 15, 2009	<ul style="list-style-type: none"> Province announces joint funding with the federal government of \$950 million that will fund the Sheppard part of Finch/Sheppard LRT line, bringing Toronto LRT program funding to \$8.15 billion.
June 4, 2009	<ul style="list-style-type: none"> Deputy Minister of Transportation informs Toronto City Manager that the LRT projects would proceed using the Alternative Financing and Procurement delivery model.
February 2010	<ul style="list-style-type: none"> Province, Metrolinx, City of Toronto and TTC reach consensus to shorten the LRT lines because the cost had been estimated at \$10.5 billion, while federal and provincial funding has been fixed at \$8.15 billion: <ul style="list-style-type: none"> Finch/Sheppard LRT—remove connection between future Finch West subway station and Don Mills subway station, effectively splitting this LRT into two shorter LRTs, Finch West and Sheppard East. Eglinton LRT—remove connection to Pearson International airport and end the western terminus at Weston Road.
March 25, 2010	<ul style="list-style-type: none"> Province announces that to manage expenditures, it will work with Metrolinx to phase construction of LRTs, delaying the construction of some of them.
May 19, 2010	<ul style="list-style-type: none"> Metrolinx Board authorizes Metrolinx to proceed with revised LRT completion dates: <ul style="list-style-type: none"> Sheppard East from 2013 to 2014; Finch West from 2013 to 2019; Scarborough from 2015 to 2020; Eglinton from 2016 to 2020.
June 13, 2010	<ul style="list-style-type: none"> Metrolinx and Bombardier enter into a formal contract for the design, production and supply of up to 182 light rail vehicles valued at \$870.5 million (2010 \$) for the Toronto LRTs.
December 2010	<ul style="list-style-type: none"> Toronto announces it will cancel the LRTs and focus on planning for subways.

Date	Announcement/Decision
March 31, 2011	<ul style="list-style-type: none"> Mayor of Toronto, Minister of Transportation and Chair of Metrolinx sign MOU for a revised transit plan: <ul style="list-style-type: none"> Metrolinx responsible for Eglinton–Scarborough Crosstown: underground from Jane/Black Creek to Kennedy Station, then rapid transit to Scarborough City Centre; Toronto responsible for Sheppard subway extensions: west to Downsview Station and east to Scarborough City Centre, and enhanced bus service on Finch Avenue.
February 8, 2012	<ul style="list-style-type: none"> Toronto City Council overrides March 31, 2011, plan in favour of Metrolinx's May 19, 2010, plan.
April 25, 2012	<ul style="list-style-type: none"> Metrolinx Board of Directors endorses allocating \$8.4 billion in provincial funding across four LRTs, under the May 19, 2010, plan with some revisions to project timing.
June 29, 2012	<ul style="list-style-type: none"> Province approves Metrolinx's transit plan with new timelines: Eglinton, Scarborough and Finch West to be completed by 2020 and Sheppard East by 2021.
October 3, 2012	<ul style="list-style-type: none"> TTC and Metrolinx agree in principle that TTC will operate the LRTs under an agreement that they will jointly develop.
November 28, 2012	<ul style="list-style-type: none"> Metrolinx, City of Toronto and TTC execute a Master Agreement for implementing the LRTs.
July 16, 2013	<ul style="list-style-type: none"> Toronto City Council confirms its support for a Scarborough subway instead of an LRT and authorizes City Manager to amend the Master Agreement accordingly. Provincial contribution to Scarborough transit: \$1.8 billion (2010 \$).
February 19, 2015	<ul style="list-style-type: none"> City of Toronto agrees to reimburse Metrolinx \$74.8 million for its sunk costs on now defunct Scarborough LRT.
April 27, 2015	<ul style="list-style-type: none"> Sheppard East LRT put on hold until completion of Finch West LRT.
November 3, 2015	<ul style="list-style-type: none"> Metrolinx and Infrastructure Ontario announce an AFP contract has been signed to deliver the Eglinton Crosstown LRT by September 2021.
March 3, 2016	<ul style="list-style-type: none"> Construction begins on Eglinton Crosstown LRT with contract completion deadline of 2021 (tunnel work had begun in summer 2011).
May 7, 2018	<ul style="list-style-type: none"> Winning bidder to construct Finch West LRT announced, with estimated completion date of 2023.
Rapid Transit Projects Outside Toronto	
June 15, 2007	<ul style="list-style-type: none"> Province of Ontario announces MoveOntario 2020, a \$17.5-billion plan to fund 52 rapid transit projects in the GTHA over the next 12 years. Projects include a Hurontario light rail line and Hamilton rapid transit. Province assigns Metrolinx to oversee MoveOntario 2020 as part of its Regional Transportation Plan to be issued in 2008.
November 28, 2008	<ul style="list-style-type: none"> Metrolinx Board of Directors adopts its first Regional Transportation Plan—<i>The Big Move: Transforming Transportation in the Greater Toronto and Hamilton Area</i>. Plan presents a roadmap to implement 52 rapid transit projects by 2020. Top transit priorities within the first 15 years of the plan include: <ul style="list-style-type: none"> building rapid transit in downtown Hamilton from McMaster University to Eastgate Square; and building Hurontario rapid transit from Port Credit GO Station to downtown Brampton.
April 21, 2015	<ul style="list-style-type: none"> Hurontario LRT receives a \$1.4-billion (2014 \$) funding commitment from Province.
May 26, 2015	<ul style="list-style-type: none"> Province announces a commitment of up to \$1 billion for the capital cost of a Hamilton LRT line with a revised scope, extending from McMaster University through downtown Hamilton to Queenston Circle (with plans to extend to Eastgate Square).
October 28, 2015	<ul style="list-style-type: none"> Brampton rejects LRT route through its Main Street, effectively shortening Hurontario LRT from Port Credit GO Station to Steeles Avenue.
March 8, 2016	<ul style="list-style-type: none"> Hamilton and Metrolinx sign a memorandum of agreement for a \$1-billion LRT line.
July 6, 2016	<ul style="list-style-type: none"> Mississauga and Brampton city councils approve MOU for Hurontario LRT between their respective cities and Metrolinx.
August 17, 2017	<ul style="list-style-type: none"> Infrastructure Ontario and Metrolinx issue RFP for Hurontario LRT, expecting to award contract in 2018.
April 12, 2018	<ul style="list-style-type: none"> Infrastructure Ontario and Metrolinx issue RFP for Hamilton LRT, expecting to award contract in 2019.

Appendix 3: Projects To Be Delivered Through Alternative Financing and Procurement

Prepared by the Office of the Auditor General of Ontario

Basics of the AFP Approach

Under the AFP approach, a public-sector entity (a ministry, agency or organization in the broader public sector, such as a hospital or college; in this case, Metrolinx) sponsors a project. The sponsor establishes the scope, budget and purpose of the project. A private-sector company is contracted to mainly finance and carry out construction. In some cases, the private-sector company will also be responsible for the maintenance and/or operation of a project for 30 years after completing construction.

Typically, the project sponsor pays the private-sector company the contracted price for the project only when it has been substantially completed. However, Infrastructure Ontario allows the use of progress payments on the contract in order to reduce long-term financing costs. That is, since private-sector companies pay higher rates of interest to finance the project than the public sector would, the progress payments reduce the amount the private-sector company has to borrow and pay the higher rate of interest on.

Value for Money Must Be Demonstrated to Justify AFP

Under *Building Better Lives* (Ontario's long-term infrastructure plan), positive value for money is an important principle for determining whether to deliver projects using the AFP model. The Treasury Board's funding approvals for AFP projects are contingent on Infrastructure Ontario demonstrating that using the AFP model will result in positive value for money.

A value-for-money (VFM) analysis compares the estimated project costs of the public sector delivering the project with the estimated cost of delivering the same project to the identical specifications using AFP. The AFP estimated cost has to be less than the estimated cost for public-sector delivery for value for money to be demonstrated and for the project to proceed under AFP.

Our 2014 Audit Identified Issues with the AFP Approach; Issues Persist for LRT Projects

Our Office completed an audit of the AFP approach in 2014 and identified issues with the VFM assessment model Infrastructure Ontario uses. The same issues exist for the VFM assessments Infrastructure Ontario, working with Metrolinx, undertook for the four LRT projects. These issues are explained in **Appendix 4**.

We continue to support our recommendations from 2014. Infrastructure Ontario should revise its VFM assessment methodology to ensure that all of the assumptions it is based on are well-supported and justified. Also, the lessons learned from when private-sector firms deliver AFP projects on time and on budget should be used to improve the public-sector delivery model, so that government-funded infrastructure projects are achieved at the lowest possible cost.

Appendix 4: Issues Identified in 2014 AFP Audit and Their Impact on LRT Projects

Prepared by the Office of the Auditor General of Ontario

Issue

Status and Impact on VFM Assessment of LRT Projects

Key assumptions used by Infrastructure Ontario (IO) to assign costs to risks:

- are not supported by empirical data; and
- are difficult to verify because they are based on the professional judgment and experience of external advisors.

For example, IO used a sample of studies that suggested projects delivered by the public sector will have cost overruns of 18% to 47%, while AFP projects will have cost overruns of only up to 12%, with Ontario's experience closer to 5%.

For the Eglington Crosstown LRT, IO estimated a 29% cost-overrun risk if delivered by the public sector and a 2.5% cost-overrun risk under the AFP model. There is no evidence justifying the low estimate of 2.5% for the AFP model.

The costs of delivering projects using AFP are higher than the public-sector delivery costs. The higher costs mostly stem from private-sector companies having higher financing costs than the public sector. IO offsets these higher costs with its high estimates of the risk costs of having the public sector deliver projects. This results in AFP receiving a positive VFM assessment.

The VFM assessments estimate the costs of the four LRT projects will be \$14.8 billion under AFP and \$12.7 billion under public-sector delivery (with the \$2.1 billion difference attributed mostly to higher private-sector financing costs). The higher AFP cost is offset by an estimate of \$5.8 billion for the risk costs of public-sector delivery, resulting in a positive VFM assessment of \$3.7 billion for AFP delivery.

IO estimates that the risk of having the projects not being delivered on time and on budget are about five times higher under public-sector delivery than under AFP. Because of IO's assumptions, no VFM assessment completed by IO since 2006 has shown a negative outcome for AFP.

For the LRT projects, IO estimates the cost of these risks to be about \$5 billion under public-sector delivery and just \$1 billion under AFP.

None of the VFM assessments for the LRT projects show a negative outcome for AFP.

Two risks accounted for a significant portion of the difference between the values of the retained risks under AFP delivery versus public-sector delivery.

As a result of our 2014 audit, IO updated its VFM assessment approach, reducing the difference between AFP and public-sector delivery for the two risks.

The two risks were:

- the risk that assets procured under public-sector delivery will not be maintained as well as assets procured under AFP; and
- the risk that, under public-sector delivery, internal government approvals will be delayed and in turn will delay the issuance of tenders (a risk not assumed under AFP).

However, in 2015, IO did another update to the VFM assessment approach that offsets the reduced difference: IO assumes that if a private-sector contractor both designs and constructs a project, they will add value through innovative ideas that public-sector delivery would not have. IO quantifies this Innovation Factor as 12% of construction cost. This is based on two reports that noted innovative approaches to design and construction were worth anywhere from 10% to 15% in cost reductions.

For the LRT projects, this added \$997 million of value under AFP.

Our two concerns about this Innovation Factor are:

- The two reports it is based on used surveys and interviews with industry participants. One of them also compared the winning bid and unsuccessful bids for a sample of IO's past projects to justify the inclusion of innovation benefits for the AFP model. There was no measure of actual innovations on past projects in the reports.
- Apart from the two reports, IO studied its own portfolio of projects to determine the value of innovation and arrived at a cost reduction of from 7% to 12%. However, this portfolio did not include any LRT projects. It is unclear whether innovation factors into LRT projects in the same way as it might, for example, into hospital projects.

Appendix 5: Audit Criteria

Prepared by the Office of the Auditor General of Ontario

1. Roles and responsibilities are clearly defined and accountability requirements are established for an effective project prioritization process, based on sound criteria that consider economic, environmental and social needs.
2. Comprehensive business cases clearly set out the project objectives and benefits, and a timetable for completion of the projects. Processes are in place to ensure and assess the completeness and reliability of cost estimates and other information used to support decision-making on the projects.
3. Competitive, fair and transparent procurement processes are followed in awarding contracts, including the AFP contract, Light Rail Vehicle contract, property acquisition, and contracts for consultants and advisors to support Metrolinx's delivery of the projects. The cost and benefits of feasible procurement alternatives are thoroughly assessed.
4. Contracts contain provisions to ensure that work is completed on a timely basis in accordance with project management best practices. For example, the provisions include: linking contractual payments to the achievements specified in the contract and appropriate dispute resolution arrangements.
5. Oversight procedures and processes are carried out by qualified individuals to ensure contractors are complying with the performance and accountability requirements in the project agreements/contracts. Non-compliances and poor performance are properly documented and addressed in a timely manner to ensure the projects are completed as planned.
6. Project timelines and costs are established, monitored and compared against actual results, and results are reported regularly. Where necessary, corrective action is taken on a timely basis when issues are identified.

MRI and CT Scanning Services

1.0 Summary

Diagnostic medical imaging includes the use of magnetic resonance imaging (MRI) and computed tomography (CT) scans to provide physicians with important information for diagnosing and monitoring patients' conditions. Timely, quality, medically necessary scans can help doctors to accurately diagnose and treat many diseases earlier in their course, positively contributing to patients' health outcomes.

As technological advances continue to broaden the range of their medical uses and the diseases that can be diagnosed, MRI scans performed have increased by 17% and CT scans by more than 30% over the five years up to 2017/18, excluding emergency cases (as emergency data was not required to be collected before 2015).

The Ministry of Health and Long-Term Care (Ministry) is responsible for overseeing, through the 14 Local Health Integration Networks (LHINs), the funding and performance of MRI and CT services in Ontario. Of the 137 public hospitals in Ontario as of April 2018, 78 had at least one MRI or CT machine.

Timely access to MRI and CT scanning services is a fundamental part of Ontario's Wait Time Strategy. The Ministry has set four priority levels for radiologists to use to triage patients and has set a wait-time target for each level: emergency (within 24 hours),

urgent (within two days), semi-urgent (within 10 days) and non-urgent (within 28 days). These targets are set at the 90th percentile, which represents the time within which 90% of patients in each category should receive their scan from the date of referral for the scan. This means that no more than 10% should wait any longer than that.

Our audit found that, overall, Ontario's wait times for patients requiring MRI and CT scans were the lowest when compared to five provinces where the 90th percentile wait-time data was available (public information is not available from British Columbia and Quebec). However, many Ontarians who needed scans have had significantly long waits in comparison to Ministry targets. We also found that if existing MRI and CT scan machines had been operated more hours, more patients could have been scanned, thereby reducing wait times. Our audit also identified opportunities where increased efficiency and better use of resources could help to reduce wait times for MRI and CT scans. While some of our specific findings are common to both MRIs and CTs, others are unique to either MRIs or CTs, as follows:

MRI Scanning Services

For MRIs, in 2017/18, a total of 108 MRI machines in 52 hospitals performed over 835,600 examinations. During the same fiscal year, the Ministry provided funding of \$157 million, plus a one-time additional payment of \$7.3 million, to these

hospitals, to be used specifically for providing MRI services. Hospitals also have the discretion to use funds from their global budgets (annual lump-sum funding from the Ministry) or other sources to provide additional MRI services.

- **65% of semi-urgent and non-urgent patients waited longer than the Ministry's targeted waiting period to receive their MRIs.** Ontario hospitals were mostly able to provide timely services to patients who required either emergency or urgent MRI scans, but were unable to do so for semi-urgent and non-urgent patients. It is still important for semi-urgent and non-urgent patients to receive timely services. Long wait times delay their diagnosis and treatment, and can impact their quality of life, such as their ability to return to employment, school or everyday life. In some cases, the long wait can result in deterioration of the patient's condition.

For emergency patients, only 5% waited longer than the 24-hour target. For urgent patients, 17% waited longer than the two-day target (up to five days). Semi-urgent and non-urgent patients accounted for 91% of the total MRI scans in 2017/18. Overall, only 35% (not the intended 90%) of semi-urgent and non-urgent patients received MRI scans within the Ministry's wait-time targets of 10 days and 28 days, respectively. The remaining 65% (not the intended 10%) waited longer than these wait-time targets (see **Figure 7**).

- **Wait times for MRI scans vary depending on where the patient lives in Ontario.** The wait-time disparity for non-urgent patients was the most significant. Depending on where a patient lives and the demand for MRI scanning services in that LHIN, patients have a shorter or longer wait than in other LHINs. The Ministry has not analyzed why wait times vary significantly among LHINs.

In 2017/18, 90% of non-urgent patients waited up to 203 days in the LHIN with the

longest wait times, as compared to 63 days in the LHIN with the shortest wait times.

- **Patients wait unnecessarily long times for MRI scans, while machines are not operating for sufficient hours, despite available capacity.** We found that MRI machines could have been operating more hours, thereby reducing wait times, but the hospitals were financially unable to increase their operating hours for these machines. If all 108 MRI machines in Ontario's hospitals had operated for 16 hours, seven days a week, hospitals would have been able to outperform the Ministry's wait-time targets.

On average, all 108 MRI machines were used at only 56% of maximum capacity (which is running 24 hours a day, seven days a week) in 2017/18. We estimated the additional cost to meet the Ministry targets by the end of 2018/19 would be about \$34 million, assuming hospitals operated machines 132,197 more hours than they operated them in 2017/18, at a rate of \$260 per hour.

- **Patient no-shows (missed appointments) are costly, but the Ministry and hospitals do not understand why they occur.** When patients do not show up for an appointment or cancel it the same day, scanning machines can sit idle if hospitals are unable to fill the time slot quickly. Lack of user-friendly communication systems at the hospitals to allow patients to confirm receipt of their appointment, including emails and text-messaging, contributed to patient no-shows. We also noted that none of the four hospitals where we conducted audit work routinely tracks reasons for no-shows.

MRI patient no-show rates across Ontario hospitals ranged between 0.1% and 13.4% of scheduled appointments. In 2017/18, hospitals reported a total of 48,320 MRI appointments where patients did not show up, which we estimated cost hospitals about \$6.2 million, mainly to pay for staffing.

CT Scanning Services

In 2017/18, a total of 165 CT machines in 78 hospitals performed almost 1.8 million scans. In the same year, the Ministry gave \$9 million to these hospitals to be used specifically for providing CT services. Hospitals rely more heavily on their global budgets to provide CT services—the \$9 million is intended to be supplementary funding.

- **33% of semi-urgent and non-urgent patients waited longer than the Ministry’s targeted waiting period to receive their CT scans.** Ontario hospitals were mostly able to provide timely services to patients who required either emergency or urgent CT scans, but were unable to do so for semi-urgent and non-urgent patients.

For emergency patients, less than 1% waited longer than the 24-hour target. For urgent patients, 4% waited longer than the two-day target (up to four days). Semi-urgent and non-urgent patients accounted for 49% of the total CT scans in 2017/18. Only 67% (not the intended 90%) of semi-urgent and non-urgent patients received CT scans within the Ministry’s wait-time targets of 10 days and 28 days for these two groups. The remaining 33% (not the intended 10%) waited longer (see **Figure 9**).

- **Wait times for CT scans vary depending on where the patient lives in Ontario.** The wait-time disparity for non-urgent patients was the most significant. Depending on where a patient lives and the demand for CT scanning services in that LHIN, patients have a shorter or longer wait than in other LHINs. The Ministry has not analyzed why wait times vary significantly among LHINs.

In 2017/18, 90% of non-urgent patients waited up to 127 days within the LHIN with the longest wait times, as compared to 27 days in the LHIN with the shortest wait times.

- **Patients wait unnecessarily long times for CT scans, while machines are not operating for sufficient hours, despite**

available capacity. We found that CT machines could have been operating more hours, thereby reducing wait times, but the hospitals were financially unable to increase their operating hours for these machines.

On average, all 165 CT machines were used at approximately 37% of maximum capacity in 2017/18, despite long wait times. Cancer Care Ontario does not have a predictive model to determine the number of hours needed to achieve the Ministry’s wait-time targets for CT scans.

- **Patient no-shows (missed appointments) are costly, but the Ministry and hospitals do not understand why they occur.** Lack of user-friendly communication systems at the hospitals to allow patients to confirm receipt of their appointment, including emails and text-messaging, contributed to patient no-shows. We noted that none of the four hospitals where we conducted audit work routinely tracks reasons for no-shows.

CT patient no-show rates across Ontario hospitals ranged between 0.6% and 13% of scheduled appointments. In 2017/18, hospitals reported a total of 57,916 missed CT appointments, but they were able to fill these slots with little difficulty.

MRI and CT Scanning Services

- **The Ministry is unable to justify the funding methods for MRI and CT scans, which have remained unchanged for over 10 years.** The Ministry has not reviewed its funding method for either MRI or CT services, and it has not incorporated into its funding method the actual cost-per-scan information self-reported by hospitals, individual hospitals’ demand and capacity, and the complexity of scans needed by patients.
- **Province-wide peer review of MRI and CT scan results is not mandatory across Ontario hospitals.** Lack of a peer review

program exposes patients and hospitals to the risk of misinterpretation of MRI and CT images and/or misdiagnosis of a patient's condition. A 2013 review of a radiologist's work at Trillium Health Partners uncovered issues related to over 640 CT scans, some of which involved undiagnosed cancers. The Ministry requested that Health Quality Ontario (HQO) lead the implementation of a province-wide physician peer review program in all facilities where diagnostic imaging services are provided, but progress has been slow.

- **Hospitals did not consistently assess or track whether all referrals for MRI and CT scans were clinically necessary.** Monitoring the number of unnecessary or inappropriate scans is essential because these scans do not improve the patient's health and use resources that can otherwise be used to help patients who need the scans. At the four hospitals where we conducted audit work, the hospitals' radiologists are responsible for deciding the level of priority for each incoming referral and rejecting those that are deemed inappropriate. However, none of the hospitals keep track of the number of inappropriate referrals the hospitals rejected.

Independent Health Facilities

Since 2003, the Ministry has contracted with seven independent health facilities (IHF) to provide MRI and/or CT scanning services at no charge to patients insured under the Ontario Health Insurance Plan—mostly semi-urgent and non-urgent scans. In 2017/18, the IHFs, with a total of six MRI and two CT machines, performed about 48,000 MRI and 11,320 CT scans outside of hospitals.

- **Standardized hourly rates and wait-time performance measures are lacking in Ministry agreements with independent health facilities (IHF).** The Ministry is responsible, under the *Independent Health*

Facilities Act, 1990, for licensing, funding and co-ordinating quality assurance assessments of IHFs. We found that achieving performance measures such as wait-time targets is not expected. Also, hourly rates vary: the rate paid for an MRI scan at one IHF can be as high as 175% the rate paid for a similar scan at another IHF, and the rate paid for a CT scan at one IHF can be as high as 280% of the rate paid for a similar scan at another IHF. The Ministry does not know the actual cost of a scan performed outside of a hospital, so it cannot assess whether the rates it currently pays the IHFs are reasonable.

Overall Conclusion

Our audit concluded that not all patients who needed an MRI and/or CT scan received timely and equitable service. This was particularly the case for patients who were assessed in the semi-urgent and non-urgent priority levels. Although Ontario's wait times were the lowest for patients requiring MRI and/or CT scans compared to five other provinces where similar data was available, hospitals in Ontario did not meet the Ministry's wait-time targets. Wait times for MRI and CT scans varied depending on where patients live.

We also concluded that MRI and CT services were not being delivered in a cost-effective manner. The Ministry had not reviewed the MRI hourly rates it pays to hospitals and its funding method for either MRI or CT services for more than a decade, and it did not incorporate into its funding method cost-per-scan information, individual hospitals' demand and capacity, and the complexity of scans needed by patients. In addition, the hourly rates paid by the Ministry to the seven independent health facilities for scans vary significantly for similar services.

The hospitals we visited had policies and screening procedures in place to ensure patient safety while receiving MRI scans. Radiologists at the hospitals also ensure patients were exposed to a

minimal level of radiation dosage for CT scans that produced clear images that were in compliance with applicable standards. However, the hospitals did not consistently assess or track whether all referrals for these scans were appropriate and clinically necessary.

Our audit also concluded that although wait times are measured, validated and publicly reported periodically, more useful and complete wait-time information could be made available to patients and their physicians to assist them in making informed decisions about where patients should be referred to receive the most timely scan.

This report contains 13 recommendations, consisting of 33 actions, to address our audit findings.

OVERALL MINISTRY RESPONSE

Recognizing the importance that MRI and CT imaging play in the diagnosis and treatment of diseases, the Ministry of Health and Long-Term Care (Ministry) is committed to working with Local Health Integration Networks (LHINs), hospitals and Cancer Care Ontario (CCO) toward the continuous quality improvement of cost-effectiveness, safety, appropriateness, efficiency, equitable distribution, and building capacity of high-quality, timely MRI and CT services for all Ontarians. We welcome the insights and recommendations provided by the Auditor General.

The audit identifies several areas of consideration where the Ministry will build on existing efforts and initiatives to evaluate, address and improve. This includes improving scheduling, appropriateness of referrals, and how the Ministry funds MRI and CT operations. The Ministry will continue to work closely with CCO, LHINs, hospitals and other system partners to ensure that Ontarians continue to have access to high-quality MRI and CT diagnostic imaging services.

2.0 Background

2.1 Overview of MRI and CT Scanning Services

Diagnostic medical imaging includes the use of magnetic resonance imaging (MRI) and computed tomography (CT) to provide physicians with important information in diagnosing and monitoring patients' conditions. Medical imaging may be done for many reasons: screening patients at risk for a disease, reducing uncertainty about a diagnosis, assisting with decisions about care choices, assessing treatments and/or guiding surgery or other interventions. Timely MRI and CT scans can improve the ability of doctors to accurately diagnose and treat many diseases earlier in their course, contributing greatly to positive outcomes.

MRI and CT scanning services are offered to patients who have been referred for a scan by a physician. Before a referral is made, patients can consult with their physician to select a hospital or independent health facility (IHF) based on various factors such as the closest location, wait times, distance the patient is willing to travel, and co-ordination of the scan with other tests or consultations. The referring physician completes a requisition and submits it to a hospital diagnostic imaging department or IHF. Before a booking is made, the requisition is assessed by radiologists, who determine the type of scan and assign the patient a priority level—emergency, urgent, semi-urgent and non-urgent. An appointment scheduler then books the patient into a predefined slot in the MRI or CT schedule based on the type of exam required (the part of the body scanned and other requirements to get a clear and usable image).

When patients arrive at the hospital or IHF, they must go through safety procedures with staff before a scan can proceed. The rest of the process includes every step required to examine the patient, study the images, and produce a report of clinical findings based on the images. The report

is sent to the referring physician. **Appendix 1** shows the major steps that a patient typically goes through from consulting his or her physician to receiving the result of a scan. **Appendix 2** lists some of the key similarities and differences in MRI imaging and CT imaging.

2.2 MRI Services

Magnetic resonance imaging (MRI) is a medical imaging technique used to visualize detailed internal structures using magnetic fields. MRI provides three-dimensional views of body organs, and is best used for producing images of soft tissues such as ligaments, tendons, organs and tumours. It also gives excellent visualization of heads, spines, muscles and joints.

2.2.1 Key Statistics Relating to MRI Scans Performed

The total number of MRI scans performed in Ontario hospitals increased by 17% over five years from 702,047 in 2013/14 to 824,805 in 2017/18. (This trend excludes emergency scans, because provincial data for these scans was not required to be collected in 2013/14 and 2014/15. In 2017/18, emergency scans represented only 1% of total MRI scans.) Advances in imaging technology have led physicians to increasingly rely on MRIs to diagnose

patients' conditions—for example, to diagnose cardiac events, screen for cancer, and examine high-risk individuals for breast cancer. The demand for follow-up scans to monitor patients for progression or remission of disease has also increased.

Figure 1 shows the number of MRI scans performed from 2013/14 to 2017/18. For the 2017/18 fiscal year, we also noted the following:

- 69% of MRI scans were performed for adult patients between 18 and 65 years of age, mainly under non-urgent conditions.
- The majority of MRI scans were performed on the head (31% of the total), the spine (25%) and the extremities—that is, the limbs (24%). The remaining 20% of MRI scans were performed in areas such as the abdomen, pelvis, breast, and the neck area.

2.2.2 Funding for MRI Scans

Each year, the Ministry provides a lump-sum payment (the “global budget”) to each hospital based on historical spending and inflation. It also provides additional funding for various programs, including MRI operations. As of March 2018, 52 of Ontario's 137 hospitals had a total of 108 MRI machines. The Ministry gave these hospitals \$157 million in 2017/18 to operate these machines, unchanged from the two previous years. This represents a 3% increase over 2013/14, when the hospitals received

Figure 1: Number of MRI Scans Performed in Hospitals, 2013/14–2017/18

Source of data: Cancer Care Ontario

Priority Level	2013/14	2014/15	2015/16	2016/17	2017/18	2013/14–	2017/18
						% Change	% of Total
Urgent	46,109	50,333	55,951	59,976	63,741	38	8
Semi-urgent	93,190	97,330	104,966	110,861	116,706	25	14
Non-urgent	562,748	587,752	606,468	637,127	644,358	15	77
Total Non-emergency	702,047	735,415	767,385	807,964	824,805	17	99
Emergency*	n/a	n/a	10,267	11,298	10,843	n/a	1
Total	n/a	n/a	777,652	819,262	835,648	n/a	100

* Wait-time data for emergency scans was not required to be collected for the years 2013/14 and 2014/15. Cancer Care Ontario does not have a mandate to validate wait times or volumes for emergency scans collected since 2015/16, because wait times for these scans are not publicly reported.

\$152 million. The Ministry provided one-time funding of \$7.3 million in 2017/18 and \$6.9 million in 2018/19 to hospitals specifically for urgent, semi-urgent, cancer screening and/or diagnosis, and high-risk breast cancer patients.

The Ministry does not provide capital funding for MRI machines. Instead, it funds hospitals' use of the machines mainly on the basis of predetermined hourly rates, as discussed in **Section 4.5**. To buy new machines or replace existing ones, hospitals use part of their internal capital budget and/or money from local fundraising. We discuss capital funding for MRI machines in **Section 4.7.2**. **Appendix 3** shows how these 108 MRI machines are allocated among the 52 hospitals that have them as well as the wait times at each hospital in 2017/18.

2.3 CT Scanning Services

Computed tomography (CT) uses x-ray photons to produce multiple images that are then digitally reconstructed. A CT scanner consists of an x-ray tube and detectors. The tube produces an x-ray beam that passes through the patient's body. The scan combines a series of x-ray images taken from different angles and uses a computer to create cross-sectional images (slices) of a patient's body. CT imaging is best used for the head, bones and areas where there is a lot of movement such as the chest and abdomen. As noted in **Section 2.2**, CT

scans are commonly used for the same body parts as MRI scans.

2.3.1 Key Statistics Relating to CT Scans Performed

The total number of CT scans performed in Ontario hospitals has increased by 31% over five years from 939,258 in 2013/14 to 1,234,131 in 2017/18, primarily resulting from advances in technology. (This trend excludes emergency scans, because provincial data for these scans was not required to be collected in 2013/14 and 2014/15. In 2017/18, emergency scans represented 31% of total CT scans.) For example, the Province has noted an increasing demand by specialists for CT scans to determine the initial state of suspected cancer cells in patients, and the stage of the disease, as well as an increasing number of follow-up scans for patients who need continuous monitoring for progression or remission of a disease.

Figure 2 shows the number of CT scans performed. For the 2017/18 fiscal year, we also noted the following:

- CT scans were performed almost equally for adult patients between 18 and 65 years of age and adults over 65 for all priority levels.
- 81% of CT scans were performed on the abdomen (30% of the total); brain (28%); and thorax (23%); the remaining 19% of CT

Figure 2: Number of CT Scans Performed in Hospitals, 2013/14–2017/18

Source of data: Cancer Care Ontario

Priority Level	2013/14	2014/15	2015/16	2016/17	2017/18	2013/14–	2017/18
						% Change	% of Total
Urgent	228,786	256,316	283,810	343,888	365,120	60	20
Semi-urgent	254,033	266,425	267,192	289,990	313,604	23	18
Non-urgent	456,439	473,133	507,562	544,465	555,407	22	31
Total Non-emergency	939,258	995,874	1,058,564	1,178,343	1,234,131	31	69
Emergency*	n/a	n/a	341,496	495,604	556,131	n/a	31
Total	n/a	n/a	1,400,060	1,673,947	1,790,262	n/a	100

* Wait-time data for emergency scans was not required to be collected for the years 2013/14 and 2014/15. Cancer Care Ontario does not have a mandate to validate wait times or volumes for emergency scans collected since 2015/16, because wait times for these scans are not publicly reported.

scans were performed in areas such as the head and neck, the spine and the pelvis.

2.3.2 Funding for CT Scans

In addition to the lump-sum payment (the “global budget”) the Ministry provides to each hospital, based on historical spending and inflation, it also provides additional funding for CT operations and other programs. As of March 2018, 78 Ontario hospitals had a total of 165 CT machines; historically, each year the Ministry has been giving these hospitals a total of about \$9 million supplementary funding to operate the machines. The Ministry considers the \$9 million to be supplementary funding because it expects hospitals to operate their CT machines out of their global budgets. **Appendix 4** shows how these 165 CT machines are allocated among the 78 hospitals in Ontario and the wait times at each hospital for 2017/18.

2.4 Wait-Time Targets

The Ministry defines wait time as the time “from when a hospital receives the request from the patient’s doctor to book an MRI or a CT scan to the patient having the scan.” We illustrate the patient’s journey, including wait time, in **Appendix 1**.

To prioritize access to MRI and CT scanning services, based on advice from clinical experts, the Ministry has categorized patients into four levels: emergency (Priority 1), urgent (Priority 2), semi-urgent (Priority 3), and non-urgent (Priority 4). Radiologists in hospitals use these categories to triage and classify patients based on the urgency of their need to receive a scan.

In 2005/06, as part of Ontario’s Wait Time Strategy, based on advice from clinical experts, the Ministry established wait-time targets for each of the priority levels for both MRI and CT scanning services, as shown in **Figure 3**. The Ministry target is set for the 90th percentile. This means that 90% of patients should receive their scans within the targets set by the Ministry, and no more than 10% should wait any longer.

Hospitals are required to capture and submit MRI and CT data for both adult and pediatric patients to Cancer Care Ontario (CCO) regularly. Hospital-level MRI and CT wait-time data had been publicly reported on the Ministry’s website until December 2017. Since then, the wait-time data has been published on the Health Quality Ontario website.

The wait times reported publicly on Health Quality Ontario’s website are based on the average (mean) of the wait times measured as well as the percentage scanned within the Ministry target for

Figure 3: Priority Level Definitions* and Provincial Wait-Time Targets for MRI and CT Scan Services in Ontario

Source: Ministry of Health and Long-Term Care

Patient Category	Clinical Description	Type of Patient	Provincial Wait-Time Target
	<i>Any condition in which failure to diagnose and initiate treatment would result in:</i>		
Emergency (Priority 1)	serious morbidity or mortality e.g., spinal cord compression	ER patients, in-patients	within 24 hours
Urgent (Priority 2)	significant deterioration e.g., suspected epidural abscess	ER patients, in-patients, very urgent out-patients	within 2 days
Semi-urgent (Priority 3)	moderate deterioration e.g., cancer staging	urgent outpatients	within 10 days
Non-urgent (Priority 4)	minimal deterioration e.g., chronic dizziness/hearing loss	outpatients	within 28 days

* Priority levels and target times for waiting for diagnostic imaging services in Ontario are developed by clinical experts across the province to guide treatment decisions and manage patient access and outcomes.

each individual priority level and for all priorities combined. **Appendix 5** explains the various methods used by Cancer Care Ontario to measure wait times and describes the advantages and disadvantages of these methods; it also explains the method of measuring real-time wait times, which we discuss in **Section 4.6**. As the Ministry targets are set at the 90th percentile, we have selected this measure to report wait times in our audit report.

2.5 Key Players in the Diagnostic Imaging Sector

The following are the key players in diagnostic imaging sector in Ontario:

Ministry of Health and Long-Term Care (Ministry)

The Ministry is responsible for capacity planning, policy development, and overseeing operating funding and performance of MRI and CT scanning services in Ontario. It provides leadership and management direction in operational and policy initiatives, and through its responsibility for Ontario's hospitals. The Ministry and Local Health Integration Networks (LHINs) sign the Ministry–LHIN Accountability Agreement, which outlines their mutual responsibilities. The Ministry has legislative oversight over hospitals' compliance with the *Healing Arts Radiation Protection Act, 1990* and other laws. This act oversees the use of certain diagnostic imaging equipment, including x-ray and CT machines, but not MRI machines because MRI machines do not expose people to radiation. As of August 2018, the *Oversight of Health Facilities and Devices Act, 2017*, which expanded the Ministry's oversight for MRIs, had passed. This act was not yet in force when we completed our audit. The Ministry has also licensed seven independent health facilities to provide MRI and CT scanning services under the *Independent Health Facilities Act, 1990*, further discussed in **Section 4.12**.

Local Health Integration Networks (LHINs)

LHINs are responsible for transferring global funding as well as specific operating funding for MRI and CT scans from the Ministry to hospitals within their regions. They review and submit business cases to the Ministry for its approval for operating funding in relation to new machines in hospitals. The LHINs monitor hospital wait-time and efficiency data. LHINs sign Hospital Service Accountability Agreements with their hospitals, which outline their mutual responsibilities.

Cancer Care Ontario (CCO)

CCO is a provincial agency with a mandate, among others, to collect and report wait-time and efficiency data relevant to MRI and CT scanning services. Its Diagnostic Imaging Advisory Committee suggests ways to address wait-time issues and guide program strategy and priorities. CCO validates the data submitted by hospitals before it provides the information to Health Quality Ontario for public reporting.

Ontario Hospitals

Hospitals are responsible for procuring and managing MRI and CT machines as well as scheduling, managing and providing safe scanning services within their operations. Radiologists who work in hospitals assign priority levels to incoming referrals, and interpret and share imaging results with the physicians who refer their patients for imaging. Hospitals are required to report relevant wait-time and other efficiency data, such as the patient no-show rates we discuss in **Section 4.9**, to Cancer Care Ontario regularly.

3.0 Audit Objective and Scope

Our audit objective was to assess whether Ontario hospitals, working with the Ministry of Health and Long-Term Care (Ministry), Cancer Care Ontario

(CCO) and their respective Local Health Integration Networks (LHINs), have effective policies and procedures in place to:

- ensure that magnetic resonance imaging (MRI) and computed tomography (CT) scanning services are provided in a timely, safe, equitable, appropriate and cost-effective manner to meet Ontarians' needs in accordance with applicable standards, clinical guidelines and legislation; and
- measure and publicly report periodically on the results and effectiveness of MRI and CT scanning services in meeting patients' clinical needs.

Before starting our work, we identified the audit criteria we would use to address our audit objective. These criteria were established based on a review of applicable legislation, policies and procedures, and internal and external studies. Senior management at the Ministry, CCO, the four hospitals where we did detailed audit work (the Ottawa Hospital, Health Sciences North, St. Joseph's Healthcare Hamilton and Mackenzie Health) and their respective LHINs (Champlain, North East, Hamilton Niagara Haldimand Brant, and Central) reviewed and agreed with our objective and associated criteria as listed in **Appendix 6**.

Our audit work was conducted primarily at CCO and the four hospitals where we conducted audit work from January to July 2018. We obtained written representation from the Ministry, CCO, the four hospitals and their respective LHINs that, effective November 9, 2018, they have provided us with all the information they are aware of that could significantly affect the findings of this report. We interviewed senior management and appropriate staff, and examined related data and documentation at the Ministry, CCO, the four hospitals and their respective LHINs.

To obtain a better understanding of the unique challenges faced by other hospitals in delivering MRI and CT services, we also visited five other hospitals (see **Appendices 3** and **4**), interviewed their

senior management and obtained relevant information. We based our selection of these hospitals on factors including wait times, number and age of machines, number of scans performed, geographical location, hospital type and other observations we made throughout our audit that prompted further examination.

The majority of our file review went back three to five years, with some funding trend analysis going back 10 years. We reviewed relevant research from Ontario and other Canadian provinces, as well as foreign jurisdictions.

We also obtained and reviewed relevant information from the Ministry on the seven independent health facilities (discussed in **Section 4.9**) that are funded by the Province to operate MRI and/or CT scanning services in Ontario.

We talked to representatives from stakeholder groups, including Health Quality Ontario, the Ontario Association of Radiologists and the Canadian Association of Radiologists, to gain their perspectives on diagnostic imaging with regard to MRI and CT scanning services in particular.

We engaged an expert advisor with medical background and expertise in assessing the efficiency of government-funded services such as MRI and CT scanning services.

We did not rely on the work of internal audit, as it has not conducted any recent work related to MRI and CT scanning services.

Finally, we considered the relevant issues reported in our 2006 audits "Hospitals—Management and Use of Diagnostic Imaging Equipment" and "Hospitals—Administration of Medical Equipment"; our 2012 audit "Independent Health Facilities" and our 2017 audit "Cancer Treatment Services."

We conducted our work and reported on the results of our examination in accordance with the applicable Canadian Standards on Assurance Engagements—Direct Engagements issued by the Auditing and Assurance Standards Board of the Chartered Professional Accountants of Canada. This included obtaining a reasonable level of assurance.

The Office of the Auditor General of Ontario applies the Canadian Standards of Quality Control and, as a result, maintains a comprehensive quality control system that includes documented policies and procedures with respect to compliance with rules of professional conduct, professional standards and applicable legal and regulatory requirements.

We have complied with the independence and other ethical requirements of the Code of Professional Conduct of the Canadian Professional Accountants of Ontario, which are founded on fundamental principles of integrity, objectivity, professional competence and due care, confidentiality and professional behaviour.

4.0 Detailed Audit Observations

4.1 65% of MRI Patients and 33% of CT Patients Had Long Waits for Their Scans, in Excess of the Ministry's Targets for Semi-urgent and Non-urgent Priority Patients

Our audit found that while Ontario hospitals were mostly able to provide timely services to patients who required either an emergency or urgent MRI or CT scan, they were unable to do so for semi-urgent and non-urgent patients. The Ministry's target for providing emergency scans is 24 hours, and its target for urgent scans is two days. The targets for semi-urgent and non-urgent scans are 10 days and 28 days, respectively.

The Ministry has set its target for the 90th percentile. This means that 90% of patients should receive their scans within target, and no more than 10% should wait longer than that. For semi-urgent and non-urgent patients, however, far greater percentages than 10% waited longer than 10 and 28 days, according to statistics compiled by Cancer Care Ontario.

- **MRI scans:** For emergency patients, only 5% waited longer than 24 hours. For urgent patients, 17% waited longer than two days (up to five days). Semi-urgent and non-urgent patients accounted for 91% of the total MRI scans in 2017/18. Overall, only 35%, not 90%, of semi-urgent and non-urgent patients received MRI scans within the Ministry's targets of 10 days and 28 days, respectively. The remaining 65%, not 10%, waited longer than these targets (see **Figure 7**).
- **CT scans:** For emergency patients, less than 1% waited longer than 24 hours. For urgent patients, 4% waited longer than two days (up to four days). Semi-urgent and non-urgent patients accounted for about 49% of the total CT scans in 2017/18. Only 67%, not 90%, of semi-urgent and non-urgent patients received CT scans within the Ministry's 10-day and 28-day targets for these two groups. The remaining 33% of patients, not 10%, waited longer (see **Figure 9**).

In our hospital visits, we noted that the percentage of patients scanned within target (especially patients requiring non-urgent scans) was strongly influenced by anomalies in the wait-list system. For example, when patients cancelled a confirmed scheduled appointment, other patients who were still waiting for a scan were often able to jump the queue and have their scan performed sooner—even though many were not the highest priority patients on the wait list.

Hospital staff we spoke to about this specific issue at three of the four hospitals that otherwise reported high wait times informed us that these patients formed a large percentage of the patients scanned within target. As a result, the percentage of patients scanned within target (28 days for non-urgent patients) as disclosed by these hospitals often skewed both the average and 90th percentile calculations reported by the Ministry. We discuss more appropriate and useful reporting methods in **Section 4.6**.

Even though these patients have been classified below the urgent level by radiologists, long wait times delay the diagnosis and treatment of their conditions and can affect their quality of life (for example, delaying their return to work or school); in some cases, the delay can result in deterioration of a patient's condition and extra cost to the health-care system. During our audit, we noted the following:

- A patient wrote to the then Minister of Health and Long-Term Care in early 2018 about his own case and the consequences of the delay in scheduling an appointment. The patient was assessed as non-urgent and put into a long wait list for seven months. However, during the long wait, the patient was hospitalized for a surgery that in the patient's opinion "[was] for a condition that might have been caught by that CT scan." The patient further stated that "I was in hospital care for two months with at least three medical teams attending to me (I am still not recovered). We can imagine the cost to the taxpayer let alone the damage perpetrated against the patient. According to my surgeon, I came within a half-inch ... of losing my leg. All of this might have been obviated by a correctly scheduled medical image..."
- We noted another example where a neurologist who has extensive experience with the health sector expressed concerns about wait-time problems in general:
 - "For routine studies [meaning non-urgent scans], we have seen considerable wait times.... For some MRI requests we have been given wait times of over 6 months for routine studies. Although these studies may not be urgent, this delay creates anxiety for our patients over protracted periods of time. Even if the neurologist doesn't think there is a tumor or multiple sclerosis, the patient may—and will agonize over this daily for 6+ months."
 - "Another issue is that some eventually diagnosed pathologies may have been better addressed months earlier. For example, an imaging scan for dementia may seem routine but if prominent vascular pathology is identified, more urgent stroke prevention may be warranted. If a tumor is identified, it would likely have been better addressed 6 months earlier."
 - "I am also concerned that the wait time creates waste. For example, if there is a prolonged wait for MRI, an interim CT scan may be ordered to ensure there isn't gross pathology but the MRI will still be needed so extra resources are consumed."

Many of the physicians and hospital staff we interviewed echoed these viewpoints.

Long wait times also introduce an unnecessary element of uncertainty into Ontario's health-care system. The wait for a scan is a bottleneck in the patient's progress through the system: decisions on further treatment often have to wait until the scan is completed and interpreted. As a complex system that consists of many interacting parts, Ontario's health-care system requires predictability to plan its actions and direct its resources most efficiently.

4.1.1 Ontarians Experienced the Lowest Wait Time among Five Other Provinces

Although patients in Ontario waited longer than the provincial targets for both MRI and CT scans, Ontario's wait times for both scans were among the lowest compared to five other provinces where the 90th percentile data was most recently available. We show the data compiled by the Canadian Institute for Health Information (CIHI) for the period between April and September 2016, and for the same period in 2017, in **Figures 4** and **5**. (CIHI's reports do not include data from British Columbia and Quebec, which was not publicly available.)

In addition, the Canadian Agency for Drugs and Technologies in Health reported that in 2017, Ontario performed a relatively high number of

Figure 4: Comparison of Selected Provincial Wait Times for MRI Scans, April–September, 2016, and April–September, 2017

Source: Canadian Institute for Health Information

Province	Wait Time (Days)	
	April–September, 2016	April–September, 2017
Ontario	99	96
Saskatchewan	208	174
Manitoba	176	205
PEI	181	231
Nova Scotia	203	241
Alberta	242	277

Notes:

- Wait times are measured as the maximum amount of time in which 90% of patients have received their MRI scans.
- Provinces shown are those for which comparable data was available.

MRI and CT examinations per 1,000 population compared to other provinces in Canada, as shown in **Appendix 7**. We also noted that Ontario has set more ambitious and potentially harder to attain wait-time targets than other provinces and the Canadian Association of Radiologists have set; these are shown in **Appendix 8**.

4.1.2 MRIs: Many Patients Had Long Waits for Semi-urgent and Non-urgent Scans

Semi-urgent and non-urgent scans made up 91% of the total MRI volume in 2017/18. That same year, 61% of semi-urgent patients received their scans within target (10 days); 29% waited between 11 and 34 days; and 10% waited more than 34 days.

As non-urgent patients waited the longest to receive their MRI scans, in **Figure 6** we have shown wait times for these patients for 2017/18, with the number and percentage of patients and their wait times stated in day ranges.

As the Ministry sets its target at the 90th percentile, we have assessed the Ministry's progress toward this target. **Figure 7** shows the 90th percentile wait-time trend over the last five years for semi-urgent and non-urgent MRI requests,

Figure 5: Comparison of Selected Provincial Wait Times for CT Scans, April–September, 2016, and April–September, 2017

Source: Canadian Institute for Health Information

Province	Wait Time (Days)	
	April–September, 2016	April–September, 2017
Ontario	41	35
Manitoba	46	49
Saskatchewan	61	55
Nova Scotia	77	92
Alberta	92	110
PEI	71	113

Notes:

- Wait times are measured as the maximum amount of time in which 90% of patients have received their CT scans.
- Provinces shown are those for which comparable data was available.

and compares it to the wait-time targets set by the Province as well as the targets recommended by the Canadian Association of Radiologists.

We noted that, on an annual basis, hospitals consistently performed a lower number of scans than the number of incoming requisitions during a year. As a result, an increasing backlog of outstanding scan requests increased by 63% from 85,021 as of April 1, 2014, to 138,197 as of April 1, 2018, which led to the long waits. Many factors contributed to the increasing backlog:

- Technological advances in imaging equipment have contributed to increased demand. Physicians are increasingly relying on MRI imaging for purposes such as diagnosing cardiac events, providing care for cancer patients, and screening high-risk individuals for breast cancer.
- Increasing numbers of follow-up scans for patients who need continuous monitoring for progression or remission of disease (such as cancer) drive up the demand year after year. From 2013/14 to 2017/18, the demand for follow-up scans increased by 46%, compared to only 14% for initial or one-time scans and other types of scans.

Figure 6: MRI Wait Times for Non-urgent Patients, 2017/18

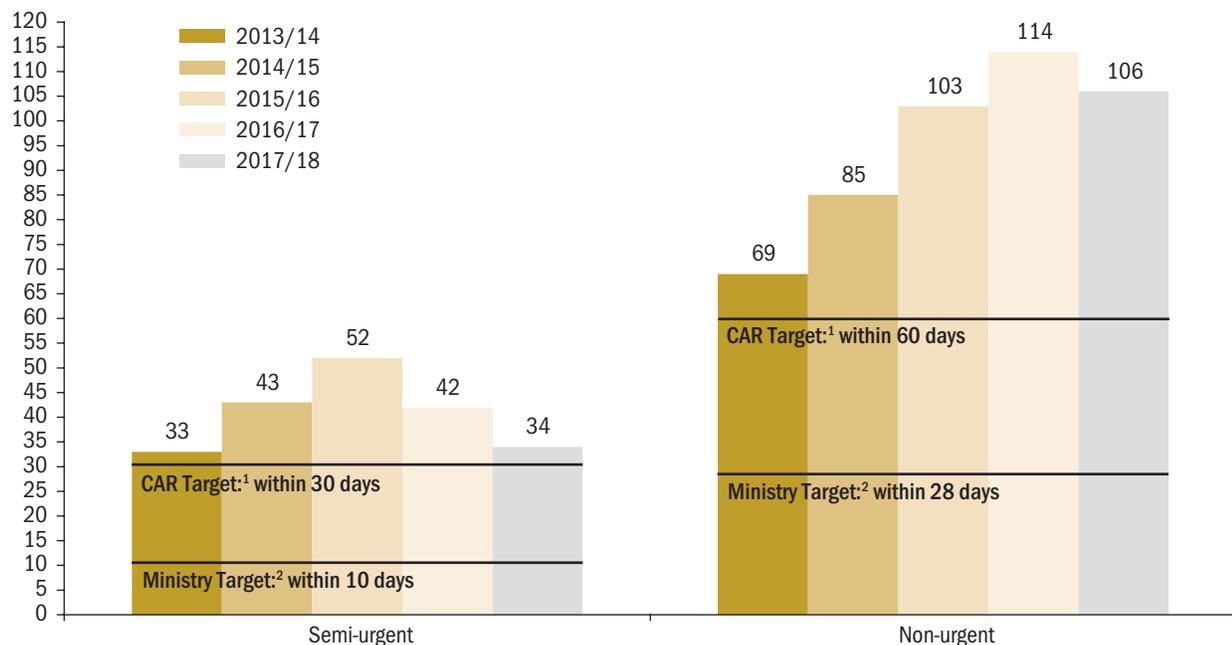
Source of data: Cancer Care Ontario

	Wait Time within Target (Days)	Wait Time in Excess of Target (Days)					Total
	0-28	29-60	61-90	91-150	151-240+		
# of Scans Performed*	171,099	203,044	108,733	60,775	18,790	562,441	
(%)	30	36	19	11	4	100	

* Number of scans performed excludes patients who received follow-up scans.

Figure 7: Wait Times for MRI Scan for Semi-urgent and Non-urgent Patients, 2013/14–2017/18 (Days)

Source of data: Cancer Care Ontario



1. Target recommended by the Canadian Association of Radiologists (CAR).

2. Ministry's wait times measured as the maximum amount of time in which nine of 10 patients have received their MRI scans.

- Imaging equipment is not operating sufficient hours to meet patient demand (discussed in **Section 4.4**).

In 2017/18, the Ministry funded the hospitals with an additional one-time funding of \$7.3 million. This additional funding contributed to shorter wait times of MRI scans for urgent, semi-urgent, cancer, and high-risk Ontario Breast Screening Program patients by 20% to 32% (or between one and 42 days).

4.1.3 CTs: Some Patients Had Long Waits for Semi-urgent and Non-urgent Scans

As with MRI scans, the Ministry sets its target for CT scans at the 90th percentile. This means that 90% of patients should receive their CT scans within 10 days for semi-urgent patients and within 28 days for non-urgent patients, and no more than 10% should wait any longer.

We noted that wait times for patients requiring CT scans are shorter than for MRI scans. The main reason for this is that the time needed to perform a

Figure 8: CT Wait Times for Non-urgent Patients, 2017/18

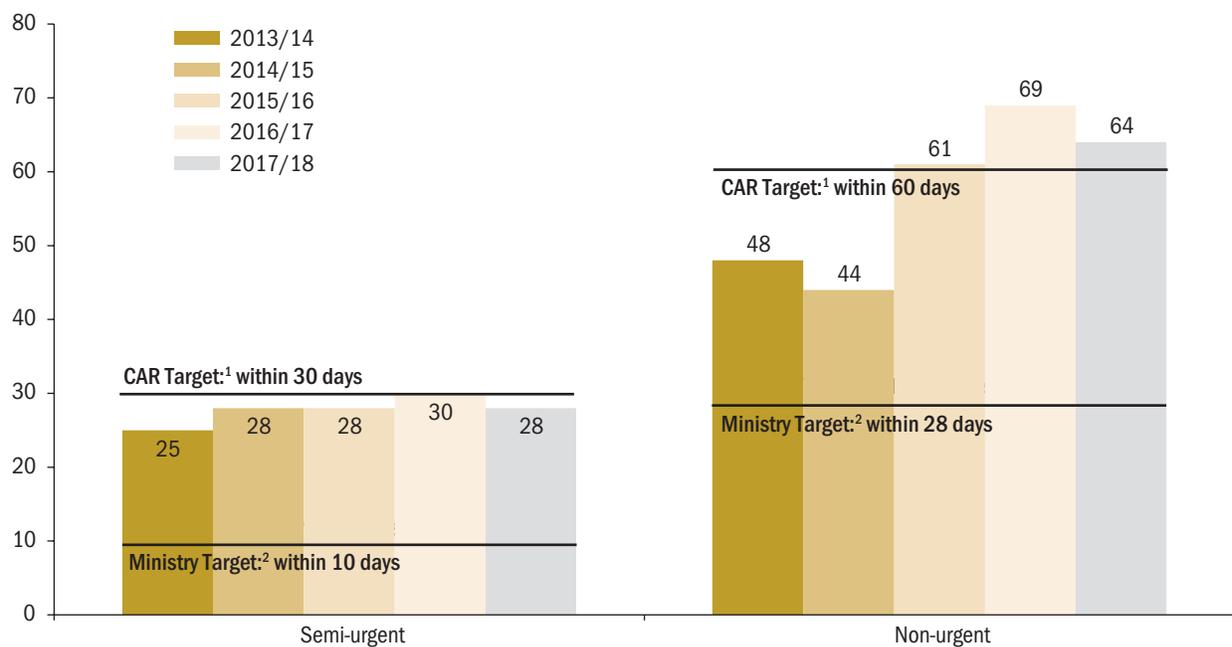
Source of data: Cancer Care Ontario

	Wait Time within Target (Days)	Wait Time in Excess of Target (Days)				Total
	0-28	29-60	61-90	91-150	151-240+	
# of Scans Performed*	259,099	76,308	23,540	12,488	6,139	377,574
%	69	20	6	3	2	100

* Number of scans performed excludes patients who received follow-up scans.

Figure 9: Wait Times for CT Scans for Semi-urgent and Non-urgent Patients, 2013/14–2017/18 (Days)

Source of data: Cancer Care Ontario



1. Target recommended by the Canadian Association of Radiologists (CAR).

2. Ministry's wait times measured as the maximum amount of time in which nine of 10 patients have received their CT scans.

CT scan is much less; CT scans take a few minutes, while MRI scans can take from 20 minutes to more than an hour.

Also, CT scans are often used in emergency cases to quickly examine patients who may have internal injuries or other types of trauma. These rapid examinations often reveal internal injuries and/or bleeding quickly enough to help save lives. These patients are at the highest priority level and are scanned within the Ministry target of 24 hours. This partly explains why semi-urgent and non-urgent

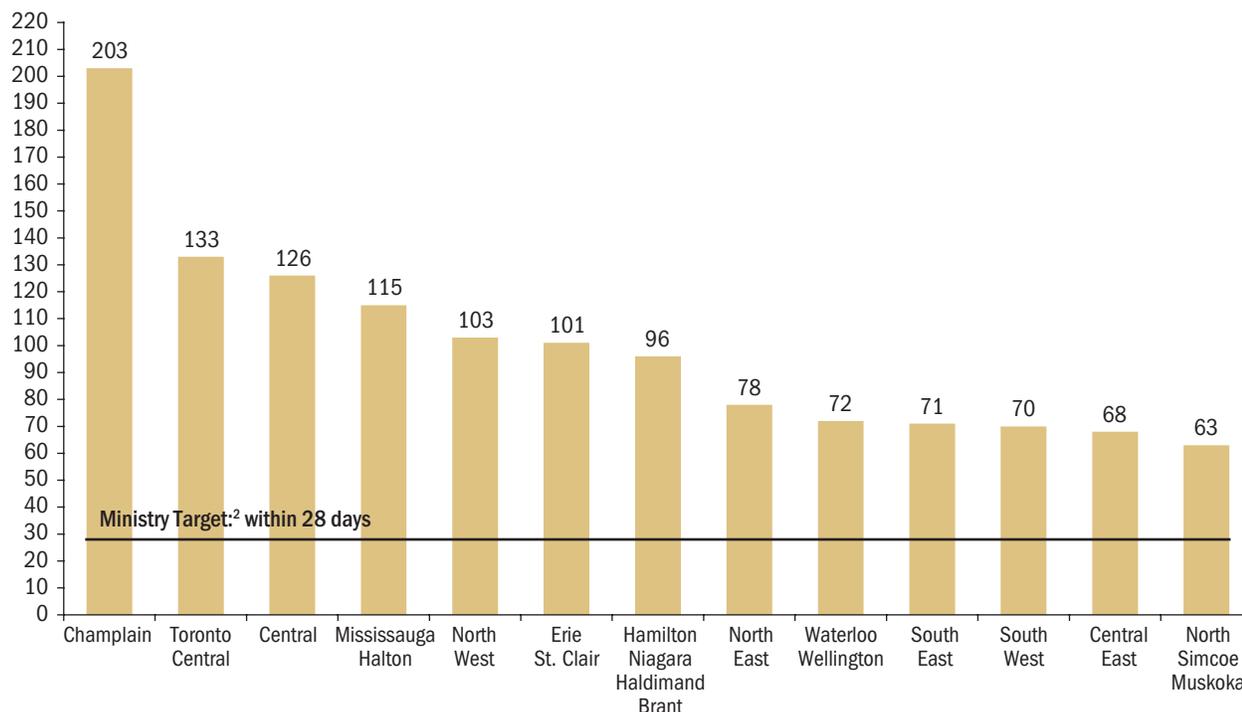
patients made up only 49% of total CT requests in 2017/18, compared to 91% for MRI requests.

As non-urgent patients waited the longest to receive their CT scans, in **Figure 8** we have shown the number and percentage of scans performed on these patients in 2017/18, with wait times stated in day ranges.

Since the Ministry sets its target at the 90th percentile, once again we have assessed its progress by showing the 90th percentile wait-time trend for semi-urgent and non-urgent patients. **Figure 9**

Figure 10: MRI Wait Times for Non-urgent Patients, by Local Health Integration Network (LHIN),¹ 2017/18 (Days)

Source of data: Cancer Care Ontario



1. Central West LHIN has one hospital which operates four MRI machines. This hospital's data contained significant inaccuracies due to a system implementation issue, and therefore the information has not been published by the Ministry of Health and Long-Term Care on the Health Quality Ontario website and is not included in this figure.

2. Wait times are measured as the maximum amount of time in which 90% of patients have received their MRI scans.

shows the wait-time trend for CT scans for these patients over the last five years and compares it to the targets set by the Ministry as well as the targets recommended by the Canadian Association of Radiologists.

The reasons for the long waits for CT scans are similar to what we see with MRI scans. The main reasons are the backlog of patients waiting to be scanned, the constantly rising demand resulting from advances in the technology and the machines' capabilities, and the increase in the number of follow-up scans for patients who need continuous monitoring.

We discuss wait-time issues from different perspectives in the sections that follow.

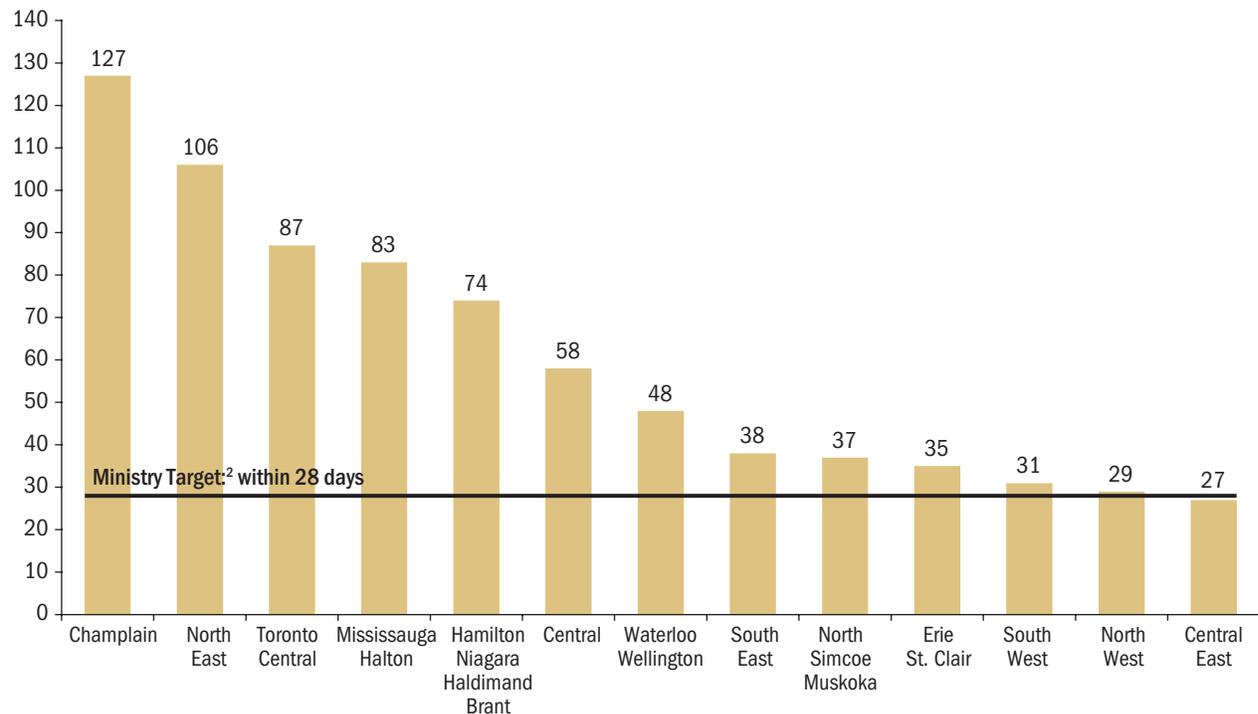
4.2 Wait Times for Scans Vary Depending on Where Patients Live

Our audit found that wait times for MRI and CT scans varied significantly depending on where patients live. The disparity for non-urgent patients was the most significant. **Figure 10** shows the MRI wait times for non-urgent patients by LHIN in 2017/18; **Figure 11** shows the corresponding CT wait times.

Cancer Care Ontario collects information on wait times at the LHIN level, including total number and type of scans performed, type of hospital, use by patients from outside the LHIN, number of MRI and/or CT machines, and length of time machines are run. The Ministry has not used this data, however, to analyze the reasons for the significant differences in wait times among LHINs that may result in inequitable experiences in the health-care system for patients living in different regions.

Figure 11: CT Wait Times for Non-urgent Patients, by Local Health Integration Network (LHIN),¹ 2017/18 (Days)

Source of data: Cancer Care Ontario



1. Central West LHIN has two hospitals of which one operates six CT machines. This hospital's data had significant inaccuracies due to a system implementation issue, and therefore the information has not been published by the Ministry of Health and Long-Term Care on the Health Quality Ontario website and is not included in this figure.

2. Wait times are measured as the maximum amount of time in which 90% of patients have received their CT scans.

4.2.1 MRI Scans

We noted that the Champlain, Toronto Central and Central LHINs have relatively higher MRI wait times for non-urgent patients than other LHINs. These three LHINs had unique challenges that drove up their wait times:

- Champlain LHIN serves the fourth highest population in Ontario (approximately 1.3 million as of July 2017). Outside of the University Health Network, Ottawa Hospital in Champlain LHIN is Ontario's largest teaching or academic hospital and provides the highest number of MRI scans (approximately 36,000 in 2017/18); it is also the only teaching hospital performing complex scans within this LHIN. The other two teaching hospitals in Champlain LHIN serve specific populations: pediatric patients at the Children's Hospital

of Eastern Ontario, and francophone patients at l'Hôpital Montfort. With the exception of these two, the nearest teaching hospital in Ontario is Kingston Health Sciences Centre in South East LHIN, 195 kilometres away. Hence, the wait times at Ottawa Hospital have driven up the overall wait times for its LHIN. **Section 4.3** further discusses wait times in teaching hospitals.

- In Toronto Central LHIN, 58% of the patients its hospitals served were from outside the LHIN. In particular, Sunnybrook Hospital and the University Health Network offer specialized MRI services to patients across the province: Sunnybrook is the largest single-site critical care resource in Ontario and one of the largest regional trauma and oncology centres. University Health Network is a well-known research centre, attracting physician

referrals for MRI scans in complex and specialized cases.

- Central LHIN serves the highest population in the province (approximately 1.9 million as of July 2017); in addition, 28% of the patients it served were from outside this LHIN.

North Simcoe Muskoka LHIN, with the second lowest population density in the province, had the shortest wait times for MRI scans.

4.2.2 CT Scans

We noted that, for CT scans, Champlain, North East and Toronto Central LHINs have relatively higher wait times for non-urgent patients than other LHINs. The reasons are similar to those explained for MRI scans in the previous section. In addition, North East LHIN has only one teaching hospital performing 35% of all emergency and urgent scans, therefore driving up the wait times overall for this LHIN. In 2017, as requested by the Ministry, CCO analyzed whether additional CT machines are required in the North East and North West LHINs and recommended three potential areas where patients who were travelling over 100 kilometres could benefit from a mobile CT machine. As of August 2018, the Ministry had not made a decision whether to install a new machine in these areas.

RECOMMENDATION 1

To help ensure patients have equitable access to MRI and CT services across the province, we recommend that the Ministry of Health and Long-Term Care work with Local Health Integration Networks (LHINs) and hospitals to:

- analyze and identify the reasons why wait times vary significantly between LHINs:
 - for MRI services; and
 - for CT services; and
- take necessary actions to reduce the wait-time inequities across the province:
 - for MRI services; and
 - for CT services.

MINISTRY RESPONSE

The Ministry of Health and Long-Term Care supports this recommendation and will work with LHINs, hospitals and clinical experts to determine the causes of local and regional variations in wait times for MRI and CT services and take necessary action to address any inequities.

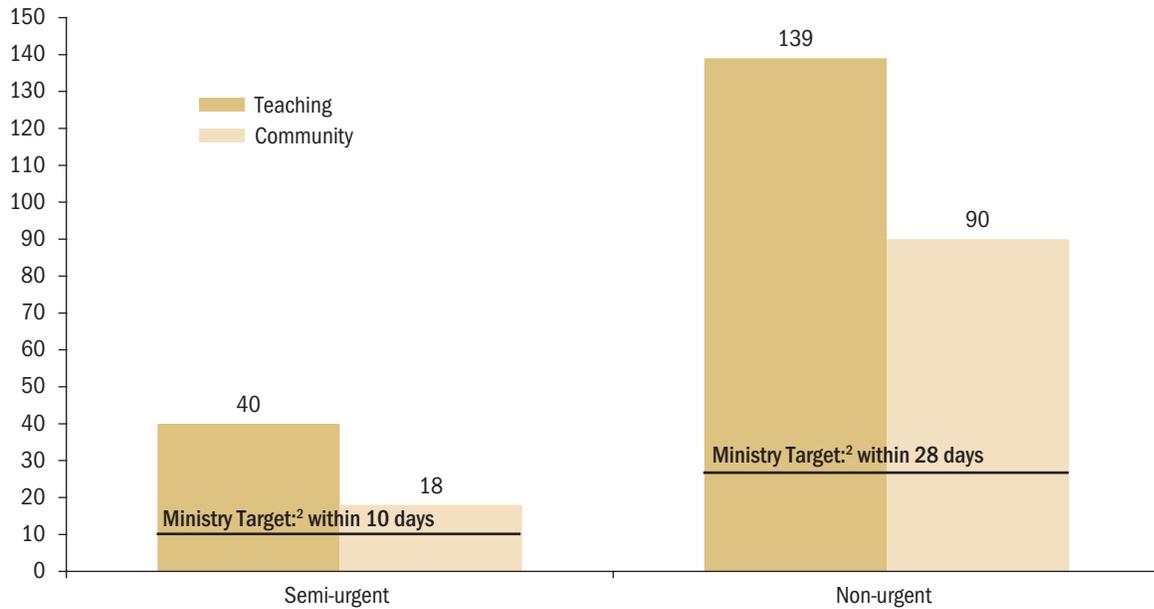
4.3 Patients in Teaching Hospitals Wait Significantly Longer for Scans than Those in Community Hospitals

Patients classified as semi-urgent or non-urgent had to wait significantly longer for their scans in teaching hospitals than those waiting in community hospitals. **Figure 12** shows the MRI wait times for semi-urgent and non-urgent patients at teaching versus community hospitals; **Figure 13** shows the corresponding CT wait times. The reasons for the long waits in teaching hospitals include the following:

- Referring physicians or the patients themselves may prefer to have a scan done and interpreted at a teaching hospital because of a perception that teaching hospitals have better quality of care even for semi-urgent or non-urgent cases. Radiologists at the four hospitals where we conducted audit work primarily read and interpret scans performed in their own hospital. However, we did not note any significant issues among radiologists at teaching hospitals associated with reading and interpreting scans performed at other hospitals, if that creates efficiencies.
- Teaching hospitals have the expertise to scan, interpret and diagnose complex and specialized patient cases, and therefore they receive a high number of referrals. Particularly for MRI scans, the complex scans (specialized by body part) that teaching hospitals specialize in generally require more time for each scan, leaving less time

Figure 12: MRI Wait Times for Semi-urgent and Non-urgent Patients, Teaching vs Community Hospitals,¹ 2017/18 (Days)

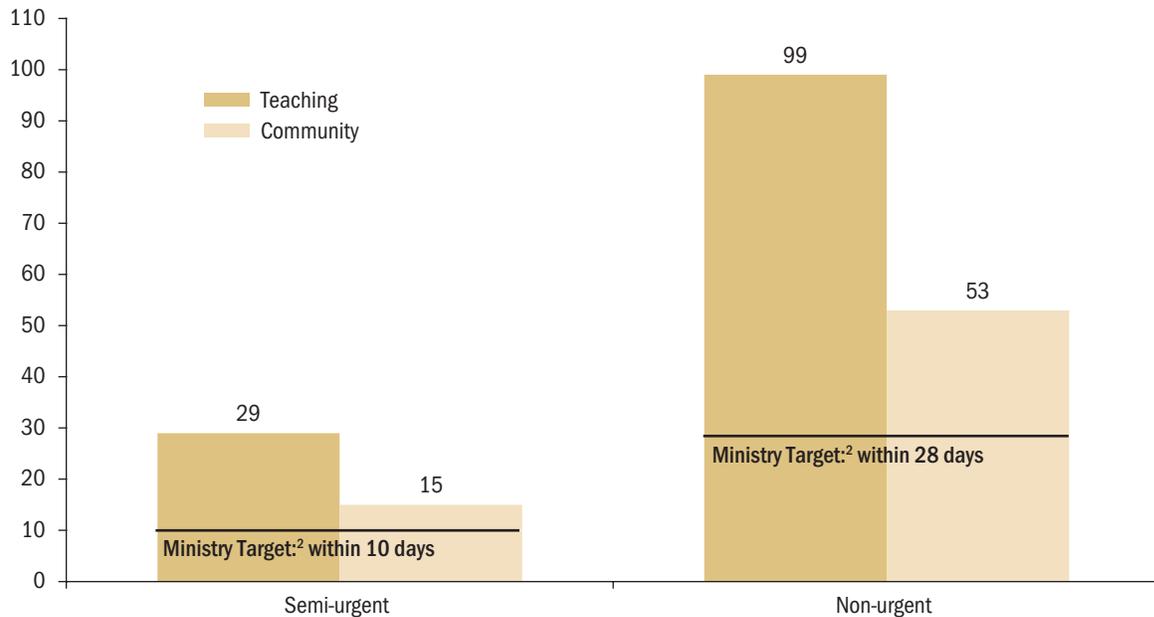
Source of data: Cancer Care Ontario



1. Of the hospitals with MRI machines, 18 were teaching hospitals and 34 community hospitals.
2. Wait times are measured as the maximum amount of time in which 90% of patients have received their MRI scans.

Figure 13: CT Wait Times for Semi-urgent and Non-urgent Patients, Teaching vs Community Hospitals,¹ 2017/18 (Days)

Source of data: Cancer Care Ontario



1. Of the hospitals with CT machines, 18 were teaching hospitals and 60 community hospitals.
2. Wait times are measured as the maximum amount of time in which 90% of patients have received their CT scans.

and fewer resources for less complex scans. (Complex scans are defined as scans that are performed on emergency, urgent and/or in-patients, patients requiring general anaesthesia before the scan can be performed or patients whose scans are expected to take longer than 60 minutes.) As a result, other patients scheduled for scans may find themselves on a long wait list. We compared the percentages of complex scans performed in teaching and community hospitals and noted that teaching hospitals performed more than double those performed by community hospitals.

- For CT scans, teaching hospitals performed on average about double the number of emergency scans performed by community hospitals (11,000 scans compared to 6,000 scans). The higher number of emergency scans may leave less machine time for other priority levels, resulting in high wait times for these other patients. Emergency scans comprised more than 30% of total CT scans performed in 2017/18.

Ontario places no restriction on where a patient can obtain a scan. It also has no standard or set of consistent practices in place to process and distribute physician referrals for MRI or CT scans among hospitals, especially for semi-urgent and non-urgent cases. As a result, semi-urgent and non-urgent cases are frequently referred to teaching hospitals, where these patients are assigned low priority and have significantly long wait times. Conversely, some physicians refer their patients to community hospitals with lower wait times so their scans can be performed earlier than in a teaching hospital. However, one specialist cautioned that this may pose a risk if complex scans are not interpreted by specialized physicians with the required expertise, most often found in teaching hospitals.

We noted that hospitals in Champlain LHIN were working with the LHIN to establish a centralized intake system for scans to allocate demand equitably among the hospitals, with a tentative

implementation date by fall 2019. The intent of this system would be to distribute non-urgent cases among hospitals within the same LHIN, reducing the long waits in some of the LHIN's hospitals.

Waterloo Wellington LHIN was also working on an e-referral system.

RECOMMENDATION 2

To help ensure timely and equitable access for semi-urgent and non-urgent MRI and CT services, we recommend that Local Health Integration Networks (LHINs) continue to work with hospitals to:

- offer referring physicians and patients the option of having scans performed in hospitals with lower wait times, and having the results interpreted with guidance from specialized radiologists and physicians in teaching hospitals, where needed:
 - for MRI services; and
 - for CT services; and
- where applicable, redistribute the incoming referrals between teaching and community hospitals within a LHIN by using an effective tool such as a centralized intake or referral process:
 - for MRI services; and
 - for CT services.

RESPONSE FROM LHINS

The LHINs acknowledge the benefit of streamlining referral processes and commit to work with hospitals and physicians to explore solutions such as centralized intake, offering alternative referral options, and/or developing common tools. The LHINs recognize such strategies should be co-ordinated with other initiatives to more effectively improve wait times. The specific strategies explored may vary across the province to reflect differences in populations, geographies, and clinical and financial resources that exist within LHINs.

4.4 Patients Wait Unnecessarily Long for Scans Because Machines Are Not Operating Sufficient Hours despite Available Capacity

We found that existing MRI and CT machines could be used for more hours per week, thereby reducing wait times, but the hospitals were financially unable to increase their operating hours for these machines to meet patient demand.

The Ministry's MRI and CT Expert Panel (Panel) stated in 2005 that these machines should meet efficiency standards and operate extended hours to minimize the fixed cost per exam. The Panel recommended a minimum standard for MRI and CT operations at 16 hours a day, seven days a week. We noted that if all 108 MRI and 165 CT machines in the province followed the Panel's recommendation, hospitals would have been able to outperform the Ministry's wait-time targets, as explained in **Sections 4.4.1 and 4.4.2.**

4.4.1 MRI Scans

Between 2013/14 and 2017/18, the Ministry's annual funding for MRI operations increased by about 3%, from \$152 million to \$157 million. Staff at two of the four hospitals where we conducted audit work informed us that they used part of their global budgets to run their MRI machines for additional hours, but not all hospitals we spoke to could find the funds they needed to do this.

In 2017/18, the Ministry funded Ontario hospitals for a total of 473,000 MRI hours based on a funding model of \$385/hour for the first 2,080 hours and \$260/hour thereafter. The Ministry also provided one-time funding to support an additional 28,000 hours, for a total of 501,000 operating hours. The hospitals, meanwhile, operated a total 523,511 MRI hours, or 22,511 hours beyond the number funded by the Ministry. Even though the hospitals were operating their MRIs for more hours than the Ministry funded, the

machines were still operating at only 56% of their maximum capacity.

We found that while many of the hospitals were not running their MRI machines at the maximum, a few others were running their machines close to the maximum. Overall, we noted that in 2017/18, of the 108 MRI machines, 69% (75 machines) were run below 16 hours a day, seven days a week; 29% (31 machines) were run between 16/7 and 23/7; and the remaining 2% (two machines) were kept running more than 23/7. For example, one of the four hospitals where we conducted audit work had high wait times (134 days for non-urgent patients), but was operating its MRI machines only 11 hours, six days a week—that is, at 39% of maximum capacity.

We also noted that in order to have completed 90% of scans within the Ministry's wait-time target at the end of 2017/18 and to have cleared the backlog from prior years, the hospitals would have had to operate their MRI machines a total of 585,273 hours—514,579 hours for incoming requests received during the year and another 70,694 hours to clear the outstanding requests for MRI scans accumulated prior to 2017/18. However, the hospitals provided 61,762 fewer hours than the number of hours required.

Given that the hospitals were unable to clear the existing backlogs and meet the Ministry's wait-time targets for the 2017/18 fiscal year, CCO projected that, for the following year, hospitals would need to run their MRI machines a total of 655,708 hours—576,288 hours to handle all the incoming requests received during the year and another 79,420 hours to clear the outstanding requests accumulated prior to 2018/19. These 655,708 hours are equivalent to an additional \$34 million in funding (at a rate of \$260/hour) for 132,197 hours (655,708 minus 523,511) assuming, for 2018/19, hospitals operate the same number of MRI hours as in 2017/18. At the time of our audit, the Ministry did not have a plan to increase its annual funding to hospitals.

4.4.2 CT Scans

On average, all 165 CT machines were operated over 530,000 hours in 2017/18, or at approximately 37% of maximum capacity, despite long wait times. CCO does not have a predictive model to estimate the number of hours needed to achieve the Ministry's wait-time target for 90% of patients referred for CT scans, as was done for MRIs, discussed in the previous section.

RECOMMENDATION 3

To better utilize the existing MRI and CT machines and reduce wait times for services, we recommend that the Ministry of Health and Long-Term Care work with Cancer Care Ontario and hospitals to:

- assess whether the existing unused capacity at each hospital can be used to address existing backlogs from prior years and new requests for scans received by the hospital:
 - for MRI machines; and
 - for CT machines; and
- prepare a detailed action plan to better utilize the existing machines to improve wait times:
 - for MRI services; and
 - for CT services.

MINISTRY RESPONSE

The Ministry of Health and Long-Term Care supports this recommendation and will work with Cancer Care Ontario, Local Health Integration Networks and hospitals to assess machine capacity and prepare an action plan to better utilize capacity to address wait times, with consideration given to geographical differences.

4.5 Ministry Unable to Justify Funding Method for Scans That Has Remained Unchanged for Over 10 Years

We noted that the Ministry's funded hourly rates for MRI and CT services have remained unchanged for over a decade. It has not formally reviewed or revised the hourly rates since 2006. We also found that although hospitals self-report costing information that would allow the Ministry to calculate the average cost per scan, the Ministry has not used this information, together with other attributes such as demand, capacity and complexity of scans, to analyze and assess whether the current hourly rate is appropriate.

4.5.1 Ministry Unable to Justify Its Funding per MRI Machine

The Ministry was unable to justify why the allocation of MRI funding for each machine is appropriate. In 2006, the Ministry standardized its funding formula to provide all machines 2,080 hours at the hourly rate of \$385 and thereafter at \$260 per hour. However, we noted that the Ministry funds approximately 20% of MRI machines (22 out of 108 machines) for between 3,120 hours and 4,160 hours operating time per machine at the rate of \$385 per hour. The Ministry did not adjust the funding for these 22 machines, resulting in a higher annual funding of between \$130,000 and \$260,000 per MRI machine since then.

As well, we noted that hospitals self-report costing information, which indicated that the average cost per MRI scan decreased from \$143 in 2013/14 to \$128 in 2017/18. Cost per scan varies by hospital because it depends on factors such as the types of scans and patients, and the time taken for each scan. Because of these factors, the average number of scans performed within an hour also varies between hospitals. For example, if in one hour an average of 1.6 MRI scans are performed (provincial average as reported by CCO), the \$128 cost per

scan is equivalent to \$205 per operating hour. However, the Ministry has not used this information to analyze and assess whether the current hourly rate of \$385 (for the first 2,080 hours) and \$260 (for operating hours over and above 2,080) are appropriate.

While the Ministry's one-time funding of \$7.3 million in 2017/18 and \$6.9 million in 2018/19 was allocated based on projected demand by LHINs, its allocation of annual funding of \$157 million among hospitals is primarily based on the number of hours each machine was funded historically. The allocation of annual funding does not incorporate the following key attributes at each hospital:

- Demand for scans at each hospital—the number of MRI orders received and the regional demographic and population needs vary by hospital.
- Complexity and types of scans performed—some scans take longer than others to perform or to interpret. For instance, a scan requiring contrast material takes on average 40 minutes and requires at least two technologists on site, whereas other scans take on average 20 minutes and require only one technologist on site. (The contrast material is a chemical substance called Gadolinium, injected into the patient to obtain enhanced images for certain types of scan.) Cardiac scans are also complex scans that take significantly longer than other scans.
- Unused MRI capacity within the hospital—allocation of the funding across hospitals does not consider the available capacity in operating hours at each hospital based on the number of machines it runs. We noted that throughout the year the Ministry and LHINs do not consistently track available capacity in each hospital to optimally allocate funds across hospitals. For instance, we were informed that one hospital could not utilize additional funds it received from the LHIN since it was already operating its MRI

machine at maximum capacity and could not perform more scans.

Wait times are lengthened when hospitals with high demand for scans are not funded according to the actual cost of meeting the demand, and when hospitals with available capacity lack the funds to put this capacity to use. Hospitals' priorities may also be distorted by these funding inequities, as they may lack the incentive to perform complex scans requiring more resources.

4.5.2 Ministry Has Not Reviewed Appropriateness of Its Funding to Hospitals for CT Scans for More than 10 Years

Hospitals self-report costing information, which indicated that the average cost per CT scan decreased from \$70 in 2013/14 to \$64 in 2017/18. For example, if in one hour an average of 2.87 CT scans are performed (estimate based on data collected by CCO), the \$64 cost per scan is equivalent to \$181 per operating hour. However, the Ministry has not used this information, with other factors such as the increasing demand for CT services, to analyze and assess whether the current hourly rate of \$250, or the total of \$9 million funding to hospitals, is appropriate.

RECOMMENDATION 4

To help ensure the method used to fund hospitals for their MRI and CT machines is appropriate, we recommend that the Ministry of Health and Long-Term Care work with Local Health Integration Networks to:

- collect complete and relevant information on demand, capacity and types of scans and performed by each hospital:
 - for MRI services; and
 - for CT services; and
- use the information collected to regularly assess the reasonableness of the funding rates and allocations to each hospital and make any necessary adjustments:

- for MRI services; and
- for CT services.

MINISTRY RESPONSE

The Ministry of Health and Long-Term Care (Ministry) supports this recommendation and will work with partners to determine and collect relevant information for MRI and CT services, and conduct an initial and regular review of existing funding approaches for MRI and CT services with adjustments made as necessary. In addition, the Ministry will work with Local Health Integration Networks to support the regular monitoring of utilization to make necessary funding adjustments.

4.6 Wait Times for Patients to Receive an MRI or CT Scan Are Higher than Publicly Reported for Selected Hospitals

To understand current real wait times and compare them to the publicly reported average wait times we note in **Section 2.4**, we asked staff at four selected hospitals what appointment dates were currently being provided to non-urgent patients, to obtain an understanding of how long a patient can expect to wait once the hospital has received his or her requisition form. Our analysis shows that wait times are higher than publicly reported for patients who were referred to receive an MRI or CT scan at these hospitals.

We obtained wait lists as of July 12, 2018 (we chose that day to ensure we compared all the wait lists at the same time point) from three of the four hospitals where we performed audit work. The fourth hospital was unable to generate the wait list in a similar report format for the purpose of our analysis, due to data quality issues resulting from a recent system implementation. A wait list contains, among other things, patients' information, the date of their referrals for MRI or CT scans and their appointment dates (when scheduled).

From our analysis of the three hospitals, we found that:

- One hospital was not giving appointment dates to over 90% of the non-urgent patients who were referred to this hospital and waiting for MRI and/or CT scans. At the time of our audit, this hospital did not give appointment dates to these patients when they were first referred by their physicians. The fact that this hospital was not scheduling any appointments for these patients, which is very important for patients and referring doctors to know, was not communicated to the public.
- Another hospital had not given appointment dates to 45% of the non-urgent patients who were waiting for MRI scans. We noted that this hospital was not giving appointments to non-urgent patients who were waiting for scans requiring contrast agent (used for generating clearer images in specific body parts).
- Although the third hospital had given appointments to all non-urgent patients who were waiting for MRI and/or CT scans, more than 85% of these patients were waiting in excess of the average wait time reported to the public.

Refer to **Appendix 9** for our detailed analysis.

As shown in **Appendix 5**, which lists the advantages and disadvantages of five different measures—average (mean), median, 90th percentile, date ranges and real-time wait time—it is important to provide patients with the picture of their potential wait times that they can find most useful. This information is critical in allowing patients and their physicians to make informed decisions on diagnosis and treatment.

Before December 2017, the Ministry used to publicly report on wait times using the 90th percentile, which is the target set by the Ministry, as recommended and advised by clinical experts. Since then, Health Quality Ontario (HQO) started to report through its website on the average (mean) wait time and the percentage of patients scanned within

the Ministry target for each individual priority level and for all priorities combined. The reason stated for the change was that a user survey revealed that patients and caregivers want to know how long they can expect to wait (that is, the typical wait or average for similar patients) and whether patients in Ontario receive timely care. The survey results also revealed that these new measures were easier for the public to understand than the 90th percentile figure.

The 90th percentile is an important measure of the Ministry's progress, but neither it nor the average informs patients how long they are likely to wait for their scans. The usefulness of these measures is further diluted by the percentage of non-urgent patients who have been scanned within 28 days as a result of anomalies in the system (as explained in **Section 4.1**).

As noted in **Section 4.1.2** and **Figure 6**, an alternative reporting method is to state wait times in day ranges by number and percentage of patients on the list. This method has the advantage of representing every patient who has received a scan in a hospital. Therefore, it provides a more complete picture of how many patients waited in the past and for how many days.

These three methods—the average wait times reported to the public, the 90th percentile wait-time targets and wait-time day ranges—are all based on how long patients have waited to have their scans completed. In other words, the data used is a record of past performance. An alternative to methods that involve providing information on past performance is for hospitals to provide real-time information on patients' expected wait times to CCO for public reporting. The real-time wait time reflects the next available appointment date that patients can expect to get, and its calculation changes according to a patient's real position along his or her journey to receive a scan. It can therefore provide specific and useful information to patients and their physicians, and give the health-care system a more reliable picture of expected patient flow.

For patients to use the information provided, they first must be aware that it exists. With assistance from hospital staff, we conducted a survey at the four hospitals we visited by asking patients who came in for MRI/CT scans, over one to two days, if they were aware that hospitals' wait time information is publicly available. We found that very few patients were aware that they could access wait-time information:

- **MRI patients:** Overall, only 5% of the MRI patients surveyed were aware they could view MRI wait-time data by hospital. Of the 5% of the patients who were aware of the HQO website, 10% visited the website and found that the information was useful in planning their treatment.
- **CT patients:** Overall, only 3% of the CT patients surveyed were aware they could view CT wait-time data by hospital. Of the 3% of the patients who were aware of the HQO website, 20% visited the website, none of whom found that the information was useful in planning their treatment.

RECOMMENDATION 5

To better assist patients and physicians in making informed decisions, we recommend that the Ministry of Health and Long-Term Care:

- assess the advantages and disadvantages of various wait-time reporting methods;
- publicly report complete and relevant wait-time information by hospital, such as the percentage of patients scanned within various wait-time ranges and the next available appointment date a patient who is on a hospital's wait list would expect to receive a scan; and
- work with other health providers to increase public awareness of the availability of the wait-time information on Health Quality Ontario's website.

MINISTRY RESPONSE

The Ministry of Health and Long-Term Care (Ministry) supports this recommendation and will assess various wait-time reporting methods, options for expanded data collection and enhancing public reporting. The Ministry also welcomes the opportunity to increase public awareness of wait-time reporting.

4.7 Use of Scanning Machines Past Their Expected Service Life Could Affect Patient Safety as Well as Quality and Efficiency of Scans

To track when MRI and CT machines are due to be replaced, the Canadian Association of Radiologists (Canadian Radiologists) provides guidelines to define these machines' life expectancy. According to the guidelines, life expectancy for an MRI or a CT machine ranges from eight to 12 years, assuming no upgrades are made to the machine, and depends on the number of hours per year it is run and number of scans per year. **Figure 14** shows the number of MRI and CT machines in Ontario by age as well as the number of machines past their expected service life, assuming no upgrades are made, as of March 2018.

4.7.1 Forty-Nine, or 30%, of CT Machines in Ontario Are Past Their Expected Service Life

The radiologists we interviewed in the course of our audit stressed the clinical value of CT scans. Nevertheless, potential impacts on patient safety are a concern with older CT machines. Our audit found that, as of March 2018, of the 165 CT machines in hospitals, 49, or 30% of them, were past their expected service life as determined by the guidelines developed by the Canadian Radiologists. CCO, on behalf of the Ministry, keeps track of the age of each CT machine; however, it does not know how many of these 49 CT machines may have been upgraded and therefore might have had their service life extended or their radiation dosage reduced.

The Ministry does not directly fund the acquisition of CT machines. Instead, hospitals fund their purchase either from their internal capital budget and/or with money raised by the hospital foundation. Therefore, it is the hospitals that are responsible for replacing their CT machines at the end of their service life.

CT machines past their service life are more likely to generate lower quality images than newer technologically advanced machines. Newer machines also scan patients more quickly. Older

Figure 14: Number and Percentage of MRI and CT Machines Past Their Expected Service Life, * as of March 2018

Source of data: Cancer Care Ontario

	Age (Year)				Total
	0-4	5-8	9-12	13-20	
MRI Machines					
# MRI machines by age	20	35	26	27	108
% MRI machines by age	19	32	24	25	100
# MRI machines past their expected service life	0	0	23	27	50
% of total MRI machines past their expected service life					46
CT Machines					
# CT machines by age	66	38	37	24	165
% CT machines by age	40	23	22	15	100
# CT machines past their expected service life	0	2	23	24	49
% of total CT machines past their expected service life					30

* According to the Canadian Association of Radiologists' guidelines, life expectancy for an MRI or a CT machine ranges from eight to 12 years, assuming no upgrades are made to the machine, and depends on the number of hours per year it runs and number of scans performed per year.

machines have more breakdowns and need more maintenance, which extends wait times and forces patients to reschedule their appointments. An important additional problem is that older CT machines, if not upgraded to reduce radiation dosage, can produce higher radiation than new machines for the same scan.

Based on our audit work at the four hospitals, we noted the following:

- One hospital acquired two CT machines in 2009. The hospital spent \$300,000 in late 2012 to upgrade the two machines, and then replaced one with a new machine in 2017. We were informed that for scans of similar body parts for a person of similar size, the radiation dosage from the new machine was 20–30% less than the older machine.
- The other hospital replaced its two CT machines, each approximately 10 years old, in fall 2017. The hospital radiologist informed us that for scans of similar body parts, similar sized patients received a radiation dose that was 30–40% less from the new machines.
- The remaining two hospitals were operating CT machines 10 to 12 years old. One hospital invested approximately \$300,000 to upgrade two machines, to operate them at a lower radiation dosage while still maintaining the quality of the scans. The other hospital did not upgrade its two CT machines to reduce dosage levels, but it has other processes in place to ensure the radiation dosages are kept as low as possible. It also informed us that it plans to replace one of the machines, which could potentially reduce radiation dosage by 20–80% for similar body parts and patient size.

RECOMMENDATION 6

To help ensure that CT machines are safe for producing images of the required quality, we recommend that the Ministry of Health and Long-Term Care work with hospitals to:

- establish provincial guidelines to help hospitals consistently plan in replacing or upgrading CT machines that are approaching the end of, or are past, their expected service life; and
- regularly monitor and analyze the impact on patient safety of using CT machines that are past their expected service life.

MINISTRY RESPONSE

The Ministry of Health and Long-Term Care (Ministry) supports this recommendation and will work in partnership with hospitals to gather the required data and determine the service life span of the CT machines. This would lead to more appropriate and timely flagging of replacements. The Ministry will also work with clinical experts to establish provincial guidelines, including looking to established national guidelines such as those developed by the Canadian Association of Radiologists.

4.7.2 Fifty, or 46%, of MRI Machines in Ontario Are Past Their Expected Service Life

Quality and efficiency of scans are issues with older MRI machines. We found that, as of March 2018, of the 108 MRI machines in hospitals, 46%, or 50 of them, were past their expected service life as determined by the guidelines developed by the Canadian Radiologists. Although CCO, on behalf of the Ministry, captures the number of MRI machines past their service life, it did not know how many of these 50 MRI machines might have been upgraded to extend their service life.

The same efficiency and quality problems that are associated with the use of older CT machines also affect older MRI machines.

Because the Ministry does not provide capital funding separately for MRI machines, it does not have a provincial capital plan in place for MRIs. Instead, the Ministry relies on each hospital to have its own capital planning process to determine when

and how a new MRI machine should be purchased and/or an old machine should be replaced. Based on our hospital visits, we noted that MRI machines can range from \$1.4 million to \$2.7 million, depending on the model and functionality. Hospitals fund their purchase from their internal capital budget and/or with money raised by the hospital's local community.

RECOMMENDATION 7

To help ensure that MRI machines produce quality images and operate efficiently, we recommend that the Ministry of Health and Long-Term Care work with hospitals to:

- establish provincial guidelines to help hospitals consistently plan to replace or upgrade MRI machines that are approaching the end of, or are past, their expected service life; and
- analyze the impact in areas such as quality and efficiency of using MRI machines that are past their expected service life.

MINISTRY RESPONSE

The Ministry of Health and Long-Term Care (Ministry) supports this recommendation and will work in partnership with hospitals to establish provincial guidelines to support enhanced planning for MRI machines' life cycles, including looking to established guidelines such as those from the Canadian Association of Radiologists. The Ministry will also analyze any impacts relating to using machines past their expected service life.

4.8 Hospitals' Tracking of CT Scans' Frequency of Use and Radiation Dosage per Patient Has Been Insufficient

As noted in **Section 4.7.1**, the radiologists we interviewed stressed the clinical value of CT scans, even when taking into account concerns over the impact

of radiation from the scans. However, the medical profession is aware of these concerns, particularly when it comes to pediatric patients who are the most vulnerable to the long-term effects of radiation. The main risk that is cited is the potential for this type of radiation to cause cancers. The potential risk for a given patient depends on the radiation dosage the patient receives from each scan and the frequency of scans over a specific period. As well, older CT machines, if not upgraded to reduce dosage, may emit higher amounts of radiation than newer machines, as discussed in **Section 4.7.1**.

We noted that the cumulative dosage levels per patient in Ontario are not tracked. Under the *Occupational Health and Safety Act*, occupational dosage limits are set for workers, including hospital staff, from any source of x-rays, including CT machines. However, no similar legislative requirement exist for patients in Ontario. We also noted that although CT machines capture the radiation dosage from each scan, neither the Ministry nor the four hospitals where we conducted audit work track each patient's cumulative dosage.

Outside the four hospitals, we noted that two other hospitals use software to track cumulative radiation levels from scans within their own facilities, but cannot track dosage from scans their patients receive outside their hospitals.

Wide variations in radiation dosage given to patients for similar scans in different hospitals are also a health concern. In 2014, Toronto's St. Michael's Hospital set up a radiation dosage registry to track data collected from each CT scan it did and compare its results with several other hospitals.

Health Quality Ontario's "Report and Recommendations on Modernizing Ontario's Radiation Protection Legislation" (2016) recommended a dosage registry system across hospitals along the lines of systems in use in the United Kingdom, California and elsewhere, to track radiation that patients receive from any type of medical equipment that emits radiation, including x-ray machines, as well as to compare radiation dosage per similar scan between hospitals.

RECOMMENDATION 8

To minimize the overall health effects on patients, and especially pediatric patients, from CT radiation, we recommend that the Ministry of Health and Long-Term Care work with hospitals to:

- evaluate the cost-effectiveness and feasibility of creating a CT dosage registry to track and monitor the radiation dosage patients receive during their lifetime; and
- use the dosage registry information to assess the impact of the variation across hospitals in dosage received from similar body scans.

MINISTRY RESPONSE

The Ministry of Health and Long-Term Care (Ministry) supports this recommendation. The Ministry will work with the appropriate stakeholders, including hospitals, to explore and assess the cost-effectiveness and feasibility for hospitals and facilities to collect and report the necessary data.

4.9 Hospital Booking and Scheduling of Appointments Could Be Improved

Cancer Care Ontario collects various efficiency metrics including booking turnaround time and patient no-show rate. Our audit found that improvement in the following areas could be made by hospitals to maximize the use of resources and improve patient experience.

4.9.1 Hospitals Mail Letters or Phone Patients to Notify Them of Their Appointments

Once hospital staff schedule an appointment for a patient, they inform the physician and/or patient of the appointment date, time and other details. We noted that three of the four hospitals where we

conducted audit work send letters to notify patients when their appointments are first scheduled. The fourth hospital phones patients directly. None of the four hospitals use email or other automatic systems that allow patients to confirm receipt of their appointment details electronically. Thus, the hospitals cannot be sure that all patients are aware of their appointments when they are first scheduled.

Then, to remind patients when their appointments are coming up and confirm with patients, three hospitals phone them (calls are either automated or in-person). The fourth uses an automated phone system or sends text messages when cell phone numbers are detected.

4.9.2 Patient No-Shows Are Costly but the Ministry and Hospitals Do Not Understand Why They Occur

When patients do not show up for an appointment or cancel it the same day, scanning machines can sit idle if hospitals are unable to fill the appointment slot quickly.

MRI Patient No-Shows

MRI no-show rates across hospitals, as reported to CCO, ranged from 0.1% to 13.4% of scheduled appointments for 2017/18. In 2017/18, hospitals reported a total of 48,320 missed MRI appointments—representing the number of additional patients who could have received a scan that year. We estimated that such no-shows cost the hospitals about \$6.2 million (48,320 patients × estimated \$128/scan) to pay mainly for staffing. All four of the hospitals where we conducted audit work agreed on the difficulty they face in scheduling around missed MRI appointments. One hospital's data showed that of the 24 no-shows it had in a sample week, it was only able to fill three slots.

None of the four hospitals where we conducted audit work routinely tracks the appointment confirmation rate. Based on our audit testing of data available at three of the four hospitals, we noted

that only 25–36% of the patients who received phone call reminders confirmed their appointment before the day of their scan. In comparison, 50% of the patients who received text messages confirmed their appointments. The fourth hospital did not have information available for our analysis at the time of our audit.

CT Patient No-Shows

CT no-show rates across hospitals reported to CCO ranged from 0.6% to 13% of scheduled appointments for 2017/18. In 2017/18, hospitals reported 57,916 CT appointment no-shows; however, we noted that they were able to fill these slots with little difficulty.

None of the four hospitals where we conducted audit work routinely tracks the appointment confirmation rate. Based on our audit testing of data available at three of the four hospitals, we noted that only 21–41% of the patients who received phone call reminders from the hospitals confirmed their appointment before the day of their scan, while 54% of the patients who received text messages confirmed their appointment. The fourth hospital did not have information available for our analysis at the time of our audit.

Reporting of No-Shows

Hospitals report their no-show numbers to CCO regularly. However, they are not required to record or report on how many of their no-shows they are able to replace with another patient (such as an in-patient or an emergency department patient), nor do the hospitals actively track and monitor this information to determine the amount of time machines are sitting idle.

CCO reports no-show rates back to the hospitals to monitor as an efficiency metric. We noted that CCO could improve the relevancy of this metric if it were coupled with other patient demographic information (such as age and gender) and scan procedure to provide hospitals with insight on factors affecting the no-show rates in their local

patient populations. Although this information is available at CCO, it is not provided to the hospitals unless requested.

When we asked CCO to compile no-show rates by patient age, we found that patients aged 19–29 had a higher no-show rate in 2017/18 than other age groups, at 12%. This group might be more reachable with alternative communication methods or technology such as email and text messaging.

As well, we noted that all four hospitals where we conducted audit work do not routinely track the reasons for no-shows. Thus, even though the hospitals recognize the problem, they do not fully understand the reasons behind it and can do little to influence the trend. Hospital staff indicated that patients are less likely to remember appointments the more distant in the future the date is. As a result, one hospital schedules patients no earlier than a month before the next available appointment slot. We noted, though, that this has other implications for patients, discussed in **Section 4.9.3**.

RECOMMENDATION 9

To help improve efficiency of booking and scheduling of MRI and CT scanning appointments and minimize patient no-shows, we recommend that hospitals:

- formally track the reasons for patient no-shows and develop strategies to reduce their prevalence; and
- track confirmation rates to assess the effectiveness of the existing notification and reminder systems to determine if a more user-friendly technology, such as automatic confirmation through email or text messaging, should be used.

RESPONSE FROM HOSPITALS

The hospitals agree that there need to be measures in place to establish effective and efficient processes to mitigate no-shows and to determine best practices in resource utilization. Hospitals recognize the importance of

implementing measures or processes to advise patients of their responsibilities and allow hospitals the opportunity to reach successful outcomes in having patients attend their appointments as scheduled.

The hospitals are supportive and will assess the effectiveness of their processes to mitigate no-shows on a regular basis, by tracking reasons for no-shows and patient demographics. These reviews will allow hospitals to strategize best practices that would include new technologies and processes to improve outcomes. Hospitals will work with their Information Technology departments as well as Communications and Privacy Offices on technologies that can improve access to patients through various user-friendly technological means such as emails, texting, automated mail-outs or interactive voice response systems.

The hospitals agree that patient no-shows have negative implications on operations, access and patient management, with a potential for lost revenues and increasing wait times. These challenges require hospitals to continue to find better opportunities to reduce no-show rates. Regular reviews do provide such opportunities, as well as working with their Local Health Integration Networks in seeking best practices from other hospital sites.

4.9.3 Some Hospitals Have a Large Number of Patients Waiting To Receive MRI Appointments

In 2017/18, while schedulers at hospitals were able to schedule urgent and semi-urgent requests within two days, they took an average of 18 calendar days to schedule non-urgent requests and notify the patients of their appointment date and time. The average of 18 calendar days is over twice as long as the seven calendar days recommended by Cancer Care Ontario.

Of the four hospitals where we conducted audit work, three had a significant number of patients

who were waiting to receive MRI appointments; on average, at 15, 28 and 197 days, in scheduling incoming non-urgent scan requests for 2017/18. The hospital with the largest backlog indicated that it schedules patients for their appointments approximately a month before the next available open date, rather than as soon as possible, to minimize the number of appointments being re-scheduled during the long waits. However, this increases patients' anxiety as they are waiting longer to receive their appointment details and times. This also impacts their ability to plan their treatment with their physicians. The same three hospitals indicated that they lack sufficient resources, such as staffing, to schedule appointments on a timely basis.

RECOMMENDATION 10

To help ensure that patients receive the dates of their MRI appointments as soon as possible, we recommend that hospitals establish an effective process to monitor incoming scan requests and schedule appointments on a timely basis.

RESPONSE FROM HOSPITALS

Hospitals acknowledge the importance in notifying patients of appointments in a timely manner and the monitoring of incoming MRI scan requests. Hospitals generally attempt to provide timely notification of appointments. However, there are occasions where capacity to perform the requested examination becomes an issue. One hospital with a high backlog in notifying patients of their appointments in a timely manner is currently working with its new Healthcare Information System vendor to develop notification strategies that would confirm their appointments, or when capacity is an issue, confirm receipt of their referrals along with a current anticipated wait time.

4.10 Province-wide Peer Review Program Not Mandatory across Ontario Hospitals

The Canadian Association of Radiologists (Canadian Radiologists) describes peer review as a process of self-regulation by a profession or of evaluation involving qualified individuals within the field. Peer review is used to maintain standards, improve performance and provide credibility. The Canadian Radiologists recommend that a radiology department's overall quality assurance program should incorporate peer review to enhance the consistency and accuracy of radiology services and thus improve the quality of care for patients.

Nevertheless, not every Ontario hospital that provides MRI and/or CT scanning services has a regular peer review program. In 2013, an external review of a radiologist's work at Trillium Health Partners found errors in his interpretation of 645 CT scans over the course of one year, some of which involved undiagnosed cancers. In December 2013, the Minister of Health and Long-Term Care requested that Health Quality Ontario (HQO) and its health partners “lead the implementation of a province-wide physician peer review program in all facilities where diagnostic imaging services are provided, including mammograms and CT scans.”

The 2016 report “Peer Review: A Diagnostic Imaging Quality Initiative for Ontario” outlined an implementation plan for a province-wide peer review program. The report's recommendations for a mandatory peer review program included that it should be integrated, standards-based, consistent, focused on learning and education, accountable and sustainable. As of June 2018, HQO had developed a toolkit to support implementation of peer review programs in five community hospitals for their staff radiologists, and planned to expand this pilot program to 14 hospitals by the end of 2018/19. HQO indicated to us there has been no expectation set by the Ministry that the program will be mandatory for hospitals, and that it does not have the authority to “require” all hospitals to participate in this program.

The Ministry still does not have a complete list of the hospitals with regular peer review programs among those that provide scanning services. In 2014, when the Ontario Hospital Association surveyed Ontario's 155 hospitals, only 85 responded to the question asking if they had a peer review program; 41 of them had these programs in their diagnostic imaging departments.

Three of the four hospitals where we conducted audit work have peer review programs in place for reviewing both MRI and CT scans and the associated radiologist reports. The fourth had conducted several trial peer reviews but was not doing them on a regular basis.

In conducting a peer review, a colleague reviewer re-examines a sample of a practising radiologist's scans and compares the results with the radiologist's reports on those scans. This has the benefit of evaluating the end product of the radiologist's work—an assessment of performance in practice that is hard to accomplish in many other medical specialties. Peer reviews therefore give radiologists and hospitals the opportunity to improve quality assurance and maintain the value of radiologists' expertise.

RECOMMENDATION 11

To help improve quality of diagnostic results across Ontario hospitals, we recommend that the Ministry of Health and Long-Term Care work with Health Quality Ontario to clarify their expectation and timeline for hospitals to implement a formal and regular peer review program of diagnostic results in hospitals.

MINISTRY RESPONSE

The Ministry of Health and Long-Term Care (Ministry) supports this recommendation and will continue to work with Health Quality Ontario (HQO) to implement a formal and regular peer review program of diagnostic results in hospitals.

To achieve this, and to inform appropriate expectations and implementation timelines, the Ministry and HQO will continue to seek advice from hospitals and clinical expert groups.

4.11 Hospitals Did Not Consistently Assess Whether All Referrals for MRI and CT Scans Were Clinically Necessary

Research organizations and stakeholder groups we interviewed during our audit, including the Ontario Association of Radiologists, estimated that inappropriate scan referrals in Ontario—meaning, those that are not clinically necessary—range from 2% to 12%.

The Canadian Association of Radiologists recognizes that the appropriateness of performing an MRI or CT scan relies on having evidence based on clinical indications to support the request for the scan. A scan that is unlikely to improve patient outcomes is considered inappropriate. Inappropriate use of scans puts unnecessary financial strain on the system and increases wait times for patients who really need the scans. There are also risks for patients who are given scans they may not have needed. Radiologists sometimes make incidental findings (unexpected findings that the referring physician did not refer for). Many of these are benign, but they may still lead to a series of further scans and investigations, and anxiety for the patient. In some cases, investigating these findings may require invasive medical procedures.

Academic research on medical imaging has found that ordering inappropriate scans is a problem for the medical system. A recent Canadian review of studies on this issue with MRI scans found results for inappropriate scans ranging from 2% to as high as 28.5%, depending on the body part, age and location of the patient, and design of the study. A Canadian study released in 2018 examined approximately 1,000 MRI scans for various body parts along with the indications for imaging given on the physicians' requisition forms. The study

assessed each scan according to the Canadian Association of Radiologists' referral guidelines, and found 6% to 12% to be inappropriate.

Radiologists in the Champlain LHIN estimated the percentage there at 5% to 15%. At the four hospitals where we conducted audit work, the chief radiologist or other radiologists are responsible for deciding the level of priority for each incoming referral, rejecting those they deem inappropriate or obtaining further clarifications from the referring physicians on the need for a scan. However, none of the hospitals kept track of the number of referrals they rejected as inappropriate.

The radiologists we interviewed agreed that the likelihood of an inappropriate referral depends on the body part and age of the patient, particularly in the absence of other clinical indicators, or "red flags." For example, a physician should not routinely refer patients with only lower back pain for imaging, unless there are reasons to suspect serious underlying clinical issues. Chronic knee pain in patients over the age of 55 is another such example where MRI or CT scans may not be clinically necessary.

To support that consensus, the Waterloo Wellington LHIN completed a case study in 2017 that found that of 650 patients older than 55 with knee pain, 221 had completed a pre-consult MRI scan. A review of these cases found that 77% of the 221 scans were considered inappropriate. Building on this work, an electronic referral system incorporating a decision support tool reduced the number of inappropriate MRIs by 12%.

To limit the number of inappropriate scans being requested, the Canadian Association of Radiologists issued its Diagnostic Imaging Referral Guidelines in 2012 as a resource for physicians. It intends these guidelines to assist physicians in making decisions, but not to restrict their role in deciding on the imaging studies they request.

Hospitals that have scanning services have also been studying whether to provide similar clinical decision support to requesting physicians. The Champlain LHIN centralized intake system (as

mentioned in **Section 4.3**) will include decision support tools and clinical pathways to help guide referring physicians in their ordering practices to improve appropriateness of the requests. A clinical support tool is used for this purpose by hospitals in the United States.

RECOMMENDATION 12

To better ensure that referrals for MRI and CT scans are clinically necessary, we recommend that the Ministry of Health and Long-Term Care work with Local Health Integration Networks and hospitals to:

- develop effective tools such as standardized requisition forms with applicable checklists to minimize the number of inappropriate requests for scans; and
- ensure that radiologists at hospitals assess and track MRI and CT requests, and implement practices that improve adherence to the appropriateness guidelines.

MINISTRY RESPONSE

The Ministry of Health and Long-Term Care supports this recommendation and will work with Local Health Integration Networks, hospitals and clinical experts to develop and implement tools and best practices to minimize the number of inappropriate referrals for scans. The Independent Health Facilities Program will consult with key partners and licensees to consider how it might be possible to implement these recommendations.

4.12 Standardized Hourly Rates and Performance Measures Are Lacking in Ministry Agreements with Independent Health Facilities

Our audit found that, for both MRI and CT scans, standardized hourly rates and wait-time performance measures are lacking in Ministry agreements

with independent health facilities (IHF), as detailed in **Sections 4.12.1** and **4.12.2**.

Also, the Ministry has not compared the practices in providing similar scanning services by both the IHF and hospital sectors to identify areas, such as hourly rates and peer review, for further improvement. For example, all IHFs licensed under the *Independent Health Facilities Act* (Act) are required to perform regular peer review, whereas a province-wide formal peer review program still has not been fully implemented in hospitals, as discussed in **Section 4.10**.

IHF are either for-profit or not-for-profit organizations located in communities throughout Ontario that provide certain health-care services, including MRI and CT services, at no charge to patients insured under the Ontario Health Insurance Plan. Their purpose is to provide Ontarians with increased access to health-care services outside of hospitals. The Ministry is responsible under the Act for licensing, funding and co-ordinating quality assurance assessments of these IHFs.

In order to receive funding under the Act, these licensees sign an agreement with the Ministry to establish the annual budget. The IHFs must submit monthly service reports to the Ministry that detail the number of hours of services delivered. The year-end reconciliation process is based on the actual service hours rendered, the types of services provided and the daily operating hours; the Ministry may recover any overpayments.

Over the three fiscal years ending 2017/18, the Ministry funded seven IHFs a total annual average of \$8.6 million for MRI services and \$2.6 million for CT services. In 2017/18, the IHFs with a total of six MRI and two CT machines performed about 48,000 MRI and 11,320 CT scans, excluding the number of scans performed by another two CT machines where information had not been reported to Cancer Care Ontario at the time of our audit.

4.12.1 MRI Scans

Three licensees with five IHFs operate a total of six MRI machines. A list of these IHFs with their corresponding wait-time information is shown in **Appendix 10**. We found the following issues:

- The Ministry's agreed hourly rates with these IHFs varied significantly: the rate paid for an MRI scan at one IHF can be as high as 175% the rate paid for a similar scan at another IHF. These rates were established in 2003 as a result of successful bids submitted to the Ministry in response to request for proposals for the provision of licenced MRI services, as set out under the Act. The Ministry still pays the same rates in 2018. The Ministry does not know the actual cost per scan performed outside of hospital so it cannot know whether the rates it currently pays the IHFs are reasonable.
- All five IHFs are currently contracted to provide wait-time information to Cancer Care Ontario. However, their contracts with the Ministry do not require them to achieve any of the provincial wait-time targets that are expected from Ontario hospitals. In 2017/18, none of these IHFs met the provincial wait-time target of 28 days.

4.12.2 CT Scans

Three licensees with four IHFs operate four CT machines in various locations across the province (see **Appendix 10**). We found similar issues as discussed previously in **Section 4.12.1** as follows:

- The Ministry's agreed hourly rates with these IHFs varied: the rate paid for a CT scan at one IHF can be as high as 280% the rate paid for similar scan at another IHF. These rates were established in 2003 as a result of a request for proposals process mentioned in **Section 4.12.1**. The Ministry still pays the same rates in 2018. Again, the Ministry does not know the actual cost per scan per-

formed outside of hospital so cannot know whether the rates it currently pays the IHFs are reasonable.

- Only two of the four IHFs are currently contracted to provide wait-time information to Cancer Care Ontario, although they are not contracted to achieve the wait-time targets. In 2018/19, the Ministry began funding the two other IHFs to establish the capability and start reporting their wait times as well.

RECOMMENDATION 13

To help ensure that payments to independent health facilities (IHF) for MRI and CT services are cost-effective, we recommend that the Ministry of Health and Long-Term Care:

- review the existing hourly rate paid for scanning services delivered by each IHF and determine whether the rates are appropriate based on the types of scans, cost per scan and the service volume each IHF performs; and
- establish performance measures, such as wait-time targets, and incorporate these measures into future contracts with all IHFs.

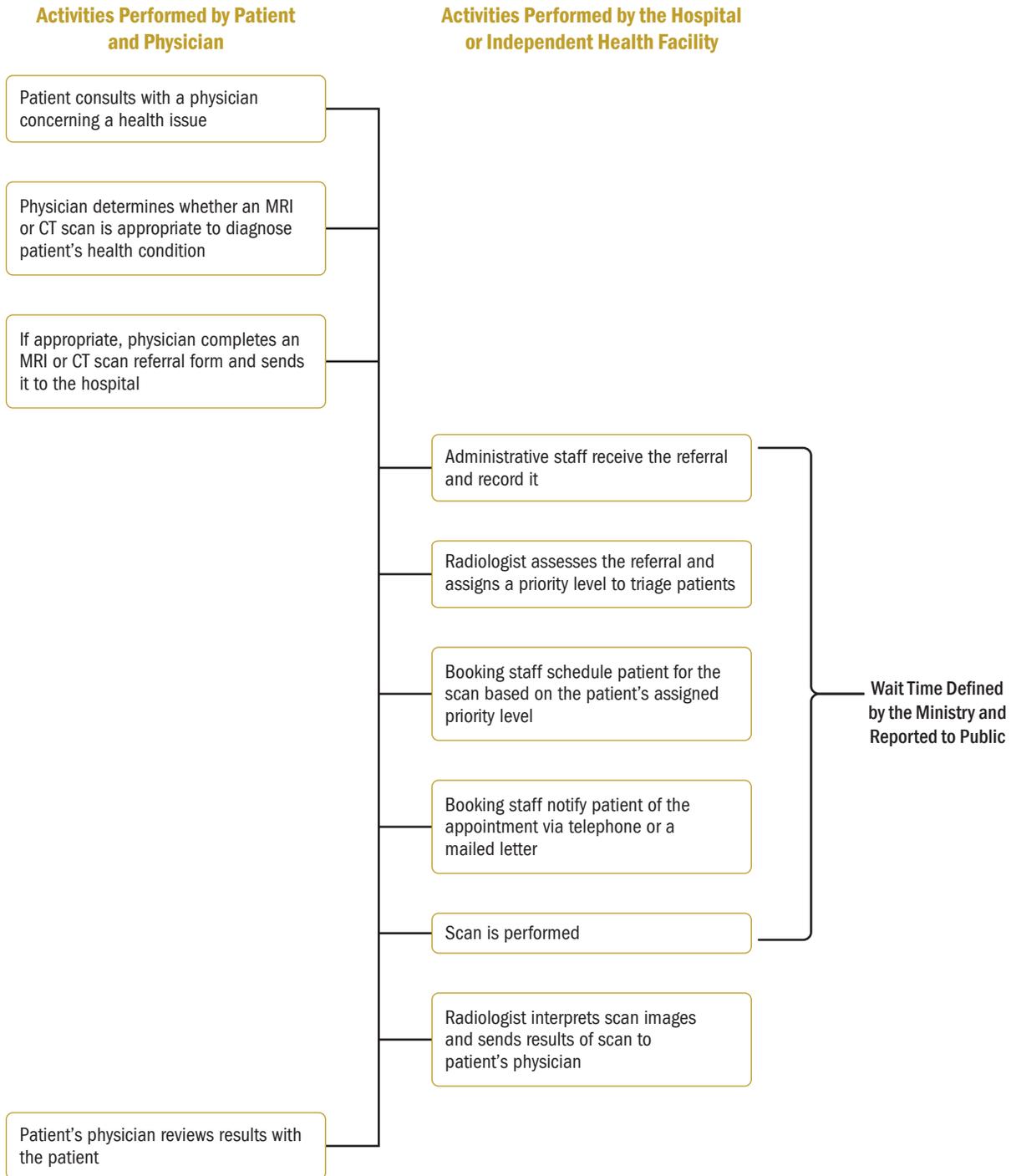
MINISTRY RESPONSE

The Ministry of Health and Long-Term Care will undertake a review of the hourly rate paid for MRI and CT services and will undertake a review of MRI and CT independent health facilities' transfer payment funding agreements to consider:

- how to implement a consistent, clear and evidence-based approach to setting facility-fee rates for MRI and CT service delivery;
- a potential adjustment to existing MRI and CT facility-fee rates to align with this approach; and
- an analysis and integration of applicable performance measures, including wait-time targets, associated with the provision of services.

Appendix 1: A Patient's Journey in Receiving an MRI or CT Scan and the Wait Time as Defined by the Ministry of Health and Long-Term Care (Ministry)

Prepared by the Office of the Auditor General of Ontario



Appendix 2: Key Facts Regarding MRI and CT Machines

Source of data: Ministry of Health and Long-Term Care

	MRI Machine	CT Machine
How it works	<ul style="list-style-type: none"> • Uses a magnetic field and pulses of radio waves to produce images of areas inside the body 	<ul style="list-style-type: none"> • Combines a series of x-ray images taken from different angles and uses a computer to create cross-sectional images (slices) of a patient's body
Best use	<ul style="list-style-type: none"> • Soft tissues (e.g., ligaments, tendons, organs, tumours) 	<ul style="list-style-type: none"> • Bones and areas with lots of movement (e.g., chest and abdomen) • Often used to monitor cancer patients
Scanning time	<ul style="list-style-type: none"> • 20 minutes to 60+ minutes 	<ul style="list-style-type: none"> • A few minutes
Patient safety	<ul style="list-style-type: none"> • Does not use any radiation • Due to strong magnetization, MRIs are not safe for patients with metal in their body, such as pacemakers, metal plates or screws • Extra precautions are taken with patients who have medical implants • Patient or delegate must respond to all questions regarding safety protocols before obtaining a scan 	<ul style="list-style-type: none"> • Patients are exposed to radiation emitted from each scan completed • Patients with metal in their body can get CT scans
Patient comfort	<ul style="list-style-type: none"> • Painless; possible discomfort if patient is sensitive to small enclosed spaces • Depending on length of scan, patient may have to stay still for a long time, which can be difficult • Very loud; patients are given earplugs to block the noise as much as possible 	<ul style="list-style-type: none"> • Painless; possible discomfort if patient is sensitive to small enclosed spaces

Appendix 3: Number of MRI Machines¹ and Wait Times, by Ontario Hospital, March 2018

Source of data: Cancer Care Ontario

Hospital	Hospital Type	# of MRIs	Non-urgent Patients' Wait Times, at 90th Percentile, ² 2017/18 (# of Days)
Central LHIN			
Humber River Hospital	Community	2	142
Mackenzie Health ³	Community	2	134
North York General Hospital	Teaching	2	134
Markham Stouffville Hospital Corporation	Community	2	76
Southlake Regional Health Centre	Community	2	62
Central East LHIN			
The Scarborough and Rouge Hospital	Community	3	88
Lakeridge Health Corporation ⁴	Community	3	66
Peterborough Regional Health Centre	Community	1	53
Ross Memorial Hospital	Community	1	50
Northumberland Hills Hospital	Community	1	25
Central West LHIN			
William Osler Health System ⁵	Community	4	Not Reported
Champlain LHIN			
Ottawa Hospital ³	Teaching	4	249
Cornwall Community Hospital	Community	1	122
Hôpital Montfort/Montfort Hospital	Teaching	2	116
University of Ottawa Heart Institute	Teaching	1	88
Queensway Carleton Hospital	Community	2	81
Children's Hospital of Eastern Ontario-OCTC	Teaching	2	63
Pembroke Regional Hospital	Community	1	42
Erie St. Clair LHIN			
Windsor Regional Hospital	Community	2	119
St. Joseph's Health Services Association of Chatham	Community	1	61
Bluewater Health	Community	1	28
Hamilton Niagara Haldimand Brant LHIN			
Niagara Health System ⁴	Community	2	117
Brant Community Healthcare System	Community	1	91
Hamilton Health Sciences Corp	Teaching	5	90
Joseph Brant Hospital	Community	1	82
St. Joseph's Healthcare Hamilton ^{3,5}	Teaching	4	Not Reported
Mississauga Halton LHIN			
Trillium Health Partners	Community	4	127
Halton Healthcare Services	Community	4	66

Hospital	Hospital Type	# of MRIs	Non-urgent Patients' Wait Times, at 90th Percentile, ² 2017/18 (# of Days)
North East LHIN			
Health Sciences North ³	Teaching	1	119
North Bay Regional Health Centre	Community	1	71
Timmins and District Hospital	Community	1	66
Sault Area Hospital	Community	1	57
North Simcoe Muskoka LHIN			
Royal Victoria Regional Health Centre	Community	2	64
Orillia Soldiers' Memorial Hospital	Community	1	56
North West LHIN			
Thunder Bay Regional Health Sciences Centre	Teaching	3	103
South East LHIN			
Kingston Health Sciences Centre	Teaching	1	136
Quinte Healthcare Corporation	Community	1	39
South West LHIN			
London Health Sciences Centre	Teaching	4	158
Grey Bruce Health Services	Community	1	59
St. Joseph's Health Care London	Teaching	3	55
Woodstock General Hospital	Community	1	44
Stratford General Hospital	Community	1	40
Toronto Central LHIN			
Sunnybrook Health Sciences Centre ⁴	Teaching	3	284
Hospital for Sick Children ⁴	Teaching	4	174
Sinai Health System	Teaching	2	139
University Health Network ⁴	Teaching	7	128
St. Michael's Hospital–St. Joseph's Health Centre Toronto	Teaching	4	119
Women's College Hospital	Teaching	1	75
Toronto East Health Network	Community	1	70
Waterloo Wellington LHIN			
Cambridge Memorial Hospital	Community	1	80
Grand River Hospital Corp	Community	1	66
Guelph General Hospital	Community	1	65
Total # of MRIs		108	

1. Excludes those machines used solely for research purposes.
2. Wait times are measured as the maximum amount of time in which 90% of patients have received their MRI scans.
3. Hospitals that we visited where we conducted detailed audit work.
4. Hospitals that we visited and met with their senior representatives.
5. Data from these hospitals had significant inaccuracies due to system implementation; hence, the information has not been published by the Ministry of Health and Long-Term Care nor included in this appendix.

Appendix 4: Number of CT Machines¹ and Wait Times, by Ontario Hospital, March 2018

Source of data: Cancer Care Ontario

Hospital	Hospital Type	# of CTs	Non-urgent Patients' Wait Times, at 90th Percentile, ² 2017/18 (# of Days)
Central LHIN			
Mackenzie Health ³	Community	2	152
Humber River Hospital	Community	4	55
Southlake Regional Health Centre	Community	2	53
North York General Hospital	Teaching	3	50
Markham Stouffville Hospital	Community	3	34
Stevenson Memorial Hospital Alliston	Community	1	30
Central East LHIN			
Peterborough Regional Health Centre	Community	2	35
Ross Memorial Hospital	Community	1	27
Lakeridge Health Corporation ⁴	Community	4	26
The Scarborough and Rouge Hospital	Community	5	25
Northumberland Hills Hospital	Community	1	22
Campbellford Memorial Hospital	Community	1	13
Central West LHIN			
Headwaters Health Care Centre	Community	1	34
William Osler Health System ⁵	Community	6	Not Reported
Champlain LHIN			
Ottawa Hospital ³	Teaching	6	234
Hôpital Montfort/Montfort Hospital	Teaching	2	117
Queensway Carleton Hospital	Community	2	106
Winchester District Memorial Hospital	Community	1	103
Children's Hospital of Eastern Ontario-OCTC	Teaching	1	95
Pembroke Regional Hospital	Community	1	43
University of Ottawa Heart Institute	Teaching	1	32
Renfrew Victoria Hospital	Community	1	32
Hawkesbury and District General Hospital	Community	1	16
Cornwall Community Hospital	Community	1	16
Erie St. Clair LHIN			
Bluewater Health	Community	2	41
St. Joseph's Health Services Association of Chatham	Community	1	40
Windsor Regional Hospital	Community	3	31
Erie Shores Healthcare	Community	1	14

Hospital	Hospital Type	# of CTs	Non-urgent Patients' Wait Times, at 90th Percentile, ² 2017/18 (# of Days)
Hamilton Niagara Haldimand Brant LHIN			
Hamilton Health Sciences Corp	Teaching	6	76
Brant Community Healthcare System	Community	1	48
Norfolk General Hospital	Community	1	29
Joseph Brant Hospital	Community	2	26
Haldimand War Memorial Hospital	Community	1	22
Niagara Health System ⁴	Community	4	21
St Joseph's Healthcare Hamilton ^{3,5}	Teaching	2	Not Reported
Mississauga Halton LHIN			
Trillium Health Partners	Community	5	93
Halton Healthcare Services	Community	4	27
North East LHIN			
Health Sciences North ³	Teaching	2	199
Timmins and District Hospital	Community	1	70
Sault Area Hospital	Community	2	68
North Bay Regional Health Centre	Community	2	56
Temiskaming Hospital	Community	1	30
West Parry Sound Health Centre	Community	1	20
North Simcoe Muskoka LHIN			
Muskoka Algonquin Healthcare	Community	1	45
Royal Victoria Regional Health Centre	Community	2	42
Georgian Bay General Hospital	Community	1	27
Collingwood General and Marine Hospital	Community	1	21
Orillia Soldiers' Memorial Hospital	Community	1	19
North West LHIN			
Thunder Bay Regional Health Sciences Centre	Teaching	2	32
Sioux Lookout Meno-Ya-Win Health Centre	Community	1	22
Lake of the Woods District Hospital	Community	1	18
Riverside Health Care Facilities Inc.	Community	1	16
South East LHIN			
Kingston Health Sciences Centre	Teaching	3	52
Quinte Healthcare Corporation	Community	2	28
Brockville General Hospital	Community	1	28
Perth and Smiths Falls District Hospital	Community	1	19
South West LHIN			
London Health Sciences Centre	Teaching	4	70
St. Joseph's Health Care London	Teaching	2	35
St. Thomas Elgin General Hospital	Community	1	29
Stratford General Hospital	Community	1	27
Grey Bruce Health Services	Community	1	27

Hospital	Hospital Type	# of CTs	Non-urgent Patients' Wait Times, at 90th Percentile, ² 2017/18 (# of Days)
Woodstock General Hospital	Community	1	25
Tillsonburg District Memorial Hospital	Community	1	25
South Bruce Grey Health Centre	Community	1	21
Strathroy Middlesex General Hospital	Community	1	12
Alexandra Marine and General Hospital	Community	1	12
Toronto Central LHIN			
Sunnybrook Health Sciences Centre ⁴	Teaching	4	173
St. Michael's Hospital–St. Joseph's Health Centre Toronto	Teaching	5	92
Toronto East Health Network	Community	2	92
Women's College Hospital	Teaching	1	84
Sinai Health System	Teaching	4	83
University Health Network ⁴	Teaching	14	64
Hospital for Sick Children ⁴	Teaching	2	56
Waterloo Wellington LHIN			
St. Mary's General Hospital	Community	1	58
Grand River Hospital Corp	Community	2	37
Guelph General Hospital	Community	1	35
Cambridge Memorial Hospital	Community	1	28
Groves Memorial Community Hospital	Community	1	27
Total # of CTs		165	

1. Excludes those machines used solely for research purposes.

2. Wait times are measured as the maximum amount of time in which 90% of patients have received their CT scans.

3. Hospitals that we visited where we conducted detailed audit work.

4. Hospitals that we visited and met with their senior representatives.

5. Data from these hospitals had significant inaccuracies due to system implementation; hence, the information has not been published by the Ministry of Health and Long-Term Care nor included in this appendix.

Appendix 5: Comparison of Wait-Time Reporting Methods

Prepared by the Office of the Auditor General of Ontario

Wait-Time Calculation			
Method	Definition	Advantages	Disadvantages
Past Performance (Data Compiled by Cancer Care Ontario)			
Average or Mean	The average (mean) refers to the simple average of the given set of values or quantities. It is the mathematical average. It is calculated by adding up all the observations and then dividing the value obtained by the number of observations.	Appropriate for normally distributed data. It is the most commonly used statistical measure and easily understandable to everyone.	Sensitive to outliers; i.e., the calculation of the average (mean) value changes if there are very low wait times or very high wait times, regardless of the experience of most patients on the list. In real life, the average (mean) does not show the complete distribution of the wait times and therefore it distorts the picture of the real waits patients are facing.
Median or 50th Percentile	The median is defined as the middle number in an ordered list of values. It is a positional average. It is calculated by arranging the data set in ascending or descending order and picking the value that falls in the exact middle of the new data set.	Not sensitive to outliers and remains unchanged even if there are very low or very high wait times. It provides information on the number of days by which 50% of patients had their MRI/CT scan, and so it lets patients know how long they are waiting in comparison to other patients on the list. It gives them a sense of the fairness of the system in their own case.	Does not show a complete picture of the higher outliers of wait-time data, especially in hospitals with high wait times. It does not help patients know how long they are likely to wait.
90th Percentile	The 90th percentile is a measure used in statistics indicating the value below which 90% of observations/values in a group fall.	Highlights the highest 10% of outliers in a range of data. From a wait-time perspective, it can provide users of the data with useful information on the maximum number of days by which 90% of patients had their MRI/CT scan, and helps them evaluate how well the system is working. It also lets patients on the list see how their own experience compares to the patients with some of the longest wait times.	This measure may be more difficult to understand for a common user of the data, unless it is plainly stated as the time by which nine out of 10 people on the list are given their scans. It also does not help patients know how long they are likely to wait.
Wait-Time Ranges	Ranges categorize the actual time that patients waited to receive their MRI/CT scans within predetermined wait-time ranges and show the percentage of scans performed within these ranges.	Represent every patient who has been scanned in a given hospital. Therefore, they provide a more complete picture of how many patients waited in the past and for how many days.	This measure may be more time-consuming to calculate.
Real-Time Performance (Data Not Compiled by Cancer Care Ontario)			
Real-Time Wait Time	The real-time wait time reflects the next available appointment date that patients can expect to get for receiving their MRI/CT scans.	Compared to the other measures noted, which are based on patient wait times in the past (i.e., patients who have already been scanned), this measure provides specific information to patients who are still waiting to be scanned on the length of the wait they can expect.	This measure is specific to every hospital, and additional resources may be required to compile it for the province as a whole.

Appendix 6: Audit Criteria

Prepared by the Office of the Auditor General of Ontario

1. Effective governance and planning processes are in place to ensure the capacity, allocation and utilization of MRI and CT equipment meet patients' clinical needs across the province.
2. Effective procedures and co-ordination among service providers are in place to ensure patients have timely and equitable access to MRI and/or CT scans when needed.
3. Evidence-based policies, procedures and clinical guidelines are in place and followed to ensure that the referral and delivery of MRI and CT scanning services are appropriate.
4. MRI and CT equipment are acquired, used and maintained in a cost-effective, safe and appropriate manner.
5. Effective processes are in place to accurately report, track and access patient test results on a timely basis.
6. Performance measures and targets are established, monitored, compared against actual results and publicly reported to ensure that the intended outcomes are achieved and that corrective actions are taken on a timely basis when issues are identified.
7. Financial and operational data are collected to provide accurate, complete and timely information to help guide management decision-making, compare against best practices in other jurisdictions, and assist with performance management.

Appendix 7: Canadian MRI and CT Machine Inventories and Number of Scans Performed, January–December 2017

Source: Canadian Agency for Drugs and Technologies in Health

Province/Territory	Population (as of July 1, 2017)	# of Machines	# of Scans	# of Scans per 1,000 Population
MRI Machines				
Prince Edward Island	149,790	1	4,279	28.6
British Columbia	4,789,221	46	173,678	36.3
Saskatchewan	1,161,365	10	44,461	38.3
Newfoundland and Labrador	528,683	5	20,990	39.7
Alberta	4,291,980	41	192,375	44.8
Quebec	8,371,498	107	380,357	45.4
Nova Scotia	953,173	12	47,490	49.8
Yukon	37,808	1	2,200	58.2
Manitoba	1,332,629	12	77,735	58.3
New Brunswick	757,641	11	44,592	58.9
Ontario	14,135,610	120	866,953	61.3
Northwest Territories	44,381	0	n/a	n/a
Nunavut	37,462	0	n/a	n/a
Canada	36,591,241	366	1,855,110	51.0
CT Machines				
Nunavut	37,462	1	2,000	53.4
Yukon	37,808	1	3,500	92.6
Alberta	4,291,980	56	405,332	94.4
Prince Edward Island	149,790	2	15,811	105.6
Northwest Territories	44,381	1	4,695	105.8
Saskatchewan	1,161,365	15	128,415	110.6
Manitoba	1,332,629	23	186,197	139.7
British Columbia	4,789,221	66	695,248	145.2
Quebec	8,371,498	163	1,350,792	161.4
Nova Scotia	953,173	18	155,099	162.7
Ontario	14,135,610	184	2,430,739	172.0
Newfoundland and Labrador	528,683	16	90,985	172.1
New Brunswick	757,641	15	142,294	187.8
Canada	36,591,241	561	5,611,107	153.0

Appendix 8: Comparison of Wait-Time Targets for Receiving MRI and CT Scan Services across Jurisdictions and as Recommended by Canadian Association of Radiologists

Source: Provincial health ministry websites and Canadian Association of Radiologists

Jurisdiction/ Category	Emergency	Urgent	Semi-urgent	Non-urgent	How Wait Time Is Measured
Ontario	Within 24 hours	Within 2 days	Within 10 days	Within 28 days	From receipt of the MRI/CT request to the date that the scan is performed
Alberta	Not specified	Within 7 days	Within 30 days	MRI: Within 90 Days CT: Within 60 Days	Between the time when a patient and specialist decide that a procedure or diagnostic test is required and the date the procedure or test is performed
PEI	Within 48 hours	Within 14 days	Within 28 days	MRI: Within 84 Days CT: Within 56 Days	From receipt of the MRI/CT request to the date that the scan is performed
Saskatchewan	Within 24 hours	2-7 days	8-30 days	31-90 days	The wait time is calculated from the date the procedure is requested to the date the procedure is performed
Canadian Association of Radiologists	Within 24 hours	Within 7 days	Within 30 days	Within 60 days	From the date a completed referral for a medical examination is received until the date the examination is completed

Note: In Ontario and Saskatchewan, wait-time targets are measured as the maximum amount of time in which 90% of patients have received their scans. However, other provinces do not publicly report a similar wait-time measure.

Appendix 9: Analysis of MRI and CT Patient Real-Time Wait Times at Three Hospitals, July 2018

Source of data: three of the four selected hospitals where information was available

Hospital	A	B	C
MRI Patients			
(a) Average wait time for non-urgent patients, in days—reported to the public	193	72	92
(b) # of patients on hospital wait list	8,230	2,305	3,944
(c) # of non-urgent patients on hospital wait list	7,508 [91% of (b)]	2,103 [91% of (b)]	3,816 [97% of (b)]
(d) # of non-urgent patients who have <i>not</i> received an appointment date	6,872 [92% of (c)]	954 [45% of (c)]	0
# of patients waiting for more than the average wait time reported to the public in (a)	2,106 [31% of (d)]	310 [32% of (d)]	0
# of patients waiting less than the average wait time reported to the public in (a)	4,766 [69% of (d)]	644 [68% of (d)]	0
(e) # of non-urgent patients who have received an appointment date	636 [8% of (c)]	1,149 [55% of (c)]	3,816 [100% of (c)]
# of patients waiting for more than the average wait time reported to the public in (a) for their scheduled scans	625 [98% of (e)]	423 [37% of (e)]	3,315 [87% of (e)]
# of patients waiting less than the average wait time reported to the public in (a) for their scheduled scans	11 [2% of (e)]	726 [63% of (e)]	501 [13% of (e)]
CT Patients			
(a) Average wait time for non-urgent patients, in days—reported to the public	156	116	59
(b) # of patients on hospital wait list	5,842	2,945	1,304
(c) # of non-urgent patients on hospital wait list	4,659 [80% of (b)]	2,434 [83% of (b)]	1,123 [86% of (b)]
(d) # of non-urgent patients who have <i>not</i> received an appointment date	4,499 [97% of (c)]	390 [16% of (c)]	0
# of patients waiting for more than the average wait time reported to the public in (a)	2,087 [46% of (d)]	82 [21% of (d)]	0
# of patients waiting less than the average wait time reported to the public in (a)	2,412 [54% of (d)]	308 [79% of (d)]	0
(e) # of non-urgent patients who have received an appointment date	160 [3% of (c)]	2,044 [84% of (c)]	1,123 [100% of (c)]
# of patients waiting for more than the average wait time reported to the public in (a) for their scheduled scans	129 [81% of (e)]	1,604 [78% of (e)]	968 [86% of (e)]
# of patients waiting less than the average wait time reported to the public in (a) for their scheduled scans	31 [19% of (e)]	440 [22% of (e)]	155 [14% of (e)]

Note: Once hospitals receive the requisition forms for MRI or CT scans from the patients' referring physicians, the radiologists triage patients based on the information available in the requisitions. They classify patients by assigning priority levels and then assessing the patients for the type of scan they should be given. The hospitals schedule appointments based on these patient classifications. This appendix excludes patients who were waiting for follow-up scans.

Appendix 10: Number of MRI and CT Scan Machines and Wait Times by Independent Health Facility, March 2018

Source of data: Cancer Care Ontario

Independent Health Facilities (IHF)	# of Machines	LHIN	Non-urgent Wait Times 2017/18 (# of Days at 90th Percentile)
IHFs Operating MRI Machines			
KMH MRI and Healthcare Centres - Thornhill	1	Central	104
Kingston MRI	2	South East	93
Oxford Advanced Imaging Inc. - Mississauga	1	Mississauga Halton	88
Oxford Advanced Imaging Inc. - Ajax	1	Central East	64
KMH MRI and Healthcare Centres - Kitchener	1	Waterloo Wellington	58
Total	6		
IHFs Operating CT Machines			
Oxford Advanced Imaging Inc. - Mississauga	1	Mississauga Halton	17
Oxford Advanced Imaging Inc. - Ajax	1	Central East	9
Superior Imaging	1	North West	Not reported*
Huntsville CT Clinic	1	North Simcoe Muskoka	Not reported*
Total	4		

* Wait-time data will be reported after an information system is implemented; the setup of the system was in progress at the time of our audit.

Office of the Public Guardian and Trustee

1.0 Summary

The main mandate of the Office of the Public Guardian and Trustee (Public Guardian) is to protect the rights and property of people who lack the mental capacity to do this themselves. The Public Guardian manages the finances of about 12,000 people (clients) who are mentally incapable, for a variety of reasons, of looking after their own property. It also acts as the personal-care guardian of about 30 clients who are incapable of managing their own personal care, including health, housing and nutrition. As well, it administers certain estates of Ontarians who have died without a will and without next-of-kin residing in Ontario.

The Public Guardian had 388 full-time staff as of March 31, 2018, of whom 89% performed functions that directly or indirectly relate to managing the property of individuals found to be incapable, or to administering estates of deceased persons. In 2017/18, the Ontario Government allocated \$40 million to fund the Public Guardian; the Public Guardian in turn charged \$31 million in service fees, primarily to clients.

Our audit found that the Public Guardian has not ensured that it safeguarded the interests of clients under guardianship and estate heirs. While the Public Guardian has established policies and information systems to support the management of

guardianship and estate cases, we identified significant weaknesses in its operation that have not been sufficiently mitigated. For instance, we found that staff do not consistently identify and secure assets for clients on a timely basis, and the belongings of clients are not consistently tracked in the Public Guardian's case management system. The risk exists that clients' assets could be lost or misappropriated because of weak internal controls. We also found that management lacks useful reports from this system for use by its senior staff to effectively oversee many areas of its operations. These weaknesses increase the risk of hardship and financial loss to clients and heirs of estates.

The Public Guardian invests clients' funds in various investment products following internally developed investment policies. Our audit found that the Public Guardian financial planners follow these policies in determining how to invest clients' funds. However, these policies do not necessarily maximize the future cash flows for clients—the majority of clients' funds are invested in low-return, low-risk investment products that earned about 2% interest since 2014/15. These policies have never been reviewed by the financial experts retained by the Public Guardian for investment advice.

In estate administration, we found that the Public Guardian expects its staff to be able to detect fraudulent identification when it is presented by those purporting to be heirs to estates. However, it does not provide its staff with training on how

to identify false documents. In 2010, the Alberta Public Guardian and Trustee office discovered that one of its own staff had used fraudulent identification to misappropriate \$122,000 of funds from an estate file. Even though Ontario Ministry of Transportation staff informed us that it has observed increasing use of fraudulent documents at ServiceOntario—and so trains ServiceOntario and other government staff in how to detect such documents—the Public Guardian has never provided similar training to its own staff, even though it administers millions of dollars on behalf of others.

Our more significant audit findings include:

Guardianship Services for Clients

- **Based on Public Guardian data, only between about 7% and about 15% of the 12,000 clients under property guardianship were visited in each of the last five years.** The Public Guardian does not require its staff to visit the people whose property they manage, although it does require staff to conduct initial visits when individuals first come under property guardianship. However, these initial visits are usually not performed due to visit exemptions, and our review of a sample of clients who had been with the Public Guardian for as many as 28 years indicated that half have not been visited since coming under guardianship.
- **Financial plans developed for clients do not consider current, complete and accurate health information.** While Public Guardian financial planners are required by policy to consider a client's health information when preparing a plan for their investments and cash flow for future years, we found the health information they used did not have support in the file. This is consistent with findings in our 2004 audit.
- **Legal staff have missed acting on several time-sensitive legal cases for clients because of weaknesses in the case management system.** For example, the Public Guardian's legal staff missed deadlines in certain cases, which resulted in the Public Guardian becoming liable for an estimated \$5 million to cover accident benefits of clients involved in motor-vehicle accidents.
- **Public Guardian staff detected about \$1 million in financial transaction errors between April 2015 and March 2018.** About half the value of the errors detected by Public Guardian staff related to missed opportunities to collect income such as disability benefits and extended health insurance benefits for their clients. Although these specific errors were identified, others could go undetected, given various systemic risks (such as the need for more staff training and improvement to the case management system) that resulted in the errors occurring in the first place.
- **Business relationship with an auction house not formalized.** The Public Guardian pays commissions to an auction house on behalf of the clients whose belongings the auction house appraises and sells, but it has not entered into any formal agreement with this company since it first began using its services in the 1980s. As well, it has not competitively procured these services.
- **Many professionals in the community, such as social workers and occupational therapists (assessors), still perform capacity assessments of potential clients despite repeated concerns about the quality of their assessments.** The Capacity Assessment Office (Office), which reports to the Public Guardian and Trustee, provides training to and maintains a roster of health care professionals who assess the capacity of potential clients to manage property. Persons found incapable of managing property will become clients of the Public Guardian. External evaluations of the assessors conducted in 2016 and 2017 identified quality concerns in about half of them. However, the Office did not refer these assessors to their regulatory

colleges, and has not delisted any assessor from its roster. Public Guardian caseworkers who responded to our survey indicated that they believed certain people in their caseloads were capable of managing their own finances; the Consent and Capacity Board overturned over 80% of the cases it heard, indicating the community assessors were unable to provide sufficient evidence to establish the finding of incapacity in 2016/17 and 2017/18.

Estates Administration

- **About \$28 million from approximately 260 estates was eligible to be turned over to the Crown because the Public Guardian did not identify heirs and distribute assets of the estates under its management within 10 years of a person's death.** Several factors under the Public Guardian's control have contributed to delays in distributing assets to heirs. For example, estates staff could not consistently locate contact information for a deceased client's next of kin because caseworkers did not always obtain and document this information when the clients were still alive (about half of estates administered were previously property guardianship clients). This caused delays in identifying heirs when the clients died. As well, staff have not followed up on more than 600 estates cases that have been open with no activity for three years, and the Public Guardian case management system does not flag cases where follow-up actions are still required.

Case Management System

- **The Public Guardian's case management system does not effectively support the day-to-day operating activities of staff.** Public Guardian staff have made suggestions to improve the functions and reporting capabilities of the case management system. However, we noted in our audit that over 200 of these suggested changes have not

been implemented, even though some were from five years ago. As well, the system does not generate reports showing warnings of unauthorized access to the system, which contains sensitive health and financial information on clients.

Fees

- **Fees have not been reviewed since 2004.**

The Public Guardian collects fees from guardianship clients and from estates that it manages, as allowed under the *Public Guardian and Trustee Act*. These fees are based either on a percentage of the dollar value of the individual's assets or on the number of hours spent performing the services. We found that Ontario generally charges less than other provinces, although it does charge more than Manitoba specifically for reviewing submissions from others who apply to replace the Public Guardian as an existing client's guardian.

This report contains 16 recommendations, with 30 action items, to address our audit findings.

Overall Conclusion

Our audit concluded that the Office of the Public Guardian and Trustee (Public Guardian) could not fully demonstrate that it has protected the financial interests of the mentally incapable adults under its guardianship. We found that weaknesses in the Public Guardian's internal control systems and procedures put the assets it manages on behalf of clients at risk of loss or misappropriation. There have been situations where it has not collected benefits on behalf of clients on a timely basis, resulting in missed income; the process of securing clients' valuables is weak; and there have also been situations where it delayed acting on time-sensitive legal cases, leading to financial loss.

We also found that the Public Guardian invested funds according to its internal policies. However, these investment rules have not been validated by the Public Guardian's external investment

consultant or the government-appointed panel that provides it with strategic investment advice. The existing investment rules may be too restrictive, limiting the returns for some people under guardianship.

We further concluded that the Public Guardian did not have effective internal controls to support the administration and distribution of estates of deceased people in a timely and accurate manner.

We also found that while the Public Guardian reports its performance on how quickly it initiates guardianship services for new clients to the Ministry of the Attorney General, it does not measure other significant aspects of its services and programs, such as ongoing management of guardianship cases, and does not publicly report on any performance measures.

OVERALL OFFICE OF THE PUBLIC GUARDIAN AND TRUSTEE RESPONSE

The Office of the Public Guardian and Trustee (OPGT) appreciates the comprehensive audit conducted by the Auditor General and welcomes the advice on how to improve its services to Ontario's most vulnerable residents.

The recommendations within this report support the objectives of the OPGT's current strategic plan and modernization project, including making it simpler and faster for clients to access services; using an evidence-based approach to improve the effectiveness of service delivery; transforming business processes and tools; and increasing public awareness of the OPGT's roles and responsibilities.

The OPGT provides essential services to vulnerable Ontarians by protecting the value of property and the quality of life for mentally incapable adults who have no one else suitable to help them. It acts as a last-resort decision-maker for medical treatment and investigates allegations of serious harm to mentally incapable adults. Other client services include receiving and depositing income, making investments,

maintaining and selling property, applying for benefits, filing tax returns, paying bills and acting in legal proceedings if required. In addition, OPGT manages estates of people who have died without a will and have no known next-of-kin in Ontario and conducts extensive searches for possible heirs. It also oversees the capacity assessment process, serves as the Accountant of the Superior Court of Justice, and protects the public's interest in charities. All of this important work is part of the government's statutory duty to protect vulnerable Ontarians.

The OPGT is committed to modernizing and strengthening its services to achieve its mandate. The audit recommendations reinforce this commitment and will help us continue to improve services that directly affect the livelihoods of thousands of mentally incapable Ontarians who have no other means of support.

2.0 Background

2.1 Overview of Office of the Public Guardian and Trustee

The Office of the Public Guardian and Trustee (Public Guardian) has many responsibilities; its primary mandate is to protect the interests of those who cannot do so for themselves due to mental incapacity. Most of this work relates to adults who are incapable of managing their property (including their finances) when there is no one else willing and suitable to be appointed for this authority. These individuals are referred to as clients under property guardianship. The Public Guardian also administers certain estates of Ontario residents who have died without a will or next-of-kin residing in Ontario. See **Appendix 1** for key services that the Public Guardian provides.

2.1.1 Organization Structure

The Public Guardian operates within the Ministry of the Attorney General (Ministry). The Ontario Government partially funds the Public Guardian's operations and the Public Guardian's staff are managed under the Ministry's human resources function. However, under the *Public Guardian and Trustee Act*, the Public Guardian has the authority to act independently on behalf of adults who have been found to be incapable of managing their own finances or personal care.

The Public Guardian has regional offices in Hamilton, London, Ottawa, Sudbury and Thunder Bay; its central-office headquarters is in Toronto, which also serves as the Toronto regional office. As of March 31, 2018, the Public Guardian had about 388 full-time-equivalent staff, 89% of whom performed functions that either directly or indirectly relate to managing the estates and property of individuals found to be incapable of managing their property or of making personal care decisions (such as where to live, what to wear, and what to eat).

2.1.2 Funding, Fees and Other Financial Information

The Public Guardian's operations are funded primarily by an annual allocation of about \$40 million from the Ontario Government (which nets to \$18 million after the Public Guardian remits surplus income to the government), and fees charged to clients whose finances are managed by the Public Guardian. Revenue from fees in 2017/18 amounted to about \$31 million.

The Public Guardian also receives investment income from its own administration fund, which is invested along with the funds of people under guardianship. This investment approach began over 20 years ago to achieve a greater return for clients since higher levels of capital generally allow for a higher return. As set out in a regulation under the *Public Guardian and Trustee Act*, the administration fund contains mostly reinvested income from

investments accumulated over about 20 years. The fund had a balance of about \$122 million as of March 31, 2018.

Fees Charged for Services Performed

The *Public Guardian and Trustee Act* states that "the Public Guardian and Trustee may charge fees for anything done by the Public Guardian and Trustee under the Act or any other Act." The most common fees the Public Guardian charges clients are the compensation fee (3% on all transactions) and the care and management fee (0.6% of total assets managed on behalf of the incapable person). In general, the Public Guardian does not charge these fees for those receiving Ontario Disability Support Program payments.

2.2 Authority to Act as Guardian of an Incapable Person

2.2.1 Property Guardianship

As shown in **Figure 1**, as of March 31, 2018, the Public Guardian was acting as the property guardian for 12,189 adults incapable of managing their finances, an increase of 7% from 2014. Over the five-year period between 2013/14 and 2017/18, the average age of those under guardianship remained at about 60 to 61 years old, and the average net assets per person under guardianship increased by 19%, from about \$48,600 as of March 31, 2014, to almost \$58,000 as of March 31, 2018. Almost half of the guardianship clients also received payments from the Ontario Disability Support Program in each of these five years.

Of the property guardianship clients the Public Guardian managed as of March 31, 2018, 6% had net assets over \$100,000; 22% had net assets between \$15,000 and \$100,000; and 71% had net assets under \$15,000.

Caseloads of property guardianship clients have steadily grown between 2013/14 and 2017/18. **Figure 2** shows the trend of new and closed property guardianship cases between those years under the

Figure 1: Number, Average Age and Average Net Assets of People under Guardianship as of March 31, 2014–2018

Source of data: Office of the Public Guardian and Trustee

As of March 31	# of People Under Guardianship	Average Age of People Under Guardianship	Average Value of Net Assets of People Under Guardianship (\$)
2014	11,341	60.5	48,611
2015	11,540	60.6	51,038
2016	11,754	60.6	52,346
2017	11,971	60.7	55,161
2018	12,189	60.8	57,946
% Increase from 2014–2018	7	<1	19

various authorities that authorize the Public Guardian to be the property guardian of incapable adults. Over the past five years, about 2,000 new cases were added annually to the Public Guardian’s caseloads, and about 1,700 cases were closed each year.

Many different staff and departments within the Public Guardian perform various functions in managing the finances of clients. These functions include, for example, identifying and securing assets, gathering income or benefits and making disbursements, such as living expenses. **Appendix 2** provides further details about these functions.

The Public Guardian also invests excess cash of the people whose finances it manages in investment funds that it oversees. The Public Guardian’s investment policies require staff to follow the “prudent investor” rule whereby its staff “must exercise care, skill, diligence, and judgment that a prudent investor would exercise in making investments.” **Appendix 3** provides further details about the investment funds and related oversight.

Capacity Assessments

The Public Guardian’s authority to act as the property guardian for individuals can stem from several sources. In most cases, a determination that a person is incapable of managing their finances is made either by a physician in a psychiatric facility or a trained capacity assessor in the community. As of March 31, 2018:

- 50% of the property guardianship cases managed by the Public Guardian originated from a community assessor who evaluated their capacity to manage finances (as allowed by the *Substitute Decisions Act*)—these assessments may be requested by the individuals themselves or others such as bank employees or family members;
- 45% of the cases were individuals who had been admitted to psychiatric facilities and assessed by their physicians as being incapable of managing property (as required in the *Mental Health Act*); and
- 5% of the cases stemmed from other sources, such as the court ordering the Public Guardian to be a person’s property guardian.

Capacity Assessment Office

The Capacity Assessment Office (Office) was established over 20 years ago to provide training and support for quality improvements in the capacity assessment process as set out in the *Substitute Decisions Act*. The two staff of the Office share office space with Public Guardian staff and the lead of the Office reports directly to the Public Guardian and Trustee.

Regulated professionals such as nurses and social workers can apply to this Office to become community assessors. After receiving training provided by the Office and completing a take-home test

Figure 2: Trend of New and Closed Property Guardianship Cases, 2013/14–2017/18

Source of data: Office of the Public Guardian and Trustee

	2013/14	2014/15	2015/16	2016/17	2017/18
# of people under property guardianship at the beginning of the year (April 1)	11,041	11,341	11,540	11,754	11,971
# of new cases added during the year for the following reasons:					
Under the <i>Substitute Decisions Act</i> ¹	1,081	1,037	1,088	1,105	1,138
Under the <i>Mental Health Act</i> ²	885	876	891	771	779
Under other authority	35	27	31	27	33
Duplicate count due to information system limitations	(10)	(3)	(38)	(4)	(2)
Total	1,991	1,937	1,972	1,899	1,948
# of cases closed during the year for the following reasons:					
Death	(1,081)	(1,031)	(1,088)	(1,093)	(1,149)
Family, friends, etc. took over guardianship	(243)	(321)	(294)	(257)	(256)
Psychiatric facility elected to discontinue authority under the <i>Mental Health Act</i> ²	(214)	(174)	(202)	(197)	(189)
Updated capacity assessment under <i>Substitute Decisions Act</i> ¹	(29)	(24)	(36)	(29)	(30)
Other (e.g., Consent and Capacity Board ruling changes client's capacity status)	(120)	(189)	(125)	(110)	(106)
Total	(1,687)	(1,739)	(1,745)	(1,686)	(1,730)
Variance due to information system limitations	(4)	1	(13)	4	–
Breakdown of property guardianship clients at the end of the year (March 31):					
Authorized under the <i>Substitute Decisions Act</i> ¹	5,557	5,666	5,783	5,986	6,095
Authorized under the <i>Mental Health Act</i> ²	4,990	5,147	5,278	5,387	5,442
Authorized under other (e.g., court appointed)	794	727	693	598	652
Total	11,341	11,540	11,754	11,971	12,189

1. Under the *Substitute Decisions Act*, a trained capacity assessor in the community makes the determination that a person is incapable of managing his or her finances. An assessor can also subsequently reassess a person as capable.
2. Under the *Mental Health Act*, a physician in a designated psychiatric facility makes the determination that a person is incapable of managing his or her finances. A physician can reassess a person as capable while the person is still admitted in the psychiatric facility. The psychiatric facility is also required to notify the Public Guardian to continue guardianship prior to the person being discharged; otherwise, the person will by default be deemed capable upon discharge.

of competency, successful candidates are included in the publicly available roster of community assessors. Members of the public may select a community assessor from this roster to conduct a capacity assessment when needed. During 2017, there were about 120 community assessors in Ontario.

The Office also provides regular refresher training for existing assessors, most recently conducted in spring 2017. About 100 community assessors attended that seminar.

As well, the Office contracts with two expert consultants who review samples of capacity assess-

ments completed by community assessors to evaluate and report on the quality of assessments.

Appendix 4 describes the capacity assessment process in greater detail.

2.2.2 Personal Care Guardianship

The *Substitute Decisions Act* requires the Public Guardian to investigate any allegation that a person is incapable of personal care and that serious adverse events are occurring or may result. Public Guardian policy indicates this means a risk of

Figure 3: Types and Number of Personal Care Cases Managed by the Office of the Public Guardian and Trustee, as of March 31, 2018

Source of data: Office of the Public Guardian and Trustee

	# of Cases
All personal care components (i.e., safety, shelter, health, clothing, nutrition, hygiene)	28
Safety, shelter	2
Safety, shelter, health	2
Safety, shelter, health, clothing, nutrition	1
Safety, shelter, health, nutrition, hygiene	1
Total	34

suffering serious personal harm as a result of their incapacity. These cases arise usually because of abuse allegations from the public made to the Public Guardian, mostly through a publicly available contact phone number, but also by letter or email. Public Guardian staff investigate these allegations to assess whether action is required.

If the Public Guardian determines after an investigation that an individual needs protection, it will ask the court to appoint it as the individual's personal care guardian. In this role, the Public Guardian will often be responsible for making decisions on behalf of the person about one or more of the following six areas: health care, shelter (place of residence), safety, nutrition, hygiene and clothing. This may mean that the Public Guardian is given custodial authority to remove the individual from a situation of harm, or to prevent access by third parties who are abusing the person.

Under the *Substitute Decisions Act*, the Public Guardian is required to act diligently and in good faith, taking into consideration what the person's best interests are, when acting as guardian of personal care. The Public Guardian has had between 15 and 34 individuals under personal care guardianship at any given time over the last five years. **Figure 3** shows the number for each type of personal care guardianship cases managed by the Public Guardian as of March 31, 2018.

2.3 Estates and Heirship Searches and Distribution

Each year, the Public Guardian is appointed by the court as the estate trustee for over 200 new estates. These are estates of Ontario residents who have died without a will or an executor in Ontario, have no next-of-kin in Ontario, and have a minimum net value of \$10,000.

The Public Guardian's primary responsibility regarding estates is to identify and secure the assets and liabilities of the estate, using the same processes as when establishing new property guardianships. As of May 2018, the Public Guardian managed about \$145 million of assets in about 1,400 estates cases.

Public Guardian staff liquidate the net assets of estates and seek out the heirs. These processes happen concurrently. In identifying and locating all heirs to an estate, the Public Guardian establishes proof of lineage and heirship. It then ensures funds are forwarded to heirs in a timely manner.

Under the *Crown Administration of Estates Act*, if heirs cannot be located, the assets can become payable to the Province 10 years after the date of death. In 2017/18, \$516,610 of undistributed assets were escheated, or paid out, to the Ontario Government. The five-year trend of amounts and cases escheated is shown in **Figure 4**.

Appendix 5 provides further details on the process of administering estates.

Figure 4: Amount of Assets Escheated to the Government of Ontario and Number of Related Estate Cases, 2013/14–2017/18

Source of data: Office of the Public Guardian and Trustee

	Amounts Escheated to the Province (\$)	# of Estate Cases
2013/14	1,112,991	43
2014/15	1,077,375	46
2015/16	1,004,715	38
2016/17	249,025	22
2017/18	516,610*	7

* The total amount that could be escheated on March 31, 2018, according to the *Crown Administration of Estates Act* was \$28 million. The Public Guardian was unable to produce similar information for years prior to 2017/18.

3.0 Audit Objective and Scope

Our audit objective was to assess whether the Office of the Public Guardian and Trustee (Public Guardian) had effective systems and procedures in place to:

- protect the rights and interests of mentally incapable adults who have no one suitable to act on their behalf by executing its fiduciary duties as the guardian of property, investigating and acting as necessary on allegations of abuse of incapable adults, and investing client assets according to legislative requirements;
- administer deceased people’s estates in situations defined by legislative requirements, such as where there is no willing and available estate trustee, and distribute the estates to rightful heirs and beneficiaries;
- fulfill its core mandates with due regard for economy and efficiency; and
- measure and publicly report on the effectiveness of these services and programs.

Before starting our work, we identified the audit criteria we would use to address our audit objective. These criteria were established based on a review of applicable legislation, policies and

procedures, internal and external studies, and best practices. Senior management at the Public Guardian reviewed and agreed with the suitability of our audit objective and related criteria as listed in **Appendix 6**.

Our audit focused on the core programs and activities of the Public Guardian concerning guardianship functions for incapable adults aged 18 and over (for both property and personal care) and administration of estates. These activities encompass capacity assessment, financial and asset management, investigation, legal services, and identifying and distributing assets of estates that are administered by the Public Guardian. Regarding legal services, while we focused primarily on those provided to incapable adults, we also examined how the Public Guardian acted as a litigation guardian. These are cases where the Public Guardian is appointed by the court to make decisions on behalf of individuals who are involved in lawsuits but who lack sufficient capacity to properly instruct a lawyer or to make decisions about significant issues such as a potential settlement. In many of these cases, the Public Guardian is already the property guardian of the individual.

We focused on activities of the Public Guardian in the three-year period ending March 31, 2018, and considered relevant data and events of the last 10 years. We conducted our audit from January to July 2018, and obtained written representation from the Public Guardian that effective November 9, 2018, it has provided us with all the information it was aware of that could significantly affect the findings or the conclusions of this report.

In conducting our work, we reviewed applicable legislation, agreements, reports, and program guidelines and policies. We also examined documents and relevant files, analyzed data, reviewed information technology controls and assessed risks, and observed processes in securing and liquidating the assets of those under guardianship. In addition, we interviewed relevant staff from the Public Guardian, the Victims and Vulnerable Persons Division of the Ministry of the Attorney

General, and the Capacity Assessment Office (an independent office that reports to the Public Guardian and Trustee, and which, among other functions, provides training and information to assessors in Ontario) to better understand their roles and responsibilities in supporting the Public Guardian in delivering services to those under guardianship.

As well, we conducted a survey of all Public Guardian caseworkers (69% response rate) whose primary functions include ensuring that those under guardianship receive all the income and/or benefits they are entitled to, determining spending allowances and expense requirements, and arranging for routine property maintenance for those who have real estate or other substantial assets. We also conducted a survey (100% response rate) of the Public Guardian's financial planners, who are responsible for planning when to sell certain assets of those under guardianship and determining how to invest their funds. Furthermore, we surveyed all psychiatric facilities in Ontario that provide inpatient services (70% response rate) to better understand how they examine patients' mental capacity while in their facilities and their process of referring patients to the Public Guardian under the *Mental Health Act*.

We did our work primarily at the Public Guardian's central-office headquarters in Toronto. We visited and performed audit procedures on selected aspects of the audit in two of the four regional offices in Hamilton and Ottawa, to ensure selected functions are performed consistently across the province.

We met or spoke with representatives from the Office of the Conflict of Interest Commissioner, the Family Responsibility Office, and Ontario Disability Support Program to understand government requirements and best practices pertaining to conflict of interest; with representatives from the Ministry of Children, Community and Social Services to understand more about children transitioning to adulthood who may require capacity assessments; and with representatives from the Ministry of Transportation to understand their training pro-

cesses for their staff to detect potentially fraudulent identification documents.

We interviewed the external investment consultant that the Public Guardian had contracted with to provide expert advice on investment performance as well as a representative from the Investment Advisory Committee of the Public Guardian and Trustee, a committee consisting of members publicly appointed by the Lieutenant Governor in Council under the *Public Guardian and Trustee Act*, to help us better understand how the Public Guardian manages investment assets.

We researched how other provinces operate their Public Guardian and Trustee offices, and spoke to representatives from British Columbia, Alberta, Manitoba and Quebec to identify areas for improvement in Ontario.

To obtain perspectives on capacity assessments, we met with representatives from the Consent and Capacity Board and spoke to representatives of regulatory colleges representing individuals who can be qualified to be capacity assessors (community assessors) in Ontario—namely, the College of Occupational Therapists of Ontario, the Ontario College of Social Workers and Social Service Workers, the College of Psychologists of Ontario, the College of Nurses of Ontario, and the College of Physicians and Surgeons of Ontario.

We met with industry stakeholders including the Advocacy Centre for the Elderly, the Ontario Brain Injury Association, AdvantAge Ontario, Citizens with Disabilities – Ontario, the Ontario Long Term Care Association, the Canadian Mental Health Association (Ontario Division and Toronto Chapter), and Elder Abuse Ontario to obtain their perspectives on how the Public Guardian could better serve incapable members in their communities.

In determining the scope and extent of our audit work, we reviewed relevant audit reports issued by the Ontario Internal Audit Division and complaints data received by the Ontario Ombudsman in the last three years.

We did not audit other functions of the Public Guardian, such as management of perpetual care

funds for cemeteries, protecting the public's interest in charities, dealing with dissolved corporations, and its custodial function for funds under its role as Accountant of the Superior Court of Justice, as described in **Appendix 1**.

We conducted our work and reported on the results of our examination in accordance with the applicable Canadian Standards on Assurance Engagements—Direct Engagements issued by the Auditing and Assurance Standards Board of the Chartered Professional Accountants of Canada. This included obtaining a reasonable level of assurance.

The Office of the Auditor General of Ontario applies the Canadian Standards of Quality Control and, as a result, maintains a comprehensive quality control system that includes documented policies and procedures with respect to compliance with rules of professional conduct, professional standards and applicable legal and regulatory requirements.

We have complied with the independence and other ethical requirements of the Code of Professional Conduct of the Canadian Professional Accountants of Ontario, which are founded on fundamental principles of integrity, objectivity, professional competence and due care, confidentiality and professional behaviour.

4.0 Detailed Audit Observations

4.1 Risks Exist of Misappropriation and Loss of Client Assets

The Public Guardian manages the finances of over 12,000 people under guardianship, with the lead responsibility resting with caseworkers; these staff approve payments and secure revenue sources for clients under guardianship, which amounts to about 700,000 transactions a year. Public Guardian inspectors are responsible for securing client assets, including valuables, when clients have moved or do not require them.

We noted weaknesses in the processes that are used to manage client finances as well as in the processes that legal staff use to track legal matters that affect clients. These weaknesses introduce risk that clients will experience a permanent or temporary loss of income that may lead to a decreased quality of life. In the more significant cases described below, the loss was often temporary because other individuals such as family in the client's life asked questions that led to the loss being identified—and then covered by the Public Guardian's assurance fund. However, in many cases, clients have no such individuals in their lives, increasing the risk that losses will be permanent and impact quality of life. Some of these issues could be addressed by improvements to the case management system; for more on these issues, see **Section 4.8**.

4.1.1 Payment Errors Result in Over \$1 Million in Losses for Clients or Reimbursement from Assurance Fund

In the three years between April 1, 2015, and March 31, 2018, Public Guardian staff—primarily internal audit staff, caseworkers and team leaders—have identified instances where clients lost over \$1 million because of errors made by staff, usually caseworkers.

The Public Guardian covers the cost of such errors with funds from its assurance fund (\$14 million as of March 31, 2018), which is part of the administration fund, described in **Section 2.1.2**, by compensating clients for any identified losses. Slightly less than half of the \$1 million related to missed collection of health care and Ontario Disability Support Program benefits. Between 2015 and 2018, 85 people under guardianship were delayed in receiving the extended health care benefits to which they were entitled, usually because of missed claims or a delay in submitting receipts or claims, and 73 clients were affected when Public Guardian staff missed deadlines related to various aspects of the Ontario Disability Support Program.

The reasons for these errors often stem from lack of staff training, and the case management system not flagging these situations for follow-up by caseworkers or for senior staff to help oversight. (For more on staff training see **Section 4.4.**)

4.1.2 Client Assets Not Consistently Tracked, Resulting in Risk of Loss

Public Guardian inspection staff are responsible for identifying and securing valuables in clients' homes, and other assets such as bank accounts, when clients first come under guardianship. Some valuables are stored and others are disposed of to pay for living expenses or reduce storage costs. However, the case management system does not support consistent tracking of the disposition of assets. For smaller valuables, it does not indicate whether assets are eventually stored and sold and that proceeds are fully deposited into an incapable person's account.

For example, we found a packet of jewellery, valued at \$645, in a regional office safe without any identifying name recorded; regional staff have been unable to determine the owner of these assets. We also found an instance where asset management staff had information on a client's foreign bank account of \$2.1 million, but since it was not tracked in the system, the bank account was not secured on the client's behalf until after the client died.

Furthermore, we found weaknesses in the process of securing assets from clients' safety deposit boxes, especially since these are commonly used to store high-value items. When clients have a safety deposit box, Public Guardian policy requires only one inspector to visit the bank to secure the contents and bring them back to the Public Guardian's head office. The inspector brings back either a Public Guardian-designed form that is intended to list all assets in the safety deposit box, or a bank-produced form. Either form must be signed by a bank official. However, there is no way to confirm that a bank official has signed the form, and the risk remains that an inspector could retain the contents,

complete a new form, and sign for the bank official. We found several instances where the form brought back by the inspector showed few or no assets in the safety deposit box. Senior Public Guardian staff have no way to determine whether assets have been taken by an inspector.

Public Guardian policy requires its inspection staff to complete inspections of client properties within 10 days of starting them, but senior staff do not monitor overall compliance with this requirement. We analyzed inspection data between January 2015 and May 2018 and found that, on average, inspections were completed within 16 days of starting them; in some cases the policy was exceeded by over 100 days. Inspectors are also required to document reasons for delays in excess of the policy; such reasons included difficulties in negotiating a visit date and logistical problems in accessing the property. However, we found that the reason of "other" was used about 40% of the time over this period. With minimal information documented by inspection staff, senior staff cannot effectively identify the root causes of delays.

4.1.3 Lack of Reliable Tracking Processes of Legal Matters Results in Assurance Fund Payouts

Public Guardian legal staff have several means of tracking legal matters, many of which are manual processes; the case management system does not facilitate the tracking of deadlines that affect legal matters, of which there were about 4,000 at any given time. As a result, senior legal staff cannot readily oversee legal matters to ensure they are dealt with in a timely manner, and deadlines on legal matters can be missed, increasing the risk that clients will experience losses. For example:

- In one case, the need to bring an incapable person under guardianship was not tracked by legal staff or the case management system. As a result it took the Public Guardian 16 years to finalize a court application to confirm its authority to act as guardian of property

for this incapable person. Because of this delay, the person experienced a significant reduction in net assets. Legal staff estimates indicated the individual originally owned \$118,000 of liquid assets and a property with no liabilities, but over the course of 16 years spent \$31,725 to maintain the vacant property and between \$818 and \$1,005 a month on accommodation elsewhere. As well, the individual missed out on \$110,525 of social assistance payments because the Public Guardian was not able to apply for this on their behalf. The missed case was only discovered in 2016 after a family member inquired about the status of the property. Consequently, Public Guardian legal staff applied for property guardianship, which was finalized in spring 2017. In early 2018, the incapable person passed away, leaving an estate valued at \$174,000 with unpaid debt of about \$123,000, for net assets of \$51,000.

- Three clients did not receive accident benefits to which they were entitled following motor vehicle accidents until between eight and 13 years later because legal staff did not properly track their legal matters, and missed key deadlines. The Public Guardian as a result is liable for an estimated \$5 million to cover these benefits as well as damages to the clients since, for example, one client's family had been required to pay for some of the client's attendant-care costs.
- A person under guardianship did not receive an estimated \$150,000 because Public Guardian staff missed a deadline to apply for employer disability benefits.

In most of the above cases, the liability to the incapable person was discovered only through inquiries made by the incapable person's family or friends who were aware of the history of events. Having a system to track key dates and limitation periods is therefore essential, as not all clients have family or friends who can advocate on their behalf.

4.1.4 Long-Standing Business Relationship with Auction House Not Formalized, Increasing Risk of Reduced Revenue for Clients

The Public Guardian indicated it has used the services of the same auction house, based in Toronto, since the 1980s to both appraise valuables (such as jewellery and paintings) and to sell them. Assets are sold when a client does not require them, when money is needed for living expenses or to reduce storage costs. We found the business relationship between the Public Guardian and the auction house had not been formalized in an agreement, exposing the Public Guardian to a number of risks, one being that the highest possible value was not obtained on the sale of clients' assets. See **Figure 5** for more details.

RECOMMENDATION 1

To help fully account for clients' assets, and to secure the highest possible proceeds for valuables of guardianship clients, we recommend that the Office of the Public Guardian and Trustee:

- develop processes to track assets, including those from safety deposit boxes and properties, from point of being secured to point of safekeeping or sale, and follow up on any exceptions identified;
- procure for the services of appraisal and auctioning separately; and
- specify in contractual agreements the responsibilities of the auction service provider regarding its efforts in getting the best value for assets to be sold and its responsibility for damaged, lost or stolen goods.

OFFICE OF THE PUBLIC GUARDIAN AND TRUSTEE RESPONSE

The Office of the Public Guardian and Trustee (OPGT) agrees with the recommendation. The OPGT currently uses a combination of systems

Figure 5: Weaknesses in Business Relationship with Auction House

Prepared by the Office of the Auditor General of Ontario

Concerns	Details
Auction house services have never been competitively procured	No other auction houses in Ontario have been given the opportunity to provide local services to the regional offices of the Public Guardian; such a procurement could result in lower commissions charged to clients. Following our inquiries, the asset management staff at the Public Guardian reviewed rates for various auction houses and based on this review, the auction house the Public Guardian has been using has lower commission rates than some and is approximately equal to others. For example, two auction houses, including the Public Guardian's, charge 15% for assets between \$2,500 and \$7,500. The Ministry recently directed the Public Guardian to procure this service competitively, which it plans to do in the next 12 to 18 months. In comparison, the British Columbia Public Guardian uses four appraisers and 16 different auction houses across the province to provide similar services.
Auction house appraises and sells clients' assets	The auction house appraises as well as sells clients' assets. The Public Guardian informed us that it assumes the auction house will act in good faith and so does not oversee any aspect of the auction house's activities after the assets are removed to the auction house. For example, the asset management staff rely on the auction house to make the best effort to obtain the highest value for assets sold, and trust that they will not engage in unethical practices, such as arranging for someone to bid low on items at a poorly advertised auction and later resell for a higher return, which would not be remitted to the client.
Security checks not required	While the Public Guardian requires security checks for the employees of external firms that provide "clean and search" inspection services at clients' properties (to clean their premises and search for financial and legal documents), it does not require the auction house employees that visit these properties (for example, to inspect artwork) to undergo similar checks.
Responsibility for damages and losses not contractually established	The Public Guardian has not clarified, such as through an agreement with the auction house, which party retains financial responsibility if items removed by the auction house are damaged, lost or stolen prior to being sold. Asset management staff informed us that this has never occurred.

and spreadsheets to track client assets. As part of its modernization plan, the OPGT will streamline and improve asset tracking through upgrades to its information technology system, including automation, and workflow and unification of the various current systems. These upgrades will strengthen internal controls. The OPGT will conduct a review of the current process, identify where controls are required or need to be strengthened, and develop business requirements.

The OPGT currently combines appraisal and auctioning services as it feels it is cost-effective for its clients. However, the OPGT will explore the recommended procurement approach. For example, the OPGT will contact the Proceeds of Crime Unit within the Ministry of the Attorney General to discuss way to procure the services of the appraisal and auctioning separately.

The OPGT agrees with the recommendation. In procuring the services of the auctioning service, the OPGT will include the specific responsibilities of the auction service provider in its contract, along with other clauses such as insurance, which are in the Ontario Public Service standard agreement.

4.1.5 No Record of Clearance Checks on 36% of Staff Who Have Access to Client Information

We found a lack of evidence to show that all Public Guardian staff have obtained the required level of security clearance. The potential exists that individuals with criminal backgrounds could attempt to misappropriate client funds.

Public Guardian staff have access to sensitive information about clients' health and financial

position. Depending on their responsibilities and associated risks of the position, Public Guardian staff may be required to undergo one or more of the following clearance checks: a criminal background check; a vulnerable sector check (usually required of individuals who work with children or vulnerable people to confirm that they have not been pardoned for a sexual offence); and a credit check.

Staff hired more recently are required to undergo three checks, while staff hired before 2012 were required to undergo only the criminal background check. As a result, Public Guardian inspectors, caseworkers and their assistants, and team leaders have different levels of clearance checks depending on when they were hired.

Even so, we found that the Public Guardian could not produce any record of clearance checks for 36% of these employees who work extensively with clients' finances and property, even though all of these employees were hired when clearance checks were required.

In contrast, teachers in Ontario must complete a criminal record check before they can teach in Ontario's publicly funded elementary and secondary schools, and must annually declare that they have not been convicted of a criminal offence in Ontario or in any other jurisdiction.

RECOMMENDATION 2

To reduce the risk that employees abuse their positions of guardianship power, we recommend that the Office of the Public Guardian and Trustee confirm that its guardianship services staff have all obtained required security clearance.

OFFICE OF THE PUBLIC GUARDIAN AND TRUSTEE RESPONSE

The Office of the Public Guardian and Trustee (OPGT) agrees with the recommendation. The OPGT will work with the Ministry of the Attorney General to ensure that all guardianship staff have obtained the necessary security clearances.

4.2 Client Needs Not Well Understood to Support Provision of Quality Services

4.2.1 Limited Visits Conducted to Confirm Needs and Circumstances of Guardianship Clients

Public Guardian staff have not visited the majority of its property guardianship clients. In 2010, due largely to anecdotal concerns over workload, the Public Guardian stopped requiring annual caseworker visits to property guardianship clients. The only requirement is that caseworkers make one initial visit within the first six to 12 months of when an incapable person first comes under property guardianship. In comparison, we noted that Manitoba's Office of the Public Guardian's goal was to visit each client once per year, and Quebec's Public Guardian has a goal of one visit every one to two years depending on the client's needs. British Columbia's Public Guardian has a policy to visit new "committee of estate" clients (similar to property guardianship clients in Ontario) within six months—unless there are health or safety concerns or the authority to manage finances is in the process of being transferred—and every two to three years thereafter depending on the client's needs.

Public Guardian policies also allow for various exemptions from the visit policy, such as when a visit poses safety concerns (for example, when clients are violent or aggressive); if a client resides in a safe and supporting setting (such as a long-term-care home, a retirement home, or a hospital) or has stable living circumstances, and reliable and involved supports (such as a social worker and/or supportive family); or if a client has no fixed address.

The Public Guardian does not review the frequency with which clients are visited. We obtained visit data and found that as of March 31, 2018:

- in each of the five years from 2013/14 to 2017/18, only about 7% to about 15% of all clients had been visited; and

- in each of the four years from 2013/14 to 2016/17, between about 30% and about 60% of new clients had been visited.

We also estimated how many vulnerable people may have never met their caseworkers by reviewing a random sample of guardianship clients where the Public Guardian attained authority within the last 28 years, and found half had never been visited since coming under Public Guardian services.

In contrast, one of the municipal delivery agents for the Ministry of Children, Community and Social Services' Ontario Works program has an internal process to perform wellness checks such as visits when people do not cash cheques for three months. While caseworkers can examine clients' bank statements to review if they have been cashing cheques or withdrawing funds, the Public Guardian's information systems cannot produce a summary report to highlight for caseworkers if a cheque has not been cashed, or other situations that might warrant a visit to confirm the well-being of people under guardianship.

Our survey of caseworkers indicated that, in spite of the workload concerns (see **Section 4.4** for more on caseloads), many indicated that visits were an important part of case management. (See **Appendix 7** for more on caseworkers' perspectives on visits.)

4.2.2 Little Information on How Clients Are Supported in the Community

About half of the caseworkers who responded to our survey felt that they could rely on other individuals, such as social workers and doctors, to oversee the well-being of some, but not all, of those under guardianship. Furthermore, when asked about the well-being of clients, about 20% of the caseworkers who responded to our survey either did not feel confident or did not know, 23% did not take a position, and 40% did not answer the question.

While the need for visits can be reasonably reduced for clients who live in supportive settings (such as long-term-care homes, retirement homes

or hospitals) or who have family members or professionals such as social workers or physicians involved in their care, our random sample of client files indicated little evidence that caseworkers had communicated with these individuals in the community. Without this relevant information, caseworkers cannot make informed judgments when managing their cases, and may be wrongly assuming that the clients would not benefit from a visit. Senior staff indicated that the case management system did not include a place to record the details of information from key contacts and that it would be helpful to have such information more readily locatable.

Based on our review of a sample of files, we found that, overall, there was little evidence of recent contact made with such individuals under guardianship to determine their status or well-being. For example, in some cases the incapable person came under Public Guardian guardianship between 14 and 28 years ago with no indication of when the most recent contact occurred.

Further, according to our review of a sample of files, we identified circumstances where the caseworker had placed unwarranted reliance on the supportive people or settings. For example, a caseworker indicated in the file shortly after a client came under guardianship that a community mental health and addiction service agency was supporting the individual; however, there was no evidence in the file that any contact had been made with the agency since 2016.

RECOMMENDATION 3

To monitor and responsibly manage individuals under property guardianship, we recommend that the Office of the Public Guardian and Trustee:

- review and update its visit policy to state when other parties, such as doctors or social workers, can be relied upon to reduce the frequency of visits by its own staff; and

- monitor to ensure its staff document dates and details of visits, as well as communications with supportive contacts.

OFFICE OF THE PUBLIC GUARDIAN AND TRUSTEE RESPONSE

The Office of the Public Guardian and Trustee (OPGT) agrees with the recommendation. The OPGT will review and update its client visit policy to state when other parties, such as doctors or social workers, can be relied upon to reduce the frequency of visits by its own staff.

The OPGT will provide additional training to staff on documenting dates and details of client visits. The OPGT will develop business requirements to improve the tracking of communications with supportive contacts through the system. The OPGT will introduce interim measures for managers that will enhance the monitoring of visit documentation and communications with supportive contacts.

4.2.3 Financial Plans and Investment Choices Made without Complete Picture of Client's Health Status

The Public Guardian financial planners are responsible for developing plans for all clients with net financial assets over \$50,000; these plans describe, among other things, how their assets are to be invested among three investment funds. In developing these plans, financial planners are required to consider the individual's health and age, since these factors can influence when and for how long a client may require funds, and follow internally developed policies when making investment decisions on behalf of clients.

The policies that financial planners follow have never been reviewed outside of the Public Guardian's financial planning unit. While these policies help guard against overly aggressive investment strategies that subject clients' assets to unwarranted risk, in some cases, they result in an overly cautious

investment strategy that is not well diversified for clients—with the majority of their assets being invested in funds that provide a low annual return of about 2% since 2014/15.

Limited Reliability of Health Information Used as Basis for Financial Plans

The current practice for developing financial plans does not ensure plans are based on accurate health information—in part because financial planners are not in a position to obtain such information. They must rely on caseworkers to obtain this information and caseworkers often do not document such information in the case management system.

We reviewed a sample of clients with investments and we found minimal documented health information in the case management system. The case management system does not have a specific field for this information; instead, it is embedded in the many notes included in the client's electronic case file, and therefore not readily locatable. For example, we found that caseworkers did not document when they last updated the health status of the client by speaking to a health professional.

Financial planning staff informed us that in some cases, they would not have reliable information on the health of the client because the client would not disclose the identity of physicians. However, we did not find any communications from financial planners to caseworkers requesting they obtain more current health information; caseworkers are entitled to request such information to help manage a client's finances. But based on our sample of client files, they rarely asked for the information.

The Public Guardian and Trustee of British Columbia, which also has several investment accounts representing different levels of risk, makes investment decisions based on a medical diagnosis and prognosis that also considers the person's life expectancy. None of the other larger provinces' Public Guardians maintained investment funds with different levels of risk.

4.2.4 Inflexible Investment Policy Not Supported by Evidence and Minimizes Income of Some Healthy Incapable Adults

The Public Guardian’s investment policies—those that financial planners use to invest clients’ assets—were originally created in 2005 by financial planning staff, with minor updates in 2017. They contain several specific investment rules that financial planning staff informed us were based on industry practice. These policies included a requirement that a client should not have more than 30% of assets invested in either of the Public Guardian’s medium- or high-risk funds. Financial planning staff could not produce any industry practice evidence of the basis for the policies.

We examined a sample of financial plans and found that they were prepared according to the developed policies. We reviewed these policies and found that while they appeared effective at guarding against overly aggressive investments for clients, they did not ensure a reasonably diversified investment strategy—even though senior financial staff indicated this was the intention of the policies. Consequently, the returns for some clients were unnecessarily low and could impact their future cash flows and quality of living. For example, under the policy, the funds of a healthy 80-year-old new client would be invested in only the low-risk, low-return fund. Also, no more than 30% of a client’s assets are to be invested in each of the medium- and high-risk funds but there is no requirement to invest any of their assets in these funds even if all other investments are in low-risk, low-return funds. Our sample of investment plans included two individuals in fair health where we questioned whether their investments were sufficiently diversified:

- A 60-year-old man had all \$69,000 of his assets invested in low-risk, low-return investments even though he had a positive monthly income of \$415; and
- A 64-year-old man had \$1.3 million (or 69%) of total assets of \$1.9 million invested in low-risk, low-return investments with a negative

monthly income of about \$2,000. While the negative monthly income suggests a need for some cash reserves, the client would still have over \$1.2 million available for other investments in five years.

RECOMMENDATION 4

To prudently manage the assets of incapable adults without missing opportunities for higher returns, we recommend that the Office of the Public Guardian and Trustee:

- monitor that caseworkers obtain and document current health information of clients, including when this information was obtained, and make this information readily available to financial planners; and
- review its investment policies, with expert input from, for example, the Investment Advisory Committee or its investment advisor, to confirm they meet prudent investor standards and revise as necessary.

OFFICE OF THE PUBLIC GUARDIAN AND TRUSTEE RESPONSE

The Office of the Public Guardian and Trustee (OPGT) agrees with this recommendation. The OPGT will provide further training to staff on the importance of documenting the current health information of clients and when it was obtained. The OPGT will develop business requirements for system enhancements to improve the ability of staff and financial planners to locate this information.

The OPGT will review the investment policies with its investment advisors or other external organizations to provide a “peer review” or other advisory services to confirm the client financial planning policies meet prudent investor standards and change or update as necessary.

4.2.5 Assessing Alternative Fund Options Could Yield Opportunities for Better Value

As noted in **Appendix 3**, four external fund managers currently manage the investments of guardianship clients and estates on behalf of the Public Guardian. These funds, each with different characteristics related to returns, risks, and asset composition, are intended to meet the diverse needs of clients on a collective basis. These funds were established between 2000 and 2006, and since then, Public Guardian financial staff have not assessed whether these provide the most appropriate investment opportunities for clients to meet their current and future needs. For example, clients' funds are invested in one or more of the three options—two of which offer capital growth and one that does not. But the Public Guardian has not assessed whether other funds, which could yield better returns or improve capital preservation, would better meet clients' individual needs. Furthermore, for the guardianship clients' money that is available to be invested across the three funds, over 90% is in the fixed income fund that provides about 2% interest, with less than 10% in the medium- and high-risk funds that earned higher returns over the long-term. Monies in registered plans, such as disability savings plans and retirement savings plans, are not available to be invested in the Public Guardian's three funds but are also overseen by the Public Guardian's financial planners. The Public Guardian has not assessed whether other fund options, such as another non-fixed income fund that is low risk, would be more appropriate for the risk profiles of its clients.

As well, the recently created Investment Management Corporation of Ontario (Corporation) invests on behalf of public-sector clients such as the Ontario Pension Board and the Workplace Safety and Insurance Board using pooled funds. The Public Guardian made initial contact with this organization in summer 2017 to explore opportunities for using the Corporation's investment management services for the Public Guardian's investment funds,

consisting of mostly pooled funds but also unitized client funds. While the Corporation is in its early start-up phase, it may be a good option for consideration by the Public Guardian within the next several years.

RECOMMENDATION 5

To best serve the financial interests of guardianship clients and heirs of estates, we recommend that the Office of the Public Guardian and Trustee:

- assess the appropriateness of its current investment strategy, which currently consists of three separate funds of varied risks, for its clients' investment needs and develop a plan to revise the strategy if needs are better met through other investment options; and
- periodically evaluate the use of the Investment Management Corporation of Ontario or other existing Ontario Government investment service providers.

OFFICE OF THE PUBLIC GUARDIAN AND TRUSTEE RESPONSE

The Office of the Public Guardian and Trustee (OPGT) agrees with the recommendation. The OPGT will assess the appropriateness of its current investment strategy and develop a plan to revise the strategy as necessary in the next procurement cycle.

The OPGT tendered several funds in 2017 as part of the ongoing review of its investment strategy. As part of the above noted assessment, the OPGT will contact the Investment Management Corporation of Ontario or other government service providers to discuss interest and possible partnership when procuring investment service providers in the future.

4.3 Little Assurance that Guardianship Services Are Provided to Those in Need

The Public Guardian, in its role as property or personal care guardian, can significantly influence the quality of life of the people under its guardianship. Our audit indicates that risks exist that cognitively impaired Ontarians are not getting the protection they need, and that some property guardianship clients may in fact be capable of managing their own finances. As a result, the Public Guardian cannot assure that it is providing services to the right people in need, which is a concern given the limited resources for providing guardianship services.

4.3.1 Low Number of Personal Care Guardianship Cases a Concern

The Public Guardian can be appointed by the court to act as a personal care guardian for mentally incapable people who are allegedly suffering from abuse, harm or neglect after the Public Guardian is made aware of the situation and investigates to confirm. The public can contact the Public Guardian through a dedicated telephone line to report suspected cases of serious personal harm (for example, not providing food, refusal to help obtain medical care, or leaving a person alone in an unsafe environment) or financial harm (for example, large withdrawals from a bank account for the use of another person, possibly a relative) to a mentally incapable person.

As personal care guardian, the Public Guardian can make decisions on behalf of these individuals regarding personal matters including their health care, diet, housing and clothing, as decided by the court. While legislative requirements across Canada vary, most larger provinces, including British Columbia, Alberta, Saskatchewan and Quebec, operate similarly to Ontario, where the court appoints the Public Guardian to be the personal care guardian for people in need.

The Public Guardian has acted as a personal care guardian for very few people in Ontario—between 15 and 34 over the last five years—compared with the roughly 12,000 people for whom it acts as a property guardian. Compared with Public Guardians in Quebec and Alberta, the number of personal care cases is significantly lower in Ontario. In Quebec, almost all of those under guardianship (about 13,500) were for both property and personal care. In Alberta, about 2,600 clients were under personal care guardianship as of March 31, 2018.

We examined the reasons for the low number of personal care guardianship cases in Ontario. We found that Public Guardian senior management generally holds the view that being a personal care guardian to someone imposes a highly restrictive level of control on a person's freedoms. It therefore does not actively seek out those who may benefit from personal care guardianship. For example, while the Public Guardian does conduct some outreach to inform certain community organizations, including community health centres and religious institutions about powers of attorney and the duties of a property guardian, these focus mainly on determining who may require property guardianship services. As well, we were informed that even though the Public Guardian caseworkers, who oversee property guardianship cases, were mostly aware that they can internally refer cases from property guardianship to personal care guardianship, they have referred only about eight such cases a year on average. Further, the dedicated public phone line, the primary means by which new personal care clients are referred to the Public Guardian and cases of suspected abuse or neglect are reported, is not easy to locate on the Public Guardian website, which resides within the Ministry's website. As well, the Public Guardian does not use other digital means such as social media to inform the public about its services. In comparison, the Office of the Public Guardian in the United Kingdom uses social media to communicate with the public.

Few of the stakeholder organizations we spoke to were familiar with the Public Guardian's role as

guardian of personal care. All said they thought that more of the incapable people they represented would benefit from such services and wanted the Public Guardian to more clearly communicate its services to the public, including when the Public Guardian should and should not be contacted, and how to access services, particularly personal care guardianship.

RECOMMENDATION 6

To identify and protect incapable people who may be suffering from harm and abuse, we recommend that the Office of the Public Guardian and Trustee (Public Guardian):

- work with the Ministry of the Attorney General to clearly communicate to the public through updates to its website and social media the ways to report possible abuse cases and the Public Guardian's role as personal care guardian; and
- refresh training of its property guardianship staff to clarify how staff can refer cases of suspected abuse or those in need of protection to personal care guardianship.

OFFICE OF THE PUBLIC GUARDIAN AND TRUSTEE RESPONSE

The Office of the Public Guardian and Trustee (OPGT) agrees with the recommendation. The OPGT will develop a public awareness strategy on the OPGT's role, mandate and how to access its services. This will include seeking approval to have a social media presence and working with the Ministry of the Attorney General (Ministry) to improve content on the Ministry's website so the information is more accessible and user-friendly.

The OPGT will incorporate refresher training on this topic as part of the broader training plan for frontline staff and ensure delivery of training on how to refer cases that may require guardianship of the person.

4.3.2 Concerns with Community Assessors' Work Identified but No Assessor Has Ever Been Delisted from the Provincial Roster

The Public Guardian has not taken a proactive role to ensure that community assessors (designated professionals outside of a hospital setting who have received training to assess a person's capacity to manage finances) are performing in accordance with acceptable quality standards. Without this assurance, there is risk that the Public Guardian is assuming authority for managing the finances of people who are in fact capable of doing it themselves.

Half of the Public Guardian caseworkers who responded to our survey indicated that they believed certain people on their caseload were capable of managing their own finances and do not truly need the Public Guardian's services. The Consent and Capacity Board, which in 2016/17 and 2017/18 heard 32 appeals from individuals assessed by community assessors, overturned over 80% of these cases where it found that the evidence could not support the finding of incapacity.

The Public Guardian is uniquely positioned to influence the quality of the work of these community assessors, who are responsible for referring over half of the property guardianship cases to the Public Guardian, because the Capacity Assessment Office (Office) reports to the Public Guardian and Trustee. The Capacity Assessment Office provides training to and maintains a roster of these assessors. (For more on the way community assessors are appointed and overseen, see **Appendix 4**.)

Since the Office was established over 20 years ago, it has never removed a community assessor from the roster. It has also never filed a complaint with any community assessor's regulatory college and has no criteria or guidelines to help it determine when to file such a complaint. The Office informed us that its role is to provide education through feedback and seminars to community assessors, not to sanction community assessors. A review conducted by senior staff at the Public

Guardian about 20 years ago noted that the Office “is unable to take disciplinary action against assessors about whom complaints are received other than to ‘delist’ them from the public list. This action has not been taken because Capacity Assessment Office staff are not privy to assessors’ reports or files, and therefore cannot evaluate the complaint against file information.” The Office’s staff still do not obtain assessors’ reports or files, and the Public Guardian has not conducted any similar review recently. Furthermore, the Office does not track the number of assessments conducted by each assessor and does not verify the declarations submitted by assessors stating that they have conducted five assessments over two years as required.

The Office retains external expert consultants who review the community assessors’ quality of work. We examined all expert consultants’ reviews from 2016 and 2017, covering 155 capacity assessments conducted by 77 community assessors, and found that the consultants had identified concerns in almost half of the assessors they evaluated. We found that the Capacity Assessment Office is limited in its ability to follow up on the results of the expert consultants’ quality reviews because of weaknesses in the process, which we describe in **Figure 6**.

In almost one-third of these capacity assessment reviews, expert consultants documented concerns with the quality of the capacity assessments they had evaluated. They cited concerns such as a lack of understanding of relevant legislation; asking

subjects questions that lacked sufficient depth; not explaining why they found the subject incapable; and not meeting any of the requirements for completing an assessment.

We also analyzed how many community assessors had repeated quality concerns identified through this quality review (each assessor is reviewed every two years). We found three-quarters of the assessors with more significant quality concerns in the 2016-2017 review cycle also had concerns in the 2014-2015 cycle. The Capacity Assessment Office has never conducted such an analysis.

We noted that in other provinces, a finding of incapacity generally involves several professionals providing input into the decision, sometimes with opportunities for the individual to contest the finding of incapacity prior to the Public Guardian establishing its authority. For instance, in British Columbia, capacity assessments are conducted first by a health-care provider and then a designate from the local health authority. A certificate of incapability is issued only when both determine a person’s capacity is lacking. Representatives from two stakeholder groups we spoke to suggested that including the input of others familiar with the person being assessed, such as a physician, would help ensure the overall accuracy of the assessment.

Figure 6: Weaknesses in Quality Review Process for Capacity Assessments

Prepared by the Office of the Auditor General of Ontario

Concerns	Details
Reviews covered only a fraction of work completed by community assessors	Each community assessor is required to send in only two completed capacity assessments for quality review over two years. As a result, only 155 or about 7% of all capacity assessments performed in 2016 and 2017 were reviewed.
Community assessors can choose which assessments to submit for review	Community assessors can choose the capacity assessments they forward for quality review, and therefore can avoid sending those that they know were not performed well.
Repeated instances of poor performance are not tracked	The Capacity Assessment Office does not track the expert consultants’ reviews of capacity assessments to determine if a community assessor has performed poorly over several years.

RECOMMENDATION 7

To help capacity assessments in the community comply with required standards so that only those persons correctly assessed as incapable are referred for guardianship, we recommend the Public Guardian and Trustee instruct the Capacity Assessment Office to:

- track which community assessors are producing capacity assessments with repeated quality concerns (for example, assessments lacking a well-documented basis for incapacity); and
- develop criteria to determine when a community assessor should be referred to the relevant regulatory college and/or removed from the roster of community assessors, and apply these criteria appropriately to address systemic quality concerns.

OFFICE OF THE PUBLIC GUARDIAN AND TRUSTEE RESPONSE

The Office of the Public Guardian and Trustee (OPGT) agrees with this recommendation. The OPGT will instruct the Capacity Assessment Office (Office) to develop a system-based mechanism that will track capacity assessors who are producing assessments with quality concerns to measure frequency of individual occurrences and to categorize systemic matters aimed at improving the educational curriculum of the Office.

The OPGT will instruct the Office to work with the regulatory colleges to develop criteria for referral of an assessor to their regulator for review and to review its policies and processes around the removal of assessors from the roster of assessors.

4.3.3 Some Psychiatric Facilities Not Fully Confident that They Have Minimized Financial Losses of Patients

Psychiatric facilities have established different processes to ensure the patients in their facilities who are incapable of managing their finances are appropriately referred to the Public Guardian. We surveyed all designated psychiatric facilities in Ontario. Of the facilities that responded to our survey, 42% were confident that their facilities were able to minimize any financial loss experienced by admitted patients, while 58% were only somewhat or less confident. When discharged patients requiring property guardianship services are not appropriately referred to the Public Guardian, they may be susceptible to financial losses because of their own mismanagement or because of mistreatment by others.

Under the *Mental Health Act* (Act), the Minister of Health and Long-Term Care has authority to designate which psychiatric facilities are required to have all admitted patients assessed by their physicians to determine whether they are capable of managing their property, and to refer incapable patients to the Public Guardian for property management as appropriate. The Ministry has designated 82 such facilities and is responsible for administering the Act.

Senior Public Guardian staff informed us that although specific cases have not been tracked, they noted an increase in recent years of hospitals inadvertently discharging patients assessed as incapable before filing the required paperwork with the Public Guardian to continue guardianship. In 2014, and again in 2018 (during our audit), the Public Guardian sent a written reminder to these designated psychiatric facilities of their legislated duty to evaluate patients for their capacity to manage property.

According to the facilities that responded to our survey, they developed and used their own tools to help ensure they appropriately refer cases to the Public Guardian. These include training provided to

physicians either through the Public Guardian or by the hospital itself, and checklists to establish financial management capability. While the Ministry administers the Act and funds hospital operations, it had not developed any common tools for these hospitals to use. The Ministry informed us that other health partners such as the College of Physicians and Surgeons of Ontario and the Ontario Hospital Association may also be responsible for establishing standards of professional conduct and competency for physicians and ensuring compliance with legislative requirements, respectively.

The 2017 Law Commission of Ontario's report, *Legal Capacity, Decision-Making and Guardianship*, found that examinations performed by physicians in psychiatric facilities to determine capacity to manage property are relatively unregulated and under-analyzed.

RECOMMENDATION 8

To help psychiatric facilities meet the legislative requirements under the Mental Health Act to assess patients' capacity to manage their property and refer to the Office of the Public Guardian and Trustee (Public Guardian) when appropriate, we recommend that the Public Guardian work with the Ministry of Health and Long-Term Care, psychiatric facilities, or any other relevant health partners as required to establish standard referral procedures and tools.

OFFICE OF THE PUBLIC GUARDIAN AND TRUSTEE RESPONSE

The Office of the Public Guardian and Trustee (OPGT) will engage relevant stakeholders in the mental-health sector and ministry partners to discuss the establishment of referral procedures and tools to refer clients to the OPGT when appropriate.

4.3.4 Gaps in Legal Requirements Overlook Certain Groups of Vulnerable Individuals That Could Benefit from Public Guardian Services

Outside of psychiatric facilities, Ontario currently has no standard process to systematically evaluate certain vulnerable populations who may also be incapable of managing their own finances and may not have power of attorney, including:

- people residing in long-term-care facilities with conditions such as dementia;
- people who have acquired severe brain injuries that affect decision-making;
- people with mental health or developmental disabilities admitted to hospitals that are not designated by the Ministry of Health and Long-Term Care under the *Mental Health Act*, such as community hospitals; and
- youth receiving social benefits who have some form of mental illness or acquired brain injury or severe disability.

The Ministry of Health and Long-Term Care has not assessed how many individuals in long-term care homes and non-designated hospitals are at risk of being unable to manage their own finances. Representatives from the Ontario Long Term Care Association and the Brain Injury Association informed us that, in their view, such assessments should be conducted more systematically in these settings. See **Appendix 8** for more information on their rationale for extending capacity assessments to long-term-care homes and hospitals.

The Ministry of Children, Community and Social Services identified that as of June 2018, more than 1,300 youths aged 18 and 19 and entering adulthood lived with either mental illness or severe disability, and received payments from either the Ontario Disability Support Program or the Assistance for Children with Severe Disabilities. These adults are at risk of not being able to manage their own property and should be evaluated and referred to the Public Guardian as needed, but no processes exist to ensure this occurs.

In the five years between 2013/14 and 2017/18, only 218 youths aged 18 or 19 were referred to the Public Guardian for property guardianship. The 2017 Law Commission of Ontario report noted a similar issue: “For those transitioning youth who are living with acquired brain injuries, mental health disabilities or other condition that may affect decision-making abilities, there may be no clear mechanism or responsibility for triggering a Capacity Assessment at age 18: these youth may ‘fall through the cracks’ in various systems.”

A medical professional with one of the stakeholder groups we talked to noted another group of vulnerable people that the Public Guardian might miss under the current referral process is those with low income who might not have the capacity to know that they should not be making impulsive, non-essential purchases. The professional noted cases where low-income individuals had spent their next month’s rent on non-essential needs such as high-end clothing, with the consequence of being evicted and becoming homeless. These individuals are not systematically brought to the Public Guardian’s attention as they are not necessarily abused by another party (as explained in **Section 4.3.1**). However, they could benefit from the Public Guardian’s property guardianship services.

Many of the stakeholder groups stated that, in their view, the Public Guardian’s work should be expanded to help more incapable people, but that it was their impression that the Public Guardian was working with a full caseload and so could not absorb this higher work volume.

RECOMMENDATION 9

To protect all mentally incapable Ontarians from financial mismanagement, we recommend that the Office of the Public Guardian and Trustee (Public Guardian), in conjunction with the Ministry of the Attorney General:

- work with relevant ministries to identify populations that are at higher risk of being incapable of managing their finances with no other supports; and

- develop formal processes to help these individuals access property guardianship services from the Public Guardian.

OFFICE OF THE PUBLIC GUARDIAN AND TRUSTEE RESPONSE

The Office of the Public Guardian and Trustee will consult with and work in conjunction with the Ministry of the Attorney General, other relevant ministries and stakeholders to develop formal processes to assist specific, vulnerable populations in accessing property guardianship services. This work will consider the Law Commission of Ontario’s report, *Legal Capacity, Decision-Making and Guardianship*, and the OPGT’s current modernization initiative (for service-delivery considerations).

4.3.5 Public Not Well Informed of Right to Replace Public Guardian

The Public Guardian received about 260 applications each year in 2016/17 and 2017/18 from people who wanted to replace it as an individual’s guardian. Between 2014/15 and 2017/18, the number of cases closed due to family and friends taking over guardianship declined by 20%, while the total number of property guardianship cases went up by almost 6%.

While the Public Guardian is legislatively established as the guardian of last resort, it does not clearly convey to the public that it does not have to be the permanent guardian. As a result, the public, particularly family and friends of an incapable person under guardianship, may not be fully aware that they can ask to replace the Public Guardian as an incapable person’s guardian; such replacements could reduce the Public Guardian’s caseload.

When guardianship is first undertaken, Public Guardian policy requires caseworkers to notify any individuals who appear to be potentially suitable guardians that they may request to take over guardianship. However, we noted that not all such

individuals were identified by caseworkers and that policy does not require further notifications, even if the incapable person is under guardianship for many years. The Public Guardian’s main website does not clearly direct visitors to instructions on how family or friends may replace the Public Guardian. Instead, an interested party would need to know to perform a general search for “replace Public Guardian and Trustee,” or click through three links from the Public Guardian’s main website to find the instructions.

RECOMMENDATION 10

To minimize resources devoted to providing guardianship services and to help suitable family and friends become aware that they can be more involved in managing an incapable person’s assets, we recommend that the Office of the Public Guardian and Trustee (Public Guardian) work with the Ministry of the Attorney General to clearly communicate to the public—such as through updating its website and using social media—their right to replace the Public Guardian as a guardian of an incapable person.

OFFICE OF THE PUBLIC GUARDIAN AND TRUSTEE RESPONSE

The Office of the Public Guardian and Trustee (OPGT) agrees with the recommendation. The OPGT will work on developing a plan to identify family members of existing clients who may be suitable and willing to apply to replace the OPGT. The OPGT will determine and implement a process for notifying them again of the potential to apply and ensuring that they have the required information. The OPGT will also incorporate and highlight this information in the public awareness campaign on the OPGT’s role and mandate that will be part of its modernization initiative. As noted, the OPGT will be seeking approval to have a social media presence and will be working with the Ministry of the Attorney General (Ministry) to improve the

content relating to OPGT services on the Ministry’s website, which will make the information more accessible and user-friendly.

4.4 Public Guardian Has Not Reviewed Staff Caseload in Over 20 Years

The Public Guardian has not assessed the way it distributes cases among caseworkers, or the most effective mix of staff to support case management, in over 20 years. As a result, the Public Guardian cannot demonstrate that staff are currently deployed in the most effective way to provide quality services to vulnerable people.

Caseworkers provide critical frontline services to guardianship clients, such as developing monthly budgets to meet client needs based on their available resources, authorizing the payment of their bills, and obtaining information from health-care sector and social service workers who may be closest to clients who suffer from mental illness, brain injuries or developmental disabilities. The Public Guardian requires caseworkers to have knowledge of the various statutes that give it authority to act as the guardian of vulnerable adults, financial management practices, and negotiating skills with creditors, among other technical and problem-solving skills. The Public Guardian does not require caseworkers to have specific educational prerequisites.

Our discussions with stakeholder groups indicated that, in their experience, caseworkers usually were professional and hard-working, and quick to respond to requests for needed services (for example, funds for clothes or rent). However, most also noted cases where caseworkers were unreachable and unresponsive to urgent requests to support clients. Many of the groups we met with indicated that it was their understanding that the work of the Public Guardian was hindered by high caseloads.

The Ontario Ombudsman reported to us that it received almost 450 complaints from the public on the Public Guardian between April 2015 and December 2017:

- about 43% of these complaints related to services (for example, alleging that the Public Guardian failed to renew a client's mortgage when it came due and alleging that the Public Guardian sent a client's monthly allowance to the wrong recipient);
- 28% related to communication (for example, difficulties getting in contact with the caseworkers and delay in responding to clients' or their families' inquiries);
- 21% related to decision-making (for example, dissatisfaction with the Public Guardian's decision to become involved and manage the health and financial affairs of an individual without obtaining full information from family members and decisions regarding the management of client finances); and
- 8% related to other miscellaneous reasons.

The Public Guardian has not assessed whether its current staffing model for guardianship services is conducive to effective management of client cases. The current staffing model consists of multiple positions—caseworkers, senior caseworkers, caseworker assistants, team leaders and managers. Assistants provide administrative support to senior caseworkers, who are assigned to manage more complex cases. Non-complex cases are assigned to junior caseworkers.

The Public Guardian has not determined what a reasonable caseload is among its classes of caseworkers. Without such benchmark, caseloads among staff varied considerably: senior caseworkers' caseloads ranged from 73 to 112 as of March 31, 2018, compared with 71 to 107 as of a year earlier; more junior caseworkers' caseloads ranged from 150 to 237, compared with 178 to 227 a year earlier. In other words, some caseworkers managed about 50% more cases than other caseworkers, even though they are all supposed to be managing files of similar characteristics and complexity. Of the caseworkers who responded to our survey, 88% found their caseloads unmanageable, and 65% indicated that a large caseload was the single largest obstacle to managing clients' finances effectively.

We also noted that, in 2015, an internal working group found that the Public Guardian could assign cases based on specialized areas instead of by complexity. Specifically, it noted that assigning all cases with extended health-care plans to one specialized group of caseworkers would improve the way staff obtain benefits and manage claims for guardianship clients. However, the Public Guardian has not implemented this recommendation. Caseworkers who responded to our survey felt that having specialized groups of caseworkers to manage cases with pending lawsuits (such as motor vehicle accident claims), insurance claims, or real-estate issues would also be beneficial.

See **Figure 7** for further details on our concerns regarding the staffing model.

RECOMMENDATION 11

To promote more efficient and effective case management of guardianship cases and to help staff make sound judgments in order to provide quality services to clients, we recommend that the Office of the Public Guardian and Trustee:

- analyze the time and effort required to manage guardianship cases, determine a suitable staffing model, develop benchmarks for a reasonable caseload, and reallocate resources accordingly; and
- identify areas where staff require additional training and provide effective training to staff, possibly through one-on-one instruction.

OFFICE OF THE PUBLIC GUARDIAN AND TRUSTEE RESPONSE

The Office of the Public Guardian and Trustee (OPGT) agrees with the recommendation. The OPGT is currently undertaking a modernization initiative, which includes making upgrades to its information technology system and implementing strategies to address the current workload pressures. Workload analysis is a key deliverable of this modernization work, which

Figure 7: Weaknesses In Staffing Model

Prepared by the Office of the Auditor General of Ontario

Concerns	Details
Insufficient training according to caseworkers responding to our survey	Of those caseworkers who responded to our survey, 63% felt that they did not receive enough training and would benefit from more one-on-one training to help them make better decisions in a variety of situations.
Caseworkers indicated lack of support by team leaders according to our survey	One-third of the caseworkers who responded to our survey felt that they received enough support from their team leaders only some of the time, noting that team leaders are not always effective, knowledgeable, willing or available to help them. About 60% of the caseworkers who responded to our survey felt that they received enough support from their team leaders all of the time, and another 10% did not answer this question.
Disconnect between oversight responsibilities and reporting relationships	The Public Guardian employs assistants to provide administrative support to senior caseworkers who are assigned more complex cases to manage. However, the effectiveness of this model is questionable because 65% of the senior caseworkers who responded to our survey indicated that they could not rely on the assistants to alleviate their workload given their high turnover and inability to perform tasks accurately. As well, assistants report to managers, not the senior caseworkers they assist. Similarly, team leaders are required to oversee the work of caseworkers, but caseworkers officially report to the managers (a level above team leaders). Also, team leaders allocate new cases to caseworkers without considering the existing overall distribution of caseloads because that is the manager's responsibility.
Staffing changes made without first determining what a reasonable caseload should be	In 2015 and 2018, the Public Guardian increased the staffing of guardianship caseworkers by adding three team leaders and seven caseworkers. However, it has not assessed what impact these staffing additions had on caseworkers' ability to efficiently manage clients' property.

will assist with determining an appropriate staffing model and optimal use of resources. A comprehensive three-year plan with short-, medium- and long-term objectives has been developed to drive this work. In the interim, managers will undertake a review of caseload distribution within the existing staffing structure and make adjustments where required.

The OPGT will establish a plan to identify staff who require additional training and in which areas of function/responsibility. The OPGT will also look at various options for the delivery of training to ensure that staff are appropriately trained to carry out their roles.

4.5 Delays in Paying Out Estates and Lack of Training to Detect Fraudulent Heirs

4.5.1 System Limitations and Other Factors Contributed to Delay in Estates Distribution

According to the *Crown Administration of Estates Act*, estate funds that have not been distributed 10 years after a person's death are to be escheated (or paid) to the provincial government. The remitted funds are deposited into the Province's general fund and used to cover the costs of public services. As of May 2018, Public Guardian estates staff still had not distributed about 260 estates to their heirs, representing 18% of estate cases administered, for at least 10 years after the date of death. These cases had a combined value of \$28 million.

Similar to concerns our Office raised in the audit of the Public Guardian in 2004, we found examples during this audit where estates staff did not, on a timely basis, distribute estates to the heirs in cases

where heirs were found, or remit undistributed estates to the Ontario Government in cases where heirs were not found. These delays resulted in unnecessary losses to the beneficiaries or the Crown.

In one case, estates staff did not remit to the Crown an estate valued at about \$5.8 million, even though they should have escheated it in March 2016, until we inquired about this case during our audit. Because estates staff delayed escheating the

file, the estate incurred about \$119,000 of federal taxes and Public Guardian fees between 2016 and 2018. In another case, estates staff approved an heir to receive about \$64,000 in 2016, but did not distribute the funds until we inquired about the delay in May 2018.

We identified a number of factors that contributed to the delay in closing estates cases, which are described in **Figure 8**.

Figure 8: Weaknesses in Process of Managing Estates

Prepared by the Office of the Auditor General of Ontario

Concerns	Details
Caseworkers not documenting information on family members of people under guardianship, resulting in slow heir searches later	About half of estate cases managed by estates staff originate from deceased people who were previously under the Public Guardian's guardianship. Public Guardian internal policy requires that caseworkers obtain background information of the guardianship client, including their family members, while the client is alive. However, estates staff indicated that information on family members was not always complete when they take over these cases from the caseworkers, resulting in longer-than-necessary searches for heirs.
No timing benchmarks established for various steps involved in administering estates	Estate administration involves multiple steps; for example, identifying and securing assets, identifying and locating heirs, and completing a legal review, as shown in Appendix 5 . The Public Guardian has not analyzed the time it typically takes to complete each step. Without such timing benchmarks, and subsequent monitoring for compliance, senior staff have not been able to detect and act on the delays that have resulted in administering estates and distributing funds to heirs.
Some estates files open for almost four months on average, with no decision made on whether to administer them	In the 2016/17 and 2017/18 fiscal years, the average time taken to open estate files was over a month from the date that the estate was referred to the Public Guardian, which exceeds the internal policy of 15 business days. As of July 2018, estates staff had still not determined whether they would take on 81 files that had been open for an average of 118 days, with one open for about two years. Estates staff explained that the delays are usually due to difficulties in locating next-of-kin in Ontario or quantifying the value of the estate—they only administer estates that are over \$10,000 net value—since this process often relies on external parties such as banks. They also informed us that because estates timeline data was not readily available, they could not determine whether the 15-day benchmark was reasonable.
More than 600 cases open for more than three years without evidence of review by senior staff	We found that 606 files had been open for more than three years. Even though senior staff review open files on an ad hoc, informal basis, they do not track which files have been reviewed. So, neither we nor the estates staff could determine which of these old files had been reviewed and what action, if any, staff had been directed to take to help close the files. Following our last audit of the entity in 2004, the Public Guardian committed to reviewing the status of every estates file open more than three years on a quarterly basis.
Information systems have no functionality to help with manual processes	Much of the estate administration processes are manual and the related information systems do not produce useful progress reports to support oversight. For instance, the system does not alert staff when a file needs to be followed up to contact heirs or to be escheated; does not easily allow staff to calculate each beneficiary's entitlement, an exercise that can be complex when there are multiple beneficiaries; and does not track the type of information requested of and obtained from each potential heir prior to distributing the estates. Senior estates staff requested system changes in 2012 to address many of these deficiencies, but changes had not been made at the time of our audit. We discuss other issues with the information systems in Section 4.8 .

RECOMMENDATION 12

To reduce delays in distributing assets to heirs and unnecessary losses to the value of estates under management, we recommend that the Office of the Public Guardian and Trustee:

- monitor whether caseworkers obtain more complete information about the family members of people under guardianship; and
- assess the time required to complete the various stages of the estates processes, establish or update benchmarks, and monitor the time taken to complete these stages.

OFFICE OF THE PUBLIC GUARDIAN AND TRUSTEE RESPONSE

The Office of the Public Guardian and Trustee (OPGT) agrees with the recommendation. The OPGT will establish processes to ensure that managers and supervisors monitor compliance with this requirement.

The OPGT is currently undertaking a modernization initiative, which includes making upgrades to its information technology system and implementing strategies to address the current workload pressures. Workload analysis is a key deliverable of this modernization work, which will assist with determining an appropriate staffing model and optimal use of resources. A comprehensive three-year plan with short-, medium- and long-term objectives has been developed to drive this work. In the interim, managers will work with available data to assess the timeframes in accordance with the recommendation and introduce revised targets.

4.5.2 Lack of Staff Training to Detect Imposters Increases Estate Fraud Risk

Despite the often millions of dollars of estate funds at stake, estates staff are not formally trained on how to detect fraudulent identification documents that claimants may produce to claim estate funds.

Instead, staff are expected to learn from their peers how to detect fraudulent documents. As a result, the Public Guardian cannot effectively detect cases where it may be distributing estate assets to people who are not the rightful heirs. Such an instance was detected in Alberta's Office of the Public Guardian and Trustee in 2010, where a staff member had fraudulently obtained a government identification card under a beneficiary's name and used it to open a bank account to misappropriate \$122,000 of funds from one of that staff member's estates files.

The Ontario Public Guardian requires claimants to produce documents such as birth certificates, marriage certificates and notarized affidavits to prove their identity. However, given current printer and photocopy technologies that can easily produce high-quality images, it can be difficult to ensure these documents—particularly documents from foreign countries—are valid.

The Ministry of Transportation's Fraud Prevention and Business Integrity Unit informed us it has seen an increase in the volume and quality of fraudulent documents used in attempts to obtain driver's licences and health cards over the years. The Ministry of Transportation trains ServiceOntario staff as well as DriveTest staff, who regularly review identification documents before issuing drivers' licences, on how to identify fraudulent documentation. The Ministry of Transportation also holds training sessions for other government staff, but the Public Guardian has not requested or received any such training.

RECOMMENDATION 13

To prevent payouts of estates to fraudulent claimants, we recommend that the Office of the Public Guardian and Trustee provide training, possibly from the Ministry of Transportation, to its staff on verifying the validity of identification documents.

OFFICE OF THE PUBLIC GUARDIAN AND TRUSTEE RESPONSE

The Office of the Public Guardian and Trustee (OPGT) agrees with the recommendation. The OPGT will contact the Ministry of Transportation to discuss and arrange this training for OPGT staff.

4.6 Success of Key Public Guardian Activities Not Fully Measured or Publicly Reported

The Public Guardian measures whether it has generated enough investment returns on the funds that it manages and whether it has initiated specific services on a timely basis when it begins managing a client's assets. However, it does not measure ongoing activities in managing clients' assets; nor has it set targets for various activities or publicly reported on its performance.

The Public Guardian met its performance measure on investment in 2017/18. That year, it reported that the four-year rolling average returns for all three investment funds had exceeded established benchmarks, which are based on various stock indices and other bond and treasury bill rates.

However, we found that the Public Guardian does not fully measure and report on its performance of guardianship services:

- The Public Guardian monitors whether it has initiated 10 “critical” services to safeguard property within 30 days. These services include requesting an investigation to identify and secure assets, and requesting financial information from various organizations, such as the Canada Revenue Agency and the Canada Pension Plan. Over the four quarters in 2017/18, the Public Guardian reported that in 82% to 86% of cases, it initiated the 10 services within 30 days. However, the results are not measured against any targets to improve performance.

- Beyond the 10 initial services, the Public Guardian does not measure its performance on ongoing guardianship activities. In comparison, the Office of the Public Guardian and Trustee of British Columbia measures activities that occur throughout the period of guardianship, such as whether disbursements (such as for rent or for food) are processed within 15 days, and whether all investment plans that are due for review were reviewed by senior management before the end of the current year.
- The Public Guardian does not publicly report on any of its performance indicators to demonstrate to the public that it is operating effectively in meeting its mandate. In contrast, we noted that the Office of the Public Guardian and Trustee of British Columbia annually reports its performance measures in its public report.

RECOMMENDATION 14

To fully measure all significant activities within its mandate, we recommend that the Office of the Public Guardian and Trustee:

- identify appropriate performance indicators that measure the efficiency and effectiveness of all activities throughout the duration of guardianship cases;
- set performance targets and regularly assess actual results against these targets; and
- report publicly on the results.

OFFICE OF THE PUBLIC GUARDIAN AND TRUSTEE RESPONSE

The Office of the Public Guardian and Trustee (OPGT) agrees with this recommendation. The OPGT will continue identifying ways of measuring efficiency and effectiveness of office-wide activities throughout the duration of a guardianship case. The modernization work currently under way will address data availability, risk

analysis and on-demand access to performance measures.

The OPGT has recently identified 47 performance targets: 24 in Client Services, 17 in Finance and six in the Legal Services Branch. The OPGT will continue to develop suitable new performance targets and regularly assess results against these targets.

The OPGT is part of the Open Government initiative and will continue to report approved data elements and performance targets. The OPGT will also include this information in future annual reports.

4.7 Service Fees Not Reviewed Since 2004, and Not Always Billed

The Public Guardian may not be getting fair compensation for its work because it has not reviewed the service fees it charges to guardianship clients and estates under management since 2004, and does not consistently bill clients for services it performs.

The *Public Guardian and Trustee Act* enables the Public Guardian to charge fees for services it performs, and specifies that the Attorney General needs to approve these fees. As well, a regulation under the *Substitute Decisions Act* sets out specific percentages to be charged, such as 3% for receipt of income.

We compared the fees Ontario charges with other larger provinces' public guardians and trustees. We found that Ontario charges a higher fee than Manitoba for reviewing applications from others who apply to replace the Public Guardian as an existing client's guardian. Overall, however, Ontario charges less than other provinces. For instance, for each transaction of receiving income, Ontario charges a 3% fee, compared with 4% charged by British Columbia. As well, Ontario does not charge a fee when its staff perform heir tracing and research services related to estates, whereas British Columbia and Manitoba all charge a fee of \$75 per hour. **Appendix 9** shows a comparison of Ontario's fees with three other provinces.

Regarding fees for legal services, we also found that in March 2018, the Public Guardian wrote off six invoices for such services provided between 2012 and 2017, totalling \$10,254, because a lawyer retired in May 2017 and did not always bill for services provided over the years. The opportunity to bill the incapable person was lost when the case was closed.

The risk exists that lawyers could be foregoing legal fees as we found that lawyers recorded a wide range of hours in the billing system during 2017/18. While, on average, full-time lawyers recorded 850 hours, 60% of the lawyers recorded fewer than 1,000 hours, the minimum target established by senior legal staff in 2015, with one lawyer entering just two hours in the entire year.

RECOMMENDATION 15

To provide reasonable compensation for its work, we recommend that the Office of the Public Guardian and Trustee:

- review and update its fees schedule; and
- bill promptly for all services performed.

OFFICE OF THE PUBLIC GUARDIAN AND TRUSTEE RESPONSE

The Office of the Public Guardian and Trustee (OPGT) agrees with this recommendation and will review and seek approval to update its fees schedule.

The OPGT also will ensure it bills promptly for all services performed. The OPGT will review its processes and put a system in place to ensure that services are billed promptly. The development of a more robust electronic case management system for billings and additional administrative resources are part of the OPGT's modernization work, which will help address this issue.

4.8 Case Management System Inadequate to Support Staff in Providing Good Services to Clients

The Public Guardian’s case management system does not fully support staff in performing their daily functions and cannot easily produce useful reports to help senior staff effectively oversee operations. As a result, caseworkers and other staff cannot easily make informed decisions to help manage clients’ cases.

The case management system consists of two components:

- The first, implemented in 1991 and based on largely obsolete mainframe technology, tracks financial transactions.
- The second, implemented in 2004 with continuous enhancements since, tracks the activities performed on guardianship and estate cases.

In addition to case management system shortcomings identified in **Sections 4.1, 4.2 and 4.5**, other weaknesses are listed in **Figure 9**.

4.8.1 No Assessment of Best Use of Administration Fund

The Public Guardian has not assessed whether the administration fund (explained in **Section 2.1.2**) should be reinvested in Public Guardian operations to, for example, improve its case management system or hire additional staff, or continue to be invested to help increase financial returns for vulnerable adults whose assets it manages. The Ministry of the Attorney General, which oversees the Public Guardian, has not conducted any such analysis either.

The Public Guardian had \$122 million in its administration fund as of March 31, 2018. About 20 years ago, the Public Guardian supplemented guardianship clients’ assets in the investment funds

Figure 9: Weaknesses in Case Management System

Prepared by the Office of the Auditor General of Ontario

Concerns	Details
Paper-based files create inefficiencies	Legal cases and financial plans are predominantly paper-based and therefore not always stored in the information system. These documents are often integral to effectively managing property since, for example, they can indicate which assets will be sold and when. Yet, they are not readily available in the system, preventing guardianship caseworkers from making decisions on a timely basis.
Over 200 suggested system changes not yet implemented	At the time of our field work in 2018, Public Guardian information technology staff had yet to implement over 200 system changes requested by various staff on average 421 days previously, with some dating back five years. These changes were requested to help support oversight and improve case management. While Public Guardian staff discuss these requests at monthly meetings, they do not formally rank their importance to help prioritize which changes should be made first.
No process to detect unauthorized system access	Public Guardian information technology staff indicated that they are concerned that the reporting on security events is inadequate. For example, there is currently no system-generated warning to information technology staff when someone tries multiple times to gain access to the Public Guardian’s case management system. Instead, staff would have to search through reports to identify and review any security events, but spend little time doing so because their time is spent supporting ongoing operations and addressing requests for changes to the system and new reports. Best practices suggest that to decrease the risk of unauthorized or malicious cyber activity, data log analysis software should be set to constantly monitor security events, such as failed attempts to access the system, and flag these based on defined criteria.
Data extraction processes time-consuming and cumbersome	Public Guardian staff must separately extract and manipulate data to determine the time the Public Guardian takes to initiate services for its property guardianship clients, a performance measure that is reported to the Ministry of the Attorney General.

with money from its administration fund, with the expectation of realizing higher returns from higher levels of capital. Over the years, the balance in the investment funds has increased significantly from about \$900 million in 2000 to \$1.7 billion in 2018.

RECOMMENDATION 16

To help staff efficiently manage clients' property as well as perform other functions within its core mandate, we recommend that the Office of the Public Guardian and Trustee:

- determine in conjunction with the Ministry of the Attorney General whether the administration fund continues to have value in improving the financial returns for incapable adults, and, if appropriate, reallocate the funds to other operational areas; and
- improve the functionality of its case management system, incorporating feedback from its program areas.

OFFICE OF THE PUBLIC GUARDIAN AND TRUSTEE RESPONSE

The Office of the Public Guardian and Trustee (OPGT) will engage and discuss this recommendation with the Ministry of the Attorney General with the goal of ensuring that this fund is used effectively to support the role of the OPGT and its clients. This includes investing a portion of the funds to support the OPGT's modernization work, which will result in increased efficiencies to better support and provide critical services to its clients.

The modernization work will include improving the OPGT case management system; staff consultation will be sought in designing and implementing these improvements.

Appendix 1: Key Office of the Public Guardian and Trustee Activities and Corresponding Legislation

Prepared by the Office of the Auditor General of Ontario

Program Areas	Description of Program	Applicable Legislation
Program Areas Covered in Our Audit		
Guardianship Services	<p>The Office of the Public Guardian and Trustee (Public Guardian) acts as the guardian of property for mentally incapable adults when there is no one else who has been appointed to do so. In this role, the Public Guardian is required to make decisions and conduct transactions that are in the client's best interest.</p> <p>The Public Guardian is also to investigate any allegation that a person is incapable of personal care and that serious adverse events are occurring or may result. Following these investigations, if the Public Guardian determines an individual needs protection, it will apply to the court to request to be appointed as the individual's personal care guardian.</p> <p>These matters are covered in our report under Sections 4.1, 4.2 and 4.3.</p>	<p><i>Substitute Decisions Act, 1992</i></p> <p><i>Mental Health Act, 1990</i></p> <p><i>Public Guardian and Trustee Act, 1990</i></p>
Estates Administration	<p>The Public Guardian administers certain estates of persons who die in Ontario without a will and without next of kin residing in Ontario, where the minimum net value of the estate is \$10,000.</p> <p>These matters are covered in our report under Section 4.5.</p>	<p><i>Crown Administration of Estates Act, 1990</i></p> <p><i>Trustee Act, 1990</i></p> <p><i>Escheats Act, 2015</i></p>
Program Areas Not Covered in Our Audit		
The Accountant of the Superior Court of Justice	<p>Acting as the Accountant of the Superior Court of Justice, the Public Guardian manages funds and assets on behalf of the Court until these are required to be paid.* The funds and assets relate to either litigations (in the Superior Court of Justice, Small Claims and Family Court; about \$393 million as of March 31, 2018) or amounts held on behalf of children that are due when the child becomes eligible at age 18 (about \$426 million as of March 31, 2018).</p>	<p><i>Public Guardian and Trustee Act, 1990</i></p>
Charitable Property	<p>The Public Guardian has a supervisory role over charities and charitable property to protect the public's interest. Specifically, it:</p> <ul style="list-style-type: none"> reviews applications by organizations that seek to attain charitable status to verify that their activities are eligible; assists in resolving situations where a gift to charity is included in a will but without a specific charity being named or one named that no longer exists; investigates complaints about alleged misuse of charitable property; facilitates charitable interests in court cases when necessary. This means that the Public Guardian does not protect the charities themselves (e.g., Humane Society), but charitable interest (e.g., someone leaving behind money for a purpose, such as protecting animals). 	<p><i>Public Guardian and Trustee Act, 1990</i></p>
Maintaining Trust Accounts for Cemeteries	<p>Cemetery owners in Ontario are required by law to maintain trust funds for the perpetual care and maintenance of their grounds and monuments. Cemetery owners who do not have a practical alternative may request the Public Guardian to manage the trust funds while they receive the income earned on these trust funds on an annual basis to cover perpetual care and maintenance costs.</p>	<p><i>Funeral, Burial and Cremation Services Act, 2002</i></p>
Treatment Decisions	<p>The Public Guardian, as a last resort, could be required to make a decision on behalf of incapable people where a medical treatment is proposed and there are no other people available to make a decision.</p>	<p><i>Health Care Consent Act, 1996</i></p>

* The investment of these funds, as well as of the funds of guardianship clients, is covered in **Section 4.2.**

Appendix 2: Key Functions in Managing Client's Finances

Prepared by the Office of the Auditor General of Ontario

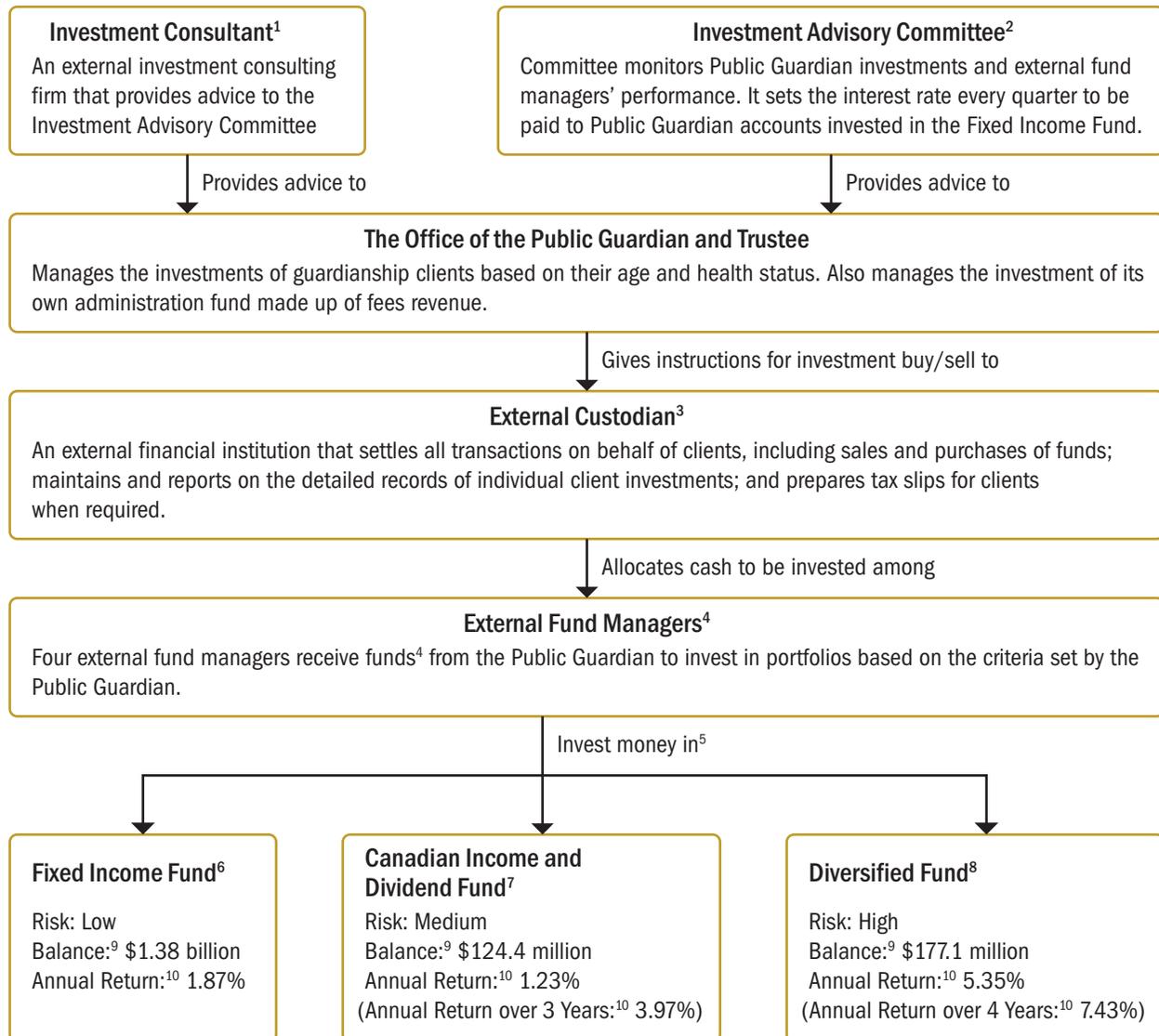
Caseworkers are assigned cases based on their complexity¹, and perform day-to-day activities² to manage finances of people under guardianship, with support from staff in other departments (Inspection, Legal, Vendor Management, Financial Planning, Asset Management)

Support Functions				
Inspection Visit the properties of persons under guardianship to identify, secure and safeguard assets and information ³	Legal Provide legal advice to caseworkers on files that contain legal matters	Vendor Management Establish legitimacy of vendors to whom caseworkers make payments on behalf of people under guardianship	Financial Planning Create financial plans for people under guardianship with assets valued at \$50,000+ and provide instructions on investments ⁴	Asset Management Liquidate, invest or dispose of assets according to caseworkers' and/or financial planners' instructions ⁵ and deposit proceeds to accounts

1. Complex cases that include, for example, real estate, a complex legal matter, financial investments, extended health care benefits, or cash and cash equivalents of at least \$50,000 are assigned to senior caseworkers; all other non-complex cases are assigned to more junior caseworkers.
2. Includes authorizing payment of rent and cable bills (actual payments are made by a separate group within the organization), filing any needed insurance claims, providing the guardianship client with an allowance for food, etc.
3. Includes assets such as jewellery and collectible coins, financial documents such as bills, and legal documents such as wills. Property guardianship client may continue to live in their current residence or may be required to move if there is insufficient funds to pay rent or if the person cannot care for himself or herself in their current residence.
4. Refer to **Appendix 3** for more information on this process.
5. Examples of instructions include selling securities previously held with external firms, investing money into one of the Public Guardian's investment funds, or opening a Tax Free Savings Account.

Appendix 3: Management, Oversight and Details of Investments Made by the Office of the Public Guardian and Trustee

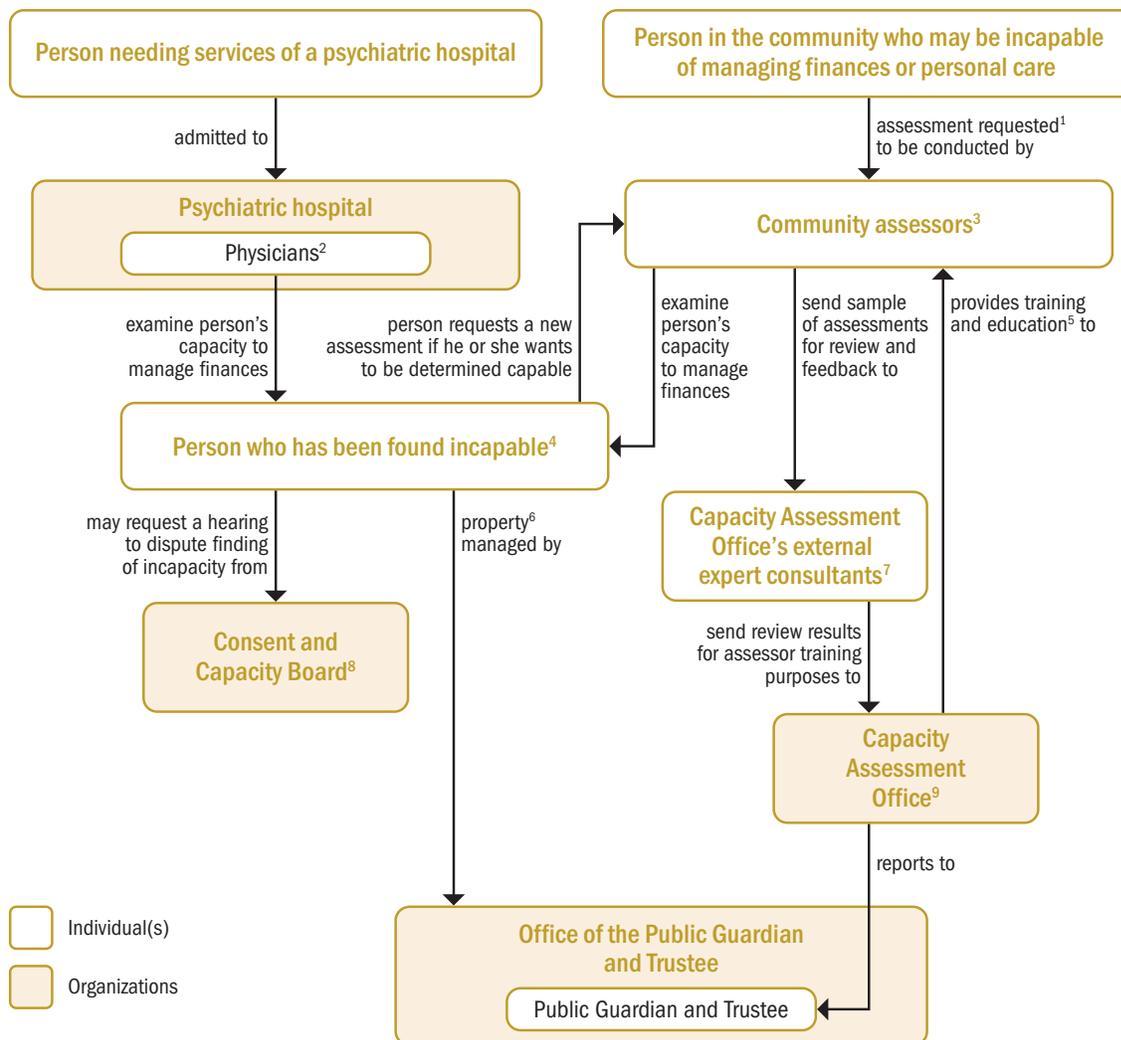
Prepared by the Office of the Auditor General of Ontario



1. The external investment consulting firm is contracted by the Public Guardian through a competitive selection process and has expertise in investment analysis, comparative reporting on fund manager performance, and investment risk management. The current contract, procured in 2016, has a term of seven years. The previous contract had a term of five years.
2. Committee consists of seven external members who collectively have expertise in investment management, institutional fund management, and financial services, and are all appointed by order-in-council.
3. The external custodian is contracted by the Public Guardian. The current contract was procured in 2010 and has a term of nine years.
4. The four external fund managers are selected by the Public Guardian through a competitive selection process. The contract for three of the existing investment managers was procured in 2018 and has a term of nine years. The previous contract was for 12 years. The contract for the fourth investment manager was last procured in 2007 and had a term of 12 years.
5. Includes cash from both clients' accounts and its own administration fund, which contained a balance of about \$122 million as of March 31, 2018.
6. Fund consists of Canadian and U.S. money market securities and Canadian bonds.
7. Fund consists of 50% Canadian fixed income and 50% Canadian equity.
8. Fund consists of two separate portfolios, each managed by a separate fund manager. Collectively, the two portfolios' asset mix is 40% Canadian fixed income, 30% Canadian equity and 30% global equity.
9. Balance as of March 31, 2018.
10. For period ending March 31, 2018.

Appendix 4: Capacity Assessment Process Involving the Office of the Public Guardian and Trustee

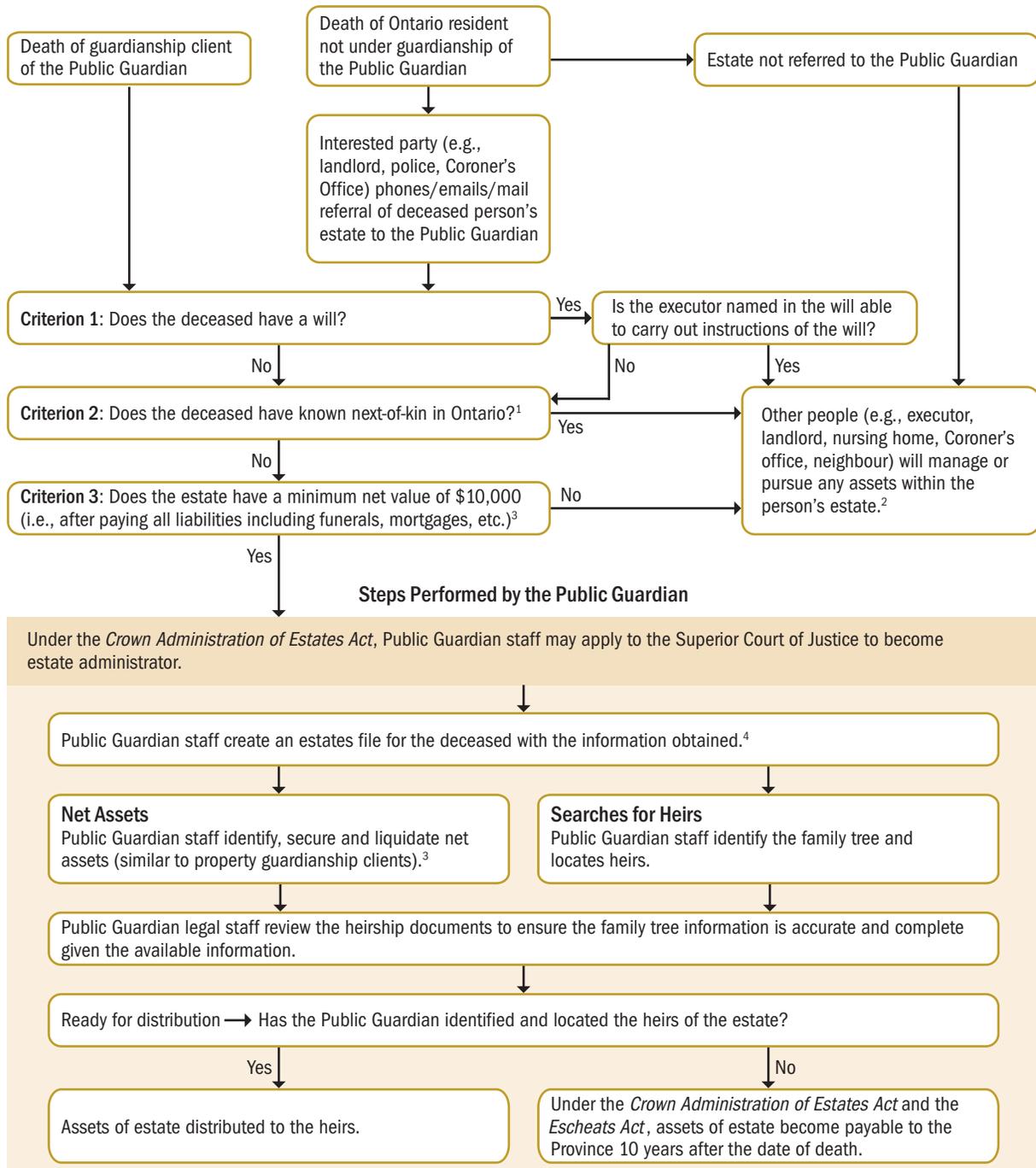
Prepared by the Office of the Auditor General of Ontario



1. Requests for capacity assessment can be made by a concerned family member or someone else in the community, such as a bank manager, who is concerned that a person may be incapable of making financial decisions. Community Assessors can also conduct capacity assessments on an individual's ability to manage his or her personal care.
2. Physicians in certain psychiatric facilities are required to examine their patients' capacity to manage properties under certain conditions set out in the *Mental Health Act*.
3. Community assessors are private-practice professionals, specifically, registered nurses, psychologists, registered social workers, occupational therapists or (in a small number of cases) doctors, who are trained and approved by the Capacity Assessment Office to conduct assessments.
4. When persons are deemed incapable of managing their property, generally speaking, they are unable to make sound decisions about their finances, home and possessions.
5. Before community assessors are included on the provincial roster, they are required to complete a two-part take-home examination and must score at least 70% on both parts.
6. The Public Guardian manages property of all referred clients except for Indigenous people who usually reside on a reserve.
7. Two psychologists and one psychiatrist who have working experience in the area of capacity assessments were engaged on a fee-for-service basis during 2017/18 by the Capacity Assessment Office. These consultants were selected competitively (most recently in April 2018).
8. The Consent and Capacity Board (Board) is an independent provincial tribunal that adjudicates matters of capacity and consent, including the capacity to manage property. Board members are lawyers, medical experts and members of the public. The Board reviews findings of incapacity conducted by community assessors and physicians in psychiatric hospitals. If the Board overturns a finding of incapacity, the individual regains control of decisions related to his or her finances. The number of annual applications to the Board is equal to about 1% of the people under guardianship with the Public Guardian.
9. The Capacity Assessment Office trains eligible professionals to be community assessors in accordance with the *Substitute Decisions Act*; provides ongoing education on the capacity assessment process to both current and prospective community assessors; provides a test that is intended to ensure competence of prospective community assessors; offers financial assistance to people who cannot afford a capacity assessment; and maintains a roster of qualified community assessors.

Appendix 5: Estates Administered by the Office of the Public Guardian and Trustee and Steps Involved in Administration

Prepared by the Office of the Auditor General of Ontario



- Next-of-kin must be able and willing to administer the estate and be over the age of 18. If the next-of-kin resides outside Ontario, he or she can nominate another individual in Ontario to administer the estate on his or her behalf.
- These people may also be required to apply to the Superior Court of Justice to administer the estate (e.g., banks may require this step prior to releasing the assets to the individual administering the estate).
- Public Guardian staff visit the home of the deceased to assess the value of the assets and liabilities. The information obtained helps assess Criterion 3 and identify the total net assets to be distributed.
- For deceased clients, i.e., those who were previously under Public Guardian authority, information obtained while the persons were under guardianship will be included in the estates file.

Appendix 6: Audit Criteria

Prepared by the Office of the Auditor General of Ontario

1. Capacity assessments are conducted by qualified, competent individuals, following a consistent methodology.
2. Allegations of abuse are investigated in a timely manner, and appropriate actions regarding personal care or property guardianship are taken based on the results of the investigations.
3. The Office of the Public Guardian and Trustee acts as a property guardian only when it has the proper authority to do so.
4. Property guardianship client and estate assets are identified, safeguarded, valued, and recorded in a timely manner. Property guardianship assets are managed according to legislative requirements. Estates are distributed to rightful heirs or beneficiaries, including charitable interests where appropriate, in a timely manner.
5. Financial and legal affairs of clients are effectively managed, ensuring that income and other benefit entitlements are identified and received in a timely manner, and liabilities are identified, validated and paid as required in the best interests of the client.
6. Financial plans are completed in a timely manner and properly executed. Investments are managed in accordance with legislative requirements.
7. Resources are managed with due regard for economy and efficiency to fulfill the Public Guardian and Trustee's core mandates.
8. Information systems support service delivery to clients and facilitate accurate measurement of and public reporting on the effectiveness of services and programs.
9. Costs of services are accounted for and the corresponding fees allowed by legislation are charged to clients on a timely and appropriate basis.

Appendix 7: Visiting Guardianship Clients Provides Value to Case Management

Prepared by the Office of the Auditor General of Ontario

In this audit, we surveyed all caseworkers; 69% responded. Of those responding, 48% indicated that visits to at least some of the clients on their caseload was important, especially for people living in the community (and not, for example, in a hospital or other supportive setting). The remaining 52% felt that visiting incapable adults was not useful or necessary, often citing time pressures as a reason.

One caseworker said: “I found that visiting clients in nursing homes, even if they were non-communicative, helped me understand their needs and seemed to add value to the level of care provided to our clients.”

Another caseworker noted long-term-care “staff are not invested enough to provide us with information. ... It is important for the (caseworker) to meet the (person under guardianship) and ensure that the belongings of the (person) and his/her living conditions are as they are said to be. Visits to facilities also allow a chance to meet with the staff and they then know that there is supervision for (the people under guardianship) and that gives a bit more accountability to them.”

Similarly, the Public Guardian and Trustee of British Columbia noted in its *2017/18 Annual Report* that “for the adult, the visit is an opportunity to convey information directly to the [Public Guardian and Trustee] without an intermediary such as a caregiver or care facility administrator,” and “visits improve quality of life for (those under guardianship) through direct contact with [Public Guardian and Trustee] staff and provide for their maximum empowerment.”

In 2015 and 2016, the Ontario Public Guardian examined efficiencies within the visit process by surveying its caseworkers and a sample of people under guardianship. It found that while most people under guardianship surveyed were satisfied with its services, areas for improvement included timeliness of services, difficulty contacting caseworkers, and not being notified when there are changes in caseworkers. We noted that its survey had a response rate of 14% and did not ask whether the respondents thought that visits were performed with reasonable frequency.

Appendix 8: Extending Capacity Assessments—Perspectives from Organizations that Represent Residents of Long-term-care Homes and People with Acquired Brain Injuries

Source of data: Ontario Long Term Care Association and Ontario Brain Injury Association

	Sector Currently Lacking Systematic Assessments of Capacity	
	Long-term-care (LTC) Homes	Hospitals
Who should be assessed?	Cognitively impaired residents, such as those with dementia	Patients with acquired brain injury
Why would they need support?	90% of residents have some form of cognitive impairment, with the prevalence and severity of cases expected to increase in the coming years.	Because of the nature of some brain injuries, survivors often do not recognize that their ability to manage property is impaired. This may cause them to make financial decisions that are not in their best interest.
What cases might warrant intervention by the Public Guardian?	<p>LTC staff have noted cases where the family controlling a resident's finances does not appear to spend the funds in the resident's best interest.</p> <p>LTC home staff cannot easily identify whether a resident is considered incapable of managing their finances, and therefore would not know whether it is appropriate to refer cases to the Public Guardian.</p> <p>LTC homes have noted cases where the family controlling a resident's finances does not pay for their LTC fees.</p> <p>The Ontario Long Term Care Association estimated that uncollectible accommodation fees amounted to \$3.5 million across all LTC homes as of March 31, 2016 (most recent year data is available).</p>	The Ontario Brain Injury Association noted cases where individuals with a serious brain injury may receive a settlement from an insurance company that is intended to be used for rehabilitative medical costs, but might instead be coerced by others to spend it in ways that do not help to improve their health. Such individuals have contacted the Association for help after their settlements have been spent and they are in need of assistance due to their ongoing disability.
How would they benefit from assessment?	Potentially maximize the quality of life for long-term-care home residents and reduce financial abuse.	Earlier interventions, such as through a property guardianship that properly manages finances, could contribute to the long-term independence of these individuals.

Appendix 9: Fees Charged by Public Guardian and Trustee in Ontario and Selected Provinces, 2018

Prepared by the Office of the Auditor General of Ontario based on data from various offices of public guardian and trustees

Service Performed	Fees			
	Ontario	BC	Manitoba	Quebec
Guardianship Services				
Processing transactions (based on individual transaction value, unless noted otherwise):				
Capital receipts	3%	4%	3%	\$1,049/year flat fee + other administration fees*
Income receipts				
Capital disbursements		0%		
Income disbursements				
Management of assets	0.60%	0.70%	0.90%	1.50%
Property inspections (including preparation of reports):				
Gross assets of less than \$100,000	\$100/hour	\$125/inspection	up to \$80/hour + \$50/hour for travel time	\$1,157 for internal investigation, an additional \$94/hour after the first 12 hours, and \$94/hour for any other mandate executed by an investigator
Gross assets of \$100,000–\$249,999		\$200/inspection		
Gross assets of \$250,000–\$374,999		\$250/inspection		
Gross assets of \$375,000–\$499,999		\$300/inspection		
Gross assets of \$500,000–\$599,999		\$350/inspection		
Gross assets of \$600,000 or more		\$400/inspection		
Review of application to replace the Public Guardian as guardian	\$382	\$500	\$300	N/A
Estate Services				
Processing transactions (based on individual transaction value, unless noted otherwise):				
Capital receipts	3%	7%	3%	Liquidation of estate: \$131/hour Settlement of estate: \$1,324/file to \$1,873/file depending on whether file concerns an individual or commercial enterprise
Sale of real property with an agent		5% of gross sale price		
Real property conveyed to beneficiary or heir		3% of gross value of property		
Income receipts		5%		
Capital disbursements		0%		
Income disbursements		0%		
Management of assets		0.6%		
Identifying, locating and validating heirs	\$0	\$75/hour	\$75/hour	
Closing of file	\$0	\$0	\$300	

Note: Wording used to describe the various fees of each province has been adapted to help present comparative information.

* These include administration of land (\$84/year), residential building (\$694/year), rental property with less than 4 housing units (\$2,450/year) or rental property with 4 or more units (\$3,387/year), recovery of mortgage loan or other receivable (\$508/year), payment of mortgage loan or other debt (\$99/year), sale of movable property, purchase or sale of automobile (35% of transaction amount up to \$1,000), preparation and supervision of sale of real estate (25% of transaction amount, up to maximum of \$2,500).

Chapter 3

Ministry of Training, Colleges and Universities

Section 3.10

Ontario Student Assistance Program

1.0 Summary

The Ontario Student Assistance Program (OSAP) provides financial aid in the form of grants and loans to students who pursue a post-secondary education, usually at a university, college or private career college. Eligibility is open to Ontarians who are Canadian citizens, permanent residents, or “protected persons” (for example, those with formal refugee status).

The amount of aid depends primarily on educational costs and family income and size, and to a certain extent on the student’s own assets. The program is administered by the Ministry of Training, Colleges and Universities (Ministry).

The Ministry introduced major changes to OSAP in the 2017/18 academic year starting August 1, 2017, to make post-secondary education more accessible and affordable for students from low- and middle-income families. The changes are making the program more affordable by providing a larger percentage of financial aid in the form of non-repayable grants rather than repayable loans—98% in grants in the 2017/18 academic year, compared to 60% the year before.

However, although more people are getting financial aid—24% more university recipients and 27% more college recipients—more people are not necessarily accessing post-secondary education. We

noted that the increase in enrolment is only 1% for universities and 2% for colleges, indicating that the number of people accessing higher education is not commensurate with the additional OSAP funding.

Furthermore, the changes were expected to have a positive impact on the Province’s finances, as the additional revenue from the elimination of Ontario’s Tuition and Education Tax Credits was expected to more than offset any increased costs of the changes to OSAP. However, the uptake of financial aid to date (in the form of grants) has exceeded expectations, resulting in the Province’s latest budget projecting that OSAP could cost \$2 billion annually by the 2020/21 fiscal year, a net increase of 50% from the 2016/17 fiscal year.

The changes to OSAP will result in fewer defaulted loans and related collection issues because most of the aid now is in the form of grants rather than repayable loans. Current changes to repayment rules should also reduce the amount of grant overpayments that go unrecovered beginning in the 2017/18 academic year.

Among the issues we identified in our audit:

- The Ministry tracks limited data about OSAP recipients and so cannot determine whether the latest changes actually helped improve access to post-secondary education. However, the fact that 27% of mature students already attending post-secondary institutions last year only qualified for grants in the 2017/18 academic year helps explain to some extent

why the higher number of recipients is not reflected in the more modest increase in post-secondary enrolments.

- Parental income is taken into consideration when determining OSAP eligibility for students who have been out of high school for less than four years and are financially dependent on their parents—but not for those who have been out for four years or more. We noted that the number of students who had been out of high school for at least four years and who received OSAP increased 33% from the 2016/17 to 2017/18 academic years, and that close to 30% of them said on their applications that they were living with their parents. The Ministry did not know whether the students actually needed OSAP support.
- The Ministry does not verify the size of dependent students' families and the value of financial assets of a student (and spouse, if applicable) declared by applicants, even though this data affects the amount of financial aid. There is a risk that students may be reporting inaccurate or false information to receive more aid than they are entitled to.
- Improvement is needed in the Ministry's oversight of Financial Aid Offices, which process 92% of OSAP applications on the Ministry's behalf at some post-secondary institutions. We had concerns with the number of student files examined during Ministry inspections—10 student files for private institutions and 20 files for public institutions, regardless of the number of OSAP recipients at the institution. We also noted problems with Ministry processes for tracking and recording deficiencies during inspections, communicating results of inspections to the Offices, and with follow-ups to ensure corrective actions are taken where required.
- Prior to the changes, grant recipients who withdrew from their studies did not have to repay their grants, which cost OSAP \$74.4 million from the 2013/14 to 2016/17 academic years. This included about \$14.5 million issued after students had already left their studies, as the Ministry system had not been updated by Financial Aid Offices to reflect the withdrawal in a timely way. Starting August 1, 2017, recipients were required to repay the full amount of a grant if they withdrew within 30 days of starting school, or a prorated amount after 30 days. Although the Ministry has taken steps to address weaknesses in forgiveness of grant overpayments, we found instances after the program changes where students received OSAP grants *after* they had withdrawn. However, in this case they will be converted to loans on a prorated basis.
- Loans are considered in arrears after 90 days but effective collection efforts generally do not begin until loans are nine months in arrears. About \$69 million in defaulted student loans have been transferred to the Ministry of Finance for collection in each of the last five years. The two most effective ways to recover defaulted loans are to engage private collection agencies and to garnish income-tax refunds through the Canada Revenue Agency. Collection agencies are usually used first. However, they charge a 16% commission on what they recover—about \$20 million over the last five years—while Canada Revenue charges about 1%.
- Private post-secondary institutions had the highest overall loan-default rates, followed by public colleges and public universities. The Ministry operates a cost-sharing program with private institutions for loans in default, but in the two latest years collected only \$417,000 from the institutions on defaults worth a total of \$14 million.

Overall Conclusion

We found the Ministry, for the most part, has procedures in place to ensure that financial aid is provided to eligible applicants, and that the amount and type of support provided is accurately determined, although we noted one exception: we found cases where OSAP payments were made to students after they had withdrawn from their studies.

We also noted an increase in enrolment of only 1% for universities and 2% for colleges, even though the number of OSAP grant recipients rose by about 25%, meaning that a large portion of OSAP recipients were already attending college or university.

In addition, not all loans are promptly collected after they become due. On an annual basis, about \$69 million in loans go into default, but collection efforts that yield significant results do not begin until nine months later. Furthermore, we noted that program effectiveness is not measured and publicly reported. In addition, improvements are needed in Ministry oversight of Financial Aid Offices operating out of some campuses.

This report contains 14 recommendations, consisting of 27 actions, to address our audit findings.

OVERALL MINISTRY RESPONSE

The Ministry of Training, Colleges and Universities (Ministry) appreciates the work of the Auditor General and the co-operative nature of her staff in reviewing the Ontario Student Assistance Program (OSAP). We feel the observations provided in the audit are fair and we look forward to implementing the recommendations. While OSAP has already undergone a significant transformation, which has resulted in a number of client service improvements, we are committed to making further improvements to the program.

The Ministry will continue its ongoing review of OSAP with the new government and will include the recommendations provided by the Auditor General. The Ministry is committed to:

- better tracking student outcomes and making the data publicly available;
- reviewing OSAP policy and operational processes to ensure funding is focused on those with the greatest financial need while protecting student privacy;
- improving our compliance processes and oversight of Financial Aid Offices, public institutions and private career colleges, as well as improving processes around student investigations;
- implementing a systemic approach for reviewing incoming complaints about OSAP to better complement processes that are already in place; and
- implementing enhanced loan collection processes in conjunction with the federal government and the Ministry of Finance.

We thank the Auditor General for her recommendations and look forward to using this feedback to continue building an improved OSAP.

2.0 Background

2.1 Overview

The Ontario Student Assistance Program (OSAP) is a financial-aid program that helps eligible students pay for post-secondary studies. Aid is offered in the form of grants, which are not repayable, and loans, which are.

The Student Financial Assistance Branch of the Ministry of Training, Colleges and Universities (Ministry) administers OSAP with a staff of almost 100. In 2017/18, the program cost \$22.3 million to administer.

OSAP is an entitlement program, meaning no cap is set on the number of students who qualify for funding. All eligible students who apply for aid, get aid. Funding is disbursed on an annual basis, which means students in multi-year programs must reapply each year for aid.

In the 2017/18 academic year, which ended July 31, 2018, about 441,000 Ontario students received a total of \$1.7 billion in OSAP funding, almost 98% of it in non-repayable grants, and the remaining 2% in loans. In the previous academic year, 360,000 students received a total of \$1.4 billion in OSAP funding, about 60% of it in grants and 40% in loans. The rise in the number of recipients, and the change in the composition of financial aid, were due to changes to OSAP that took effect primarily in the 2017/18 academic year.

Assistance is available only to Ontarians attending publicly funded colleges and universities anywhere in Canada, or private post-secondary institutions (that is, private career colleges) only in Ontario. Federal assistance is available to Ontarians attending public or private post-secondary institutions worldwide.

Most OSAP recipients are full-time students who attend a publicly funded college or university in Ontario. In the 2017/18 academic year, 91% of recipients were enrolled in publicly funded universities and colleges in Ontario. At the time of our audit, there were 533 institutions whose students were OSAP recipients:

- 25 publicly funded universities in Ontario;
- 30 publicly funded colleges in Ontario;
- 289 publicly funded Canadian universities and colleges outside Ontario; and
- 189 private institutions (also known as private career colleges) in Ontario.

See **Figure 1** for a breakdown of OSAP recipients by institution.

Fifty-five percent of recipients are “dependent,” meaning they rely on family support, and 43% are mature. **Figure 2** provides a breakdown of recipients by income level.

In 2016/17, the Province administered 20 financial aid programs. But in 2017, the Ministry reduced the number of programs to 14—six Ontario grants, six Canada grants, one Canada loan for part-time studies, and the combined Canada-Ontario loan. We describe recent changes to OSAP in **Section 2.2**. See also **Appendix 1** for a list of available grants and loans.

Figure 1: OSAP Recipients by Post-secondary Institution for the 2017/18 Academic Year, as of April 2018

Source of data: Ministry of Training, Colleges and Universities

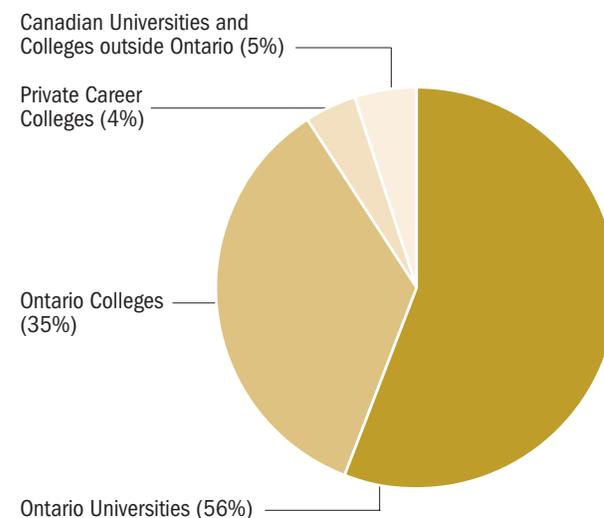


Figure 2: OSAP Recipients and Total Provincial Aid by Income Level for the 2017/18 Academic Year, as of April 2018

Source of data: Ministry of Training, Colleges and Universities

Income Level	% of Recipients	Total Grants (\$ million)	Total Loans (\$ million)
Low ¹	60	1,225	0.7
Medium ²	19	247	27.0
High ³	21	139	9.0
Total	100	1,611	36.7

1. Low Income: Independent or mature students <\$30,000 per year; dependent students <\$50,000 per year.
2. Medium Income: Independent or mature students \$30,000 to <\$70,000 per year; dependent students \$50,000 to <\$90,000 per year.
3. High Income: Independent or mature students ≥\$70,000 per year; dependent students ≥\$90,000 per year.

In addition to administering provincially funded grants and loans under OSAP, the Ministry also administers grants and loans to Ontario students funded by the federal government through the Canada Student Loans Program. In 2017/18, Ontario received \$16.3 million from the federal government for administering financial aid applications and assessing Ontario applicants for federal aid.

Students generally need to complete only one application to be considered for all available grants and loans from Ontario and the federal government. Assessments for both federal and provincial funding are completed simultaneously, and any change a student makes to their application will automatically affect both assessments.

When a loan becomes repayable, the student makes a single regular payment, which is applied against both the Ontario and Canada portions of the integrated loan. A separate application is required for certain specialty grants for disabled students, deaf students and part-time students (see **Appendix 1**), but these represent less than 1% of total assistance.

2.1.1 Eligibility and Aid Amounts

OSAP is available to Ontario residents of any age who are Canadian citizens, permanent residents, or “protected persons” (for example, those with formal refugee status). Students can qualify for a grant, loan, or both.

The student and his or her family are expected to contribute toward the cost of a post-secondary education, so OSAP is generally not available to those with adequate financial resources.

OSAP is a needs-based program, meaning that financial aid is calculated using a formula to determine need by balancing allowable education costs against a student’s expected financial contributions. Factors affecting need include:

- **The student’s dependency status**—for example, whether the student is single and dependent on one or two parents; single and independent; married or in a common law relationship; or is a single parent.
- **The student’s allowable education costs during the study period**—such as tuition and compulsory charges (for example, lab fees), monthly living allowance (depending on the student’s dependency status), and cost of books, supplies, equipment and computers.

- **The student’s available financial resources**—based on the student’s dependency status. Where a student is a dependent, financial resources include the parents’ prior-year income and the student’s current-year income (if it exceeds \$5,600 per term). Where the student is independent, financial resources include the student’s income in the prior year and current year (if they exceed \$5,600 per term), their spouse’s prior-year income, and financial assets held by the student and spouse (if applicable), including bank accounts, RRSPs, and investments. In addition, regardless of the student’s dependency status, each student is required to cover \$3,000 of their education costs per year, with the exception of students with children, students on social assistance and Indigenous students.

The proportion of financial assistance provided through a grant rather than a loan depends on the number of people in the student’s family and family income.

Aid is not available to those who have defaulted on a previous student loan, declared bankruptcy, failed a credit check or have already reached the maximum limit for student financial aid.

Eligibility for the Canada grants and loans is determined first, because the amount of assistance provided under the federal program is factored into the Ontario assessment as an expected contribution or resource available to the applicant.

2.1.2 Roles and Responsibilities of Parties Involved

Several parties are involved in administering financial aid to Ontario students. They are:

- The Ministry of Training, Colleges and Universities (Ministry), which develops policy for student loans and grants; determines which institutions and educational programs are eligible for OSAP; funds the Ontario portion of aid; and assesses student applications and determines entitlements on behalf of Canada

and the Province. The Ministry also inspects educational institutions' Financial Aid Offices, and investigates potential abuses brought to its attention.

- The Ministry of Finance is responsible for the collection of student loans in default.
- College and university application centres allow students to register for OSAP at the same time they apply to colleges or universities.
- The Financial Aid Offices of public colleges and universities process and manage OSAP files for their own students on behalf of the Ministry.
- The National Student Loans Service Centre is a private service-provider contracted by the federal government to administer the disbursement and repayment of student financial assistance programs for five provinces: Ontario, British Columbia, Saskatchewan, New Brunswick and Newfoundland. In 2017/18, the Province paid the federal government \$6.2 million for services rendered by the National Student Loans Service Centre.

2.1.3 Application Processing and Disbursement of Funds

Various entities are responsible for processing OSAP applications, depending on the educational institution, as follows:

- Financial Aid Offices at post-secondary institutions process all applications for students at public colleges and universities (92% of all applications in 2017/18).
- Career Colleges Ontario, a not-for-profit association representing private career colleges, processes applications to its member colleges (3% of applications in 2017/18).
- Ministry staff process applications for private career colleges not handled by Career Colleges Ontario, for all other private degree-granting institutions in Ontario, and for all

other institutions outside Ontario (5% of applications in 2017/18).

Information that applicants must provide is detailed in **Appendix 2**.

Once the assessment is completed and the Ministry receives confirmation from the institution that the student is enrolled in a program of study, the OSAP system issues a file to the National Student Loans Service Centre containing student information and the amounts of grants and/or loans from both the federal and provincial governments.

Each student is required to sign a Master Student Financial Assistance Agreement, which usually has to be completed only once during a student's post-secondary studies. A new agreement is required when the student has a two-year break in studies.

The agreement contains the terms and conditions for the OSAP grant and/or loan, along with banking information for the electronic transfer of funds to the student's bank account. It does not contain information on the amount of financial assistance to be provided, as this will change over the course of the agreement.

Recipients sign their agreement in person with proper ID at a designated Canada Post outlet, which then sends the agreement to the National Student Loans Service Centre for processing.

Upon receipt of money from one or both governments and a signed agreement from the student, the National Student Loans Service Centre disburses the funds to the student.

2.1.4 Loan Repayment

Loans are interest-free during the period of study. Interest begins to accrue on the federal portion of the loan immediately upon completion of studies, and on the Ontario portion six months after completion.

Students are required to fully repay both the federal and Ontario portions of the loan within 10 years of either completion of or withdrawal from studies.

When a student officially completes full-time studies, they receive a repayment package from the National Student Loans Service Centre that outlines the amount owed, the amount of the monthly payment required and repayment options. Interest charges begin to accrue six months after completion of studies. Before interest begins to accrue, students are allowed to make lump-sum payments to lower or eliminate the outstanding loan principal. In the 2017/18 fiscal year, 98,000 loans, totalling \$544 million, became repayable. Of these, almost 6,000 loans totalling \$26.1 million were repaid in full prior to the end of the six-month interest-free period. A further 26,000 students partially repaid \$39.1 million of their outstanding loans during the six-month interest-free period.

If a student has difficulty repaying a loan, they can contact the National Student Loans Service Centre to request an extension through the Repayment Assistance Plan (Plan), designed to provide temporary debt relief. The Plan first extends the interest-free period, and then covers some of the principal repayment. A borrower can be in the Plan for up to 15 years, but has to reapply and be assessed every six months.

Figure 3 provides a comparison of repayment terms and interest rates of selected provinces and

the federal government. Repayment terms for student loans in Ontario are comparable to other jurisdictions, as is the interest rate charged.

The Ministry told us that it charges a lower rate than the federal government in order to more closely align with the rate it pays on its loans from the Ontario Financing Authority, which borrows on behalf of the Province. At the time of our audit, the Authority charged the Ministry 3.63%, while the Ministry charged students 4.7% (prime of 3.7% plus 1%). The Ministry informed us that it does not charge interest for the first six months following completion of studies to give graduates time to find employment in their field.

About 35% of OSAP recipients use the Repayment Assistance Plan within the first two years of repayment. The Plan can extend their loan repayment period from 9½ years to 14½ years, and forgives interest payments for the first five years instead of just the first six months after completion of studies. In the last three calendar years, the Plan has forgiven a total of \$58.8 million in interest and \$26.8 million in loan principal.

Figure 3: Interest Rates and Repayment Processes in Selected Jurisdictions as of March 31, 2018

Source of data: Applicable provincial ministries and student financial assistance websites

Province	Interest Rate (%)	When Interest Starts to Accrue	Years to Full Repayment (including any grace period)	Years to Full Repayment under Repayment Assistance Plan
Canada	Prime + 2.5	On completion of studies	10	15
New Brunswick	Prime + 2.5	On completion of studies	10	15
Ontario	Prime + 1	6 months after completion of studies	10	15
Alberta	Prime	6 months after completion of studies	3–10 years, depending on size of loan	15
British Columbia	Prime	On completion of studies	10	15
Saskatchewan	Prime	On completion of studies	10	15
Nova Scotia	0	n/a	10	15
Manitoba	0	n/a	10	15

Note: All provinces above allow a six-month grace period before start of repayment.

2.2 Recent Changes to OSAP

In the 2016 Ontario Budget, the government announced plans to transform student financial assistance to make post-secondary education more accessible and affordable.

The need for change had been previously identified in a 2012 report by the Drummond Commission, which noted that student financial assistance was not focused on lower-income students, even though they likely needed it most.

The Commission further said that the combined impact of all existing assistance, including, for example, loans, grants and tax credits, provided roughly the same aid for the lowest-income students as for the highest-income ones.

The Commission recommended that the government change OSAP to target more of the assistance to low-income students, and to broaden its approach to generally improving access to post-secondary education. It also recommended that the Province assess whether to phase out provincial tuition and education tax credits in favour of upfront grants.

Also, based on 2015 data the Ministry obtained from Statistics Canada, students from lower income families participate in post-secondary education at a lower rate than those from higher income families. This data also revealed that Ontario's participation rates in post-secondary education were about 10% higher than the rest of Canada at all family income levels.

One new measure was the creation of a single major upfront grant, called the Ontario Student Grant. Another was the restriction of a student's maximum educational debt to \$5,000 per academic term, starting in the 2017/18 academic year.

The new Ontario Student Grant stipulates that:

- Students from families with incomes under \$50,000 will face no provincial student debt at all after their studies, because all assistance would be in the form of non-repayable grants.
- More than 50% of students from families with incomes of \$83,000 or less will receive

non-repayable grants that will exceed average college or university tuition.

- All students will be the same or better off as under the previous Ontario Tuition Grant.

The areas of major program redesign, beginning with the 2017/18 academic year, are described below:

1. *Financial support provided upfront, and loan forgiveness grants and tax credits eliminated*—Previously, aid was distributed in instalments at the start of each academic term, and students could receive loan forgiveness through the Ontario Student Opportunity Grant, which reduced a full-time student's repayable loan to a maximum of \$7,500 for a two-term program or \$11,250 for a three-term program. In addition, the student or their parent could claim the Tuition and Education Tax Credit for tuition paid in the calendar year. As of 2017/18, the full amount of financial aid is provided at the beginning of the academic term, and loan forgiveness through the Ontario Student Opportunity Grant no longer exists. As well, the tax credits were eliminated as of September 2017.
2. *Existing OSAP assistance programs consolidated*—Multiple Ontario grants were consolidated into a single new grant called the Ontario Student Grant. For a list of the consolidated grants, see **Appendix 3**.
3. *Eligibility based on household income thresholds*—Eligibility criteria for grants and loans now recognize size and income of a family. Students in families with household income less than \$50,000 (or single independent students with less than \$30,000 in income), for example, would get all of their aid in the form of a grant and so would have no debt. Previously, only one grant took into consideration both family size and income threshold.
4. *Expanded support for mature students*—All types of grants were made available to mature students, defined as those who have been out of high school for at least four years,

whereas prior to 2017, only a few of the grant programs were available to mature students.

5. *Policy harmonization between Canada and Ontario*—In order to simplify the assessment process, Canada and Ontario both made changes in relation to the financial contribution expected from students applying for aid as follows:
 - Ontario introduced a fixed student contribution amount of \$3,000 per academic year—the amount that all students are expected to contribute for each year of post-secondary studies and which is deducted from any OSAP support—to replace the previous calculation based on a student’s income. Ontario exempted all income below \$5,600 a term earned by a student while in school.
 - In 2017/18, the federal government introduced fixed contribution and income exemptions for other income earned during studies.
6. *Enhanced student experience*—The OSAP website includes a calculator that helps students estimate how much funding they may qualify for. As well, the OSAP application process has been integrated with university and college application processes so that students are automatically prompted to register with OSAP when they apply to a school.

To illustrate the impact of the program changes on student assistance, **Figure 4** shows how the amount and composition of provincial financial aid differs under the old and new method of determining OSAP for various student scenarios. The scenarios show that dependent students from families making less than \$50,000, whether they lived at home or not during their study period, received aid in the form of both grants and loans before the changes, and entirely as grants after the changes. The scenario for a low-income mature student, whether living with their parents or not, shows that prior to the changes, provincial aid was entirely in the form of loans, whereas after the change, provin-

cial aid was entirely in the form of grants and total aid increased substantially.

2.3 Ministry Oversight Practices

The Ministry’s oversight activities involve the inspection of Financial Aid Offices (Offices) at both public and private institutions and the investigation of student files. Both activities are conducted by the Ministry’s Investigation and Compliance Unit, composed of seven compliance officers who conduct institution inspections and student investigations.

Inspections of Offices seek to determine whether their processes and controls comply with applicable legislation and Ministry policy in administering OSAP. Inspections are to be conducted at least once every three years at Offices in public institutions, and at least once every two at Offices in private institutions.

Inspections of Financial Aid Offices consist of institutional-level assessments such as documentation indicating who is authorized to access the OSAP system, and student-level assessments such as maintaining records to demonstrate students’ enrolment and academic progress in their programs of study.

Investigations of students are conducted to determine whether borrowers are still eligible for OSAP, have acted fraudulently or have abused the system. Investigations are triggered when an issue or situation is brought to the Ministry’s attention, typically by an Office, or when irregularities in a student’s file are noted by Ministry staff. Examples of issues that may trigger investigations include providing false information about income, failing to provide required documents, claiming bankruptcy or a change in provincial residency status.

There were 2,036 student investigations between the 2012/13 and 2016/17 fiscal years, and 11% of the students investigated were eventually restricted from any future OSAP aid.

Figure 4: Effect of Program Changes on Student Financial Aid, 2016/17 – 2017/18 Academic Years

Source of data: Ministry of Training, Colleges and Universities

Type of Student Aid	Student Scenario 1 ¹		Student Scenario 2 ¹		Student Scenario 3 ¹		Student Scenario 4 ¹		Student Scenario 5 ²	
	(\$)	% of Total Aid								
2016/17 Academic Year										
Provincial										
Grant	2,778	83	2,778	38	1,900	100	1,900	56	0	0
Loan	564	17	4,562	62	0	0	1,496	44	3,941	100
Total	3,342	100	7,340	100	1,900	100	3,396	100	3,941	100
Federal										
Total	6,901		8,340		6,671		7,140		10,920	
Total for 2016/17 Academic Year	10,243		15,680		8,571		10,536		14,861	
2017/18 Academic Year										
Provincial										
Grant	3,648	100	6,120	100	1,960	100	1,960	57	9,780	100
Loan	0	0	0	0	0	0	1,457	43	0	0
Total	3,648	100	6,120	100	1,960	100	3,417	100	9,780	100
Federal										
Total	7,271		10,082		6,199		7,863		10,920	
Total for 2017/18 Academic Year	10,919		16,202		8,159		11,280		20,700	

1. Scenario covers a dependent student, in a family of four, attending first year of Arts and Science program at the University of Toronto.

2. Scenario covers a mature student living with parents and attending first year of an MBA program at Western University. The student's prior-year income was \$10,000, and the parents' prior-year income was \$200,000. For mature students, only the student's income is considered for determining student aid.

3.0 Audit Objective and Scope

The objective of the audit is to ensure that the Ministry of Training, Colleges and Universities (Ministry) has effective controls and procedures in place to ensure that:

- only eligible students receive financial assistance under the Ontario Student Assistance Program (OSAP) in the proper amount as outlined in legislation and government policy;
- loans are promptly collected when they become due; and
- program and operational effectiveness are measured, assessed and publicly reported on.

Before starting our work, we identified the audit criteria we would use to address our audit objective. These criteria were established based on a review of applicable legislation, policies and procedures, internal and external studies, and best practices. Senior management at the Ministry reviewed and agreed with the suitability of our audit objective and related criteria as listed in **Appendix 4**.

Audit Focused on 97% of Financial Aid Provided in 2017/18

The focus of the audit was on the Ontario Student Grants and Combined Canada-Ontario Student Loans for full-time students, which together represent about 97% of the Ontario financial aid provided to students in 2017/18. We reviewed procedures for assessing applicants' eligibility and financial-aid entitlement, providing funds to approved applicants, and collecting repayments on loans that become due.

The program has undergone significant changes in the last year with respect to eligibility and the type of aid available. As a result, we focused on activities in the 2017/18 academic year, but also considered data and events in the last five academic years where relevant. We conducted our audit from January to July 2018, and obtained written representation from the Ministry that effective

November 7, 2018, it had provided us with all the information it was aware of that could significantly affect the findings or the conclusion of this report.

We conducted our audit work primarily at the Student Financial Assistance Branch in Thunder Bay and at the Ministry's corporate office in Toronto. We also conducted work at the Ministry of Finance, which works to collect Ontario student loans that have gone into default.

In conducting our work, we reviewed key documents such as the OSAP application, program guidelines and policies, and agreements with the federal government and Financial Aid Offices (Offices) at post-secondary institutions responsible for OSAP assessments on the Ministry's behalf. We also sampled inspection reports of Offices, and investigation reports relating to recipients suspected of abusing the system.

In addition, we reviewed the Ministry's IT system to assess whether it properly determined eligibility and the amount and type of financial aid. We also assessed access and privacy controls in place to help protect students' personal and financial information.

We asked the Ministry for OSAP-related data for full-time students for the last five academic years so we could conduct analyses. It took the Ministry more than three months to provide us with accurate data, causing us audit inefficiencies and additional costs.

The academic year for post-secondary institutions runs from August 1 to July 31, while the government's fiscal year runs from April 1 to March 31, so financial information in this report is based on the fiscal year, whereas student-related data is based on the academic year.

We conducted our work and reported on the results of our examination in accordance with the applicable Canadian Standards on Assurance Engagements—Direct Engagements issued by the Auditing and Assurance Standards Board of the Chartered Professional Accountants of Canada. This included obtaining a reasonable level of assurance.

The Office of the Auditor General of Ontario applies the Canadian Standards of Quality Control

and, as a result, maintains a comprehensive quality control system that includes documented policies and procedures with respect to compliance with rules of professional conduct, professional standards and applicable legal and regulatory requirements.

We have complied with the independence and other ethical requirements of the Code of Professional Conduct of the Canadian Professional Accountants of Ontario, which are founded on fundamental principles of integrity, objectivity, professional competence and due care, confidentiality and professional behaviour.

4.0 Detailed Audit Observations

4.1 Major Program Changes

4.1.1 OSAP Changes Led to Unexpected Cost Increases

The changes to OSAP that took effect in 2017/18 cost considerably more than the Province anticipated, and will likely continue to cost more in the next few years.

The Ministry originally predicted in its 2016 Cabinet submission that the changes would have a positive impact on the Province's finances, initially estimating that annual program costs (in the form of student grants) would increase up to \$220 million by 2020/21. It predicted that this would be offset by additional revenue of \$466 by 2020/21 from the elimination of Ontario's Tuition and Education Tax Credits.

As seen in **Figure 5**, with the changes to OSAP that took effect beginning in the 2017/18 academic year, the value of loans awarded decreased sharply in the 2017/18 fiscal year, while the value of grants increased commensurately. The net cost to the Province has also grown dramatically because so much of the aid now is in the form of non-repayable grants, and more eligible people are applying for it.

The higher-than-expected costs came because the Ministry underestimated the number of students who would apply for assistance under the expanded program when it was preparing its business case.

Based on our review of calculations used to support the projected costs in the 2016 business case to Cabinet, the Ministry used the actual number of OSAP applicants for 2014/15 (the latest actuals available at that time) to cost out the proposed changes to OSAP. The Ministry did not factor in any increase in uptake, even though the changes were for the purpose of increasing access for low- and middle-income students. Further, the estimated costs the Ministry projected for the first two years under the new changes were rounded down by 11% as the Ministry considered the design of the program to be very preliminary at that time.

The Ministry did not expect any increase in full-time enrolment in post-secondary institutions as recent trends showed that enrolment in Ontario colleges and universities was relatively flat. According to the Ministry, any increases would be due to a greater participation rate of students already in studies. The Ministry thought those increases would be modest, as it believed that all individuals who could potentially qualify for assistance would have already applied. The Ministry felt that students already had a strong financial incentive to apply for OSAP under the "30% Ontario Tuition Grant," in place since 2012, which provided grants to dependent students whose parents earned up to \$160,000 per year, regardless of whether they had a financial need.

At the time of our audit, however, the number of recipients for the 2017/18 academic year was up 24% for universities and 27% for colleges compared to the previous year. The Ministry was of the opinion that the higher participation in OSAP was due to its public promotion campaign in 2017, which brought about more awareness.

At the time of the 2018 Ontario Budget, the Province projected that the annual cost of OSAP (that is, the cost of non-repayable grants to students) would reach \$2.012 billion by 2020/21. This

Figure 5: Trends in Ontario Financial Aid and Program Costs, 2013/14–2017/18 Fiscal Years (\$ 000)

Prepared by the Office of the Auditor General

	2013/14	2014/15	2015/16	2016/17	% of Total Aid	2017/18	% of Total Aid	Change Between 2016/17 and 2017/18 (%)
Student Loans Awarded and Disbursed ¹	983,957	953,997	1,007,943	1,057,938		215,062		
Less: Ontario Student Operating Grant—Loan Forgiveness ²	540,606	563,147	563,891	563,681		69,112		
Net Repayable Financial Aid	443,351	390,850	444,052	494,257	33	145,950	8	(70)
Total Grants ¹	925,501	952,883	956,937	960,014		1,574,706		
Total Bursaries ¹	4,807	7,337	7,636	7,891		5,353		
Total Scholarships ¹	40,260	39,364	35,223	35,034		34,238		
Non-repayable Financial Aid³	970,568	999,584	999,796	1,002,939	67	1,614,297	92	61
Ontario Tuition and Education Tax Credits (Foregone Income Tax Revenue)⁴	339,000	343,000	365,000	344,000		0		
Total Program Costs (Amount Not Repayable)	1,309,568	1,342,584	1,364,796	1,346,939		1,614,297		20

1. See details in Appendix 3.

2. Full-time students who received OSAP loans in the 2016/17 academic year or earlier are eligible for loan forgiveness through the Ontario Student Opportunity Grant. The Ministry has up to the end of July 31, 2024, to verify the student's income for 2016/17 and then convert the forgiven amount to a grant.

3. Excludes any costs (write-offs on loan defaults) or revenue (interest income) occurring after loans become repayable.

4. Based on estimates in the Ministry of Finance *Transparency and Taxation Report*, and prorated from calendar to fiscal years. The Ontario tuition and education tax credits were discontinued in September 2017. Ontario students will still be able to claim the tuition amount for eligible tuition fees for studies before September 5, 2017, and will also be able to claim the education amount for months of study before September 2017. Students will continue to be able to carry forward unused amounts to claim in future years.

would represent a 50% increase in the net annual costs of OSAP (from \$1.347 billion in 2016/17, as shown in **Figure 5**, to \$2.012 billion in 2020/21), when the additional revenue to the Province from the discontinuation of the tax credits is factored in. However, the increase is likely to be greater, since to date, the Ministry underestimated the number of eligible students who apply for OSAP.

4.1.2 Changes Did Not Bring More Post-secondary Enrolments

The changes were also intended to improve access to post-secondary education for under-represented groups, defined as Aboriginal, disabled and low-income students, and those who have been out of high school for more than four years. However, the Ministry has been unable to determine whether this in fact happened.

Despite the surge in OSAP recipients in 2017/18, there was no corresponding rise in the number of students attending post-secondary institutions. For the 2016/17 academic year, and for the 2017/18 academic year, full-time enrolment increased only 2% for colleges and 1% for universities, even though the number of OSAP recipients rose by about 25%, as noted above.

The Ministry tracks the number and change in OSAP recipients by student type (such as level of income), but not whether the changes to OSAP led to improved access to post-secondary education for under-represented groups. The Ministry does not know the income levels and other demographic factors of students who have not applied for OSAP. As a result, it does not know if the composition of students enrolled in school has changed. Hence, it does not know if more under-represented people are enrolled in post-secondary education than in the past.

Further, many of the new OSAP recipients in 2017/18 were already enrolled in post-secondary studies, indicating that the changes to OSAP did not result in increased access to post-secondary education as intended. We found that 32% of students

who were not first-year students in an undergraduate program received OSAP for the first time in 2017/18. Therefore, these students had been previously attending post-secondary school without provincial student aid.

4.1.3 Only One Performance Measure Used to Track OSAP Success

The Ministry developed and tracked only one formal performance measure specific to OSAP—the percentage of borrowers who are not in default and properly repaying their debt two years into repayment.

This measure is based on students who received a loan three years prior to the measurement date and have completed or left their studies two years prior to the measurement date. For example, the 2016/17 rate measures those who received a loan in the 2013/14 academic year and completed or left their studies by the end of the 2014/15 academic year.

The performance target set by the Ministry is 93% in good standing by 2020. Actual performance in 2016/17, the last fiscal year for which results are available, was 92.5%.

Although default rates provide useful information, the Ministry should also have indicators to measure OSAP's end goals of helping students get a post-secondary education and then a good job. The Ministry calculates and publicly reports graduation rates and graduate-employment rates by institution and program for all students in public post-secondary institutions. However, it would be useful to measure the same rates separately for OSAP recipients to determine whether OSAP is meeting its overall goals.

Although not a stated performance measure, the Ministry also publicly reports the percentage of OSAP recipients using the Repayment Assistance Plan, student default rates by institution and program, and the combined usage and default rates based on the number of borrowers who were in default and/or used the Repayment Assistance Plan

for one or more terms versus the total number of loan recipients. For 2016, the first and latest year for which the Ministry calculated these results, the Repayment Assistance Plan usage rate was 33.4%, and the combined usage-default rate was 39.9%.

In its 2017/18 budget submission to Cabinet, the Ministry proposed to Treasury Board additional performance measures related to OSAP, including indicators to measure whether access to post-secondary education for students from low-income backgrounds was improving, and whether average student debt at completion of studies was decreasing. At the time of our audit, Treasury Board had not made a decision on these measures. Furthermore, the Ministry was not tracking them even for internal reporting purposes.

RECOMMENDATION 1

To determine whether the objectives of changes to the Ontario Student Assistance Program (OSAP) are being met, we recommend that the Ministry of Training, Colleges and Universities:

- determine whether there has been an increase in the enrolment of students in post-secondary institutions from under-represented groups; and
- track and publicly report measures such as graduation and employment rates for OSAP recipients in their field of study, and average student debt levels at completion of studies.

MINISTRY RESPONSE

The Ministry agrees with the Auditor General's recommendation and approached the Higher Education Quality Council of Ontario in May 2018 regarding the use of two of their commissioned studies that examine the relationship between participation in post-secondary education and household income. The Ministry will continue to work with the Council to identify future studies that will track participation by household income, and other outcome measures such as later earnings, average student

debt levels and links to the labour market. The Ministry will work with other areas within the Ministry to co-ordinate tracking and public reporting of outcomes for OSAP recipients, and other learners.

4.2 Eligibility to Receive Financial Aid

4.2.1 Eligibility and Amount of Aid Properly Determined

We reviewed testing performed by the Ministry to ensure that eligibility requirements and financial-aid calculations had been adequately tested before the online application for the 2017/18 academic year was made available for public use.

We found that the completeness and accuracy of test results could not be assured because the Ministry maintains no supporting documentation about the results of system tests it performs. Such documentation would validate whether tests were done as required and the results were in line with expected outcomes.

As a result, we manually re-performed and validated the eligibility requirements and financial aid calculations for 15 applicant scenarios. The scenarios involved various types of students (dependent on their parents for support, single independent or mature, married, or sole-support parent); varying levels of student income and/or parental income; living at home or away from home during a period of study; in undergraduate and graduate programs; institutions and institution types; and a student who should not get OSAP because they received an overpayment beyond a certain amount in a prior year.

For all scenarios tested, we found that eligibility and the amount of financial aid were properly determined.

Figure 6: OSAP Disbursements to Mature Students (Four Years Out of High School), 2016/17–2017/18 Academic Years

Prepared by the Office of the Auditor General of Ontario

Year	Grant Only		Loan Only		Grant and Loan		Total	
	#	\$ 000	#	\$ 000	#	\$ 000	#	\$ 000
2016/17	1,843	1,790	65,000	271,864	64,731	805,910	131,574	1,079,565
2017/18	165,148	918,678	29	76	10,001	69,997	175,178	988,750
Change	163,305	916,888	(64,971)	(271,788)	(54,730)	(735,913)	33%	(8%)

4.2.2 Income of Parents Supporting Mature Students Not Included in Aid Calculation

Parents of single dependent students who graduated from high school within the last four years are expected to contribute to their children's education based on their financial ability. This reduces the potential amount of aid from OSAP. However, if students have been out of high school for four or more years and are still dependent on their family, only the student's income is considered in calculating aid entitlement—regardless of the family's income.

As a result of recent program changes that made mature students (defined as being out of high school for four or more years) eligible for all Ontario student grants, there has been an increase in the number of mature students who applied for and received OSAP grants in 2017/18.

The number of mature students who applied for OSAP aid increased 28% in the 2017/18 academic year, compared to 2016/17, and the number of mature students awarded OSAP increased 33% over the same period. The amount of total financial aid actually decreased for this group, however, as the composition of aid changed—in 2017/18, 93% of aid to mature students was in the form of grants only, while 75% of the aid was combined as a grant and a loan in the previous year (see **Figure 6**).

We found that 27% of mature OSAP recipients who previously attended post-secondary institutions received OSAP for the first time in 2017/18 (and so had apparently been studying previously without provincial aid). It is unclear whether many of these students needed OSAP support to access

post-secondary education, as the Ministry has no income data related to students not receiving financial aid and is therefore unable to determine the household income of these students. To this point, 6% of mature students who were entitled to both a grant and loan in 2017/18 declined the loan portion of the aid. As well, 28% of mature students indicated on their application that they were living with their parents.

For mature students living with their parents, the amount of living allowance used to calculate their financial aid was the same as the living allowance used for dependent students who had been out of high school less than four years. However, in the case of dependent students, parental income was taken into consideration when calculating the amount and type of financial aid.

RECOMMENDATION 2

The Ministry of Training, Colleges and Universities should review its Ontario Student Assistance Program entitlement policy with respect to students out of high school for more than four years to ensure that the policy more accurately reflects their actual needs and circumstances.

MINISTRY RESPONSE

The Ministry agrees with the Auditor General's recommendation and recognizes the Auditor General's concerns. The Ministry is committed to review the OSAP entitlement policy for students who are four years or more out of high school and live at home with their parents.

The Ministry agrees that the amount of OSAP issued to these students should reflect their actual needs and circumstances. This review will include analyzing the data on independent students to determine the impact of changing the OSAP assessment as well as if there are any legal implications with changing the assessment for these students. Based on the outcome of the review, the Ministry could make changes to the OSAP entitlement policy for students who have been out of high school for more than four years and live with their parents. These changes will be implemented shortly.

4.3 Verification of Application Information

4.3.1 Not All Information Affecting Amount of Aid Verified

In calculating the Ontario Student Grant, we noted that the Ministry did not verify some information affecting the financial-needs assessment, including the size of dependent students' families and the value of financial assets owned by a student (and their spouse, if applicable).

For an independent or mature student with children of their own, the Ministry asks for birth certificates to verify the number of dependents. However, where the student is less than four years out of high school and dependent on their parents for support, the Ministry does not verify the number of dependents in a family, which affects the amount of financial aid. Reporting more dependents may increase the amount of overall financial aid a student can receive, as well as the proportion to be offered as a grant rather than loan.

The Ministry could confirm the number of dependents in a family by asking for birth certificates in the same way it does for a student with their own children.

Regarding financial assets of an applicant and their spouse, the Ministry relies entirely on the self-reported amount of assets (if any), and requires

no supporting documents. In addition, the Ministry makes no assessment of the reasonableness of the value of assets reported by, for example, reviewing whether the applicant and their spouse reported any investment or rental income on their income-tax returns. The Ministry told us that students who report assets on their OSAP applications have these assets counted as a resource, as applicable. However, there is the potential that students who do not disclose such assets are getting an unfair advantage.

RECOMMENDATION 3

We recommend that the Ministry of Training, Colleges and Universities establish processes to verify the number of dependents of an applicant's parents and the value of financial assets owned by a student (and spouse, if applicable).

MINISTRY RESPONSE

The Ministry agrees with the Auditor General's recommendation and expects to establish a process in time to begin verifying the number of dependent children in the parent's family by requiring birth certificates for these children starting in the 2020/21 academic year. In addition, over the next two years, the Ministry will engage with the Canada Revenue Agency to identify whether information from tax returns can be used to identify financial assets owned by applicants and their spouses, if applicable.

If using tax return information is approved, the Ministry will modify its Memo of Understanding with the Canada Revenue Agency to allow sharing of the additional tax information. The Ministry will also develop a process for collecting further documentation from individuals who are identified through the tax information as potentially underreporting their assets.

4.4 Overpayments to OSAP Recipients

A change in the Ministry's policy that now requires students to repay some or all of their OSAP grant if they are no longer eligible for a variety of reasons, including withdrawing from studies, should mean a reduction in the amount of unrecovered overpayments in 2017/18 and beyond.

For OSAP purposes, a student is considered to have withdrawn from studies if they drop to part-time status (defined as taking less than 60% of a full course load as identified by the institution they attend) or if they withdraw completely from studies.

Overpayments to Students Who Withdrew before 2017/18 Cost \$74.4 Million

In the 2016/17 and earlier academic years, students who withdrew from full-time studies after having received an Ontario grant were not required to repay any of the grant. In the case of students who withdrew after receiving loans, the resulting overpayments would form part of the outstanding loan balance.

We analyzed Ministry data on students who withdrew from full-time studies for the academic years between 2013/14 and 2016/17, and noted that the Ministry issued \$74.4 million in grants to students who withdrew from their studies. This included about \$14.5 million issued after students had already left their studies, as the Ministry's system had not been updated by Financial Aid Offices to reflect the withdrawal in a timely way. Students were not required to repay any of the \$74.4 million.

During the same four-year period, the Ministry issued \$248.9 million in loans to students who withdrew from their studies. About \$18.7 million of this amount was issued after students had already left school, again as the Ministry's system had not been updated in a timely manner.

We noted that the average time to process withdrawals was about one month. However, in cases where students received grants after dropping out, it took an average of about 10 days longer to record

the withdrawal. The Ministry told us that students often do not inform their school when they stop attending classes.

Overpayments to Students Who Withdraw Should Decrease Starting in the 2017/18 Academic Year

In the 2017/18 academic year, the Ministry changed the OSAP rules to address weaknesses in the forgiveness of grant overpayments described above.

The revised policy requires that grants to students who withdraw from full-time studies within the first 30 days and do not return within five months be converted to repayable loans. After 30 days, the amount of a grant converted to a loan is prorated based on the time the student was in school. Grant overpayments converted to loans are repayable through the normal loan process.

We analyzed Ministry data on students who withdrew from full-time studies in the 2017/18 academic year and summarized the findings in **Figure 7**, along with data from previous years.

Specifically, as of May 31, 2018, the Ministry had issued \$65.7 million in Ontario Student Grants to students who withdrew. Of that, \$11.8 million went to students who withdrew within the first 30 days of studies and so would have to be converted to loans. The remaining \$53.9 million went to students who withdrew after 30 days, so prorated portions of those grants would be converted to loans.

At the time of our audit, the Ministry had not yet converted any of these grants to loans; it said the conversion process would be done in late summer or early fall 2018.

Grants Also Convert to Loans if Income Unverified within 12 Months

In order to determine an applicant's ability to pay for their education, the Ministry considers the parents' income for the prior year in the case of dependent students. In the case of independent students (single, married, common-law or sole-support parent), the student's prior year income and the prior year income of their spouse, if applicable, is taken into consideration.

Figure 7: OSAP Overpayments to Students Who Withdrew, 2013/14–2017/18 Academic Years (\$)

Source of data: Ministry of Training, Colleges and Universities

	2013/14	2014/15	2015/16	2016/17	Total	2017/18
Grants issued before student withdrew	14,247,883	14,959,326	15,156,566	15,459,365	59,823,140	63,521,816
Grants issued after student withdrew	1,908,929	3,434,384	7,610,021	1,583,698	14,537,032	2,161,856
Total grants issued to students who withdrew from studies	16,156,812	18,393,710	22,766,587	17,043,063	74,360,172	65,683,672
Loans issued before student withdrew	60,058,013	52,178,015	58,418,383	59,571,485	230,225,896	700,414
Loans issued after student withdrew	4,451,922	4,474,500	4,859,290	4,916,276	18,701,998	74,102
Total loans issued to students who withdrew from studies	64,509,935	56,652,515	63,277,673	64,487,761	248,927,884	774,516

In all cases, the Ministry also considers the student's estimate of their income to be earned during the study period. There are inherent issues with verifying study-period income, and these are discussed later in this section. The Ministry attempts to verify income reported on each OSAP application with the amounts reported to Canada Revenue for tax purposes.

For the 2016/17 and prior academic years, the Ministry required that applicable income be verified before funds were disbursed for the two major grants under OSAP. However, student loans and all other grants could be disbursed prior to verification of income. If discrepancies in income were noted between the amount reported in the OSAP application and to the Canada Revenue Agency, the Ministry would reassess the student's loan and grant entitlement. If it determined the student was overpaid, the Ministry would attempt to recover the loan or grant overpayment by reducing the remaining funding to be disbursed in that academic year. In cases where the student had already received all their funding, no attempt would be made to recover the overpayments and any resulting loan overpayments would be repaid when the loan became due. Under certain circumstances, students would be restricted from future OSAP funding until large overpayments were paid down.

Starting in the 2017/18 academic year, the Ministry changed its policy to require that income must be successfully verified within 12 months of the start date of a student's study period (typically in early September).

If income cannot be verified, any Ontario student grants issued are to be converted to loans. In cases of discrepancy between income reported on an OSAP application and income reported on income-tax returns, the student's grant and loan entitlements are reassessed, as in the past. If it is determined that the student was ineligible for some or all of the grant, the resulting overpayment is to be converted into a repayable loan.

As in the past, any loan overpayments would be repaid when the student's loan became due. At the time of our audit, the Ministry had not converted any resulting grant overpayments to loans because 12 months had not yet passed since any of these students began their studies.

With respect to income earned by the student during their study period, the Ministry had difficulties confirming this amount because study periods are usually based on the academic year rather than the calendar year. As a result, the amount could not be confirmed with the Canada Revenue Agency, so the Ministry typically made assumptions when comparing the amount on the OSAP application to that reported to the tax department.

Furthermore, the verification process, such as it was, could not occur until after the study period had ended. Starting in 2017/18, an applicant had to provide their study-period income only if it exceeded \$5,600 per term. This change significantly reduced the number of study-period incomes that the Ministry had to verify. For 2017/18, we determined that only 2.7% of students reported income exceeding \$5,600 per term. It would be simpler for the Ministry to consider prior-year income rather than income projected during the study period.

RECOMMENDATION 4

In order to simplify the income-verification process, we recommend that the Ministry of Training, Colleges and Universities consider the applicant's income in the previous year rather than their estimate of income to be earned during the study period.

MINISTRY RESPONSE

The Ministry agrees with the Auditor General's recommendation and is beginning to review options to identify students who may be under-reporting study-period income, in addition to considering opportunities for improving the process to verify income that students receive during their study period. The Ministry will consider the Auditor General's recommendation as it conducts further analysis to determine the most appropriate action for addressing the verification of student income where students may be under-reporting income earned during the study period.

4.5 Ministry Oversight of OSAP

As noted in **Section 2.3**, Ministry oversight activities include the inspection of Financial Aid Offices at both public and private institutions, and the investigation of selected student files. Without an inspection process, the Ministry cannot be assured that Financial Aid Offices are administering OSAP

applications in accordance with Ministry policies and guidelines, potentially resulting in ineligible people obtaining financial aid.

We reviewed the processes for each and tested a sample of inspections of Financial Aid Offices conducted within the last three years. We selected for review 10 public institutions and 20 private ones. We noted that all OSAP-approved institutions were inspected according to the Ministry's inspection cycle—every three years for public institutions and every two for private institutions. However, we had some concerns with the Ministry's inspection and investigation processes. We describe them below.

4.5.1 Too Few Student Files Examined to Effectively Identify Problems

The number of student files selected during inspections of Financial Aid Offices is not commensurate with the size of the institution being inspected. As a result, the inspection process provides little assurance of the soundness of operations and performance of the Offices.

Fixed sample sizes are used regardless of the size of the institution or how many of its students receive OSAP. Specifically, for private institutions, the sample size is 10 student files from the most recently completed academic year. If the institution has fewer than 50 students, fewer than 10 student files can be selected. For public institutions, the sample size is 20 student files from the most recently completed academic year, and five of the 20 must have received financial aid through the Bursary for Students with Disabilities.

By having a fixed sample size rather than one based on the size and risk of the institution, there is a lower likelihood of selecting files that contain major issues. To put this in perspective, the annual number of students receiving OSAP by institution ranged from one to 34,800. According to the American Institute of Certified Public Accountants, the minimum sample sizes for a population of 250 or more are 25 for a low level of assurance, 40 for a medium level, and 60 for a high level. By this

measure, choosing only 20 student files for inspection at public institutions (or 10 for private institutions), does not give the Ministry even a low level of assurance on the population being examined.

The Ministry told us that student files sampled are chosen from a list of OSAP recipients at the institution who had changes made to their files by the Financial Aid Office. It also said that the more complex the student file, the more likely it is to be chosen for review. The Ministry also told us that files are selected in areas where previous deficiencies were found. However, the inspection files we reviewed did not document why those specific files were chosen for testing.

RECOMMENDATION 5

To increase the level of assurance provided by the inspection process, we recommend that the Ministry of Training, Colleges and Universities increase the number of student files selected during inspections of Financial Aid Offices, and consider both the risk and the student population receiving Ontario Student Assistance Program aid at the institution.

MINISTRY RESPONSE

The Ministry agrees with the Auditor General's recommendation and is updating the inspection sampling, which includes increasing the number of student files reviewed according to the student population of the institution. Files will be selected based on their complexity and an analysis of risk data. The Ministry will also consider the sampling methodology used by the American Institute of Certified Public Accountants.

4.5.2 Need for Improvement Unclear When Public Institutions Get No Pass/Fail Grade

Failure to assign a compliance rating to a public institution following an inspection of its Financial Aid Office may result in that Office being unclear on the need for improvement.

Once an inspection is completed, the compliance officer is supposed to brief staff at the Financial Aid Office on his or her findings, and within 30 days provide the Office with a copy of the inspection report. The report lists any deficiencies noted during the inspections but does not indicate the severity of each.

In the case of private institutions, the report indicates whether the Office passed or failed. A fail rating is assigned when the institution fails to attain a minimum score in four of the 19 areas inspected.

However, public institutions do not get a pass or fail rating. Until 2016/17, public institutions were given a compliance rating of high, medium or low. After 2016/17, they received no rating at all, although the Ministry still assigns a compliance rating for internal purposes, but these are assigned subjectively by the inspector, as there is no weighted scoring system in place. At the time of our audit, the internal compliance ratings for public institutions from the latest round of inspections were as follows:

- 20 were rated high;
- 17 were rated medium;
- two were low; and
- 16 were unrated.

See **Figure 8** for more details.

The Ministry informed us that after discussion with the Ontario Association of Student Financial Aid Administrators, it decided to end the practice of providing compliance ratings in its inspection reports to public institutions, because there were no agreements in place with the institutions requiring a certain standard be maintained. Instead, the requirement is that the institutions adhere to the Ministry's policies and procedures, posted online. In contrast, the Ministry has a contract in place with private institutions outlining conditions to be met in order to allow their students to qualify for OSAP.

Although every public institution is required within 30 days of receiving an inspection report to provide the Ministry with a corrective action plan that indicates how it plans to address each of the deficiencies identified, we noted that the Ministry

Figure 8: Latest Available Inspection Results by Institution Type, as of July 2018

Source of data: Ministry of Training, Colleges and Universities

Institution Type	Inspection Ratings for Public Institutions				Inspection Ratings for Private Institutions			Total
	High Compliance	Medium Compliance	Low Compliance	No Rating	Pass	Fail	No Rating	
Public universities	11	5	2	7	n/a	n/a	n/a	25
Public colleges	9	12	0	9	n/a	n/a	n/a	30
Private institutions	n/a	n/a	n/a	n/a	120	7	62	189
Total	20	17	2	16	120	7	62	244
% of Total	36	31	4	29	63	4	33	

ensured corrective action was taken only for those public institutions with a low rating. There were no follow-ups at other institutions with deficiencies until the next scheduled inspection of the institution three years later.

Private institutions are also required within 30 days of receiving an inspection report to provide a corrective action plan for any deficiencies noted in the report. These institutions are subject to a Ministry follow-up inspection six months later. If after two or three follow-up inspections (at the Ministry's discretion) corrective measures have not been taken, the institution will have to hire someone approved by the Ministry to monitor and review their areas of weakness, and ensure that corrective actions are taken before the next inspection. We noted that 25 private institutions failed their last two inspections in a row. The Ministry required only one of these institutions to hire a compliance monitor (Academy of Learning – Richmond Hill).

RECOMMENDATION 6

In order to ensure corrective action is taken by institutions on deficiencies noted in inspections of Financial Aid Offices, we recommend that the Ministry of Training, Colleges and Universities:

- either provide all types of institutions with a compliance rating following an inspection, or clearly identify the severity of each deficiency identified;

- perform timely follow-up inspections with public institutions to ensure corrective action has been taken, in the same way it does for private institutions; and
- put agreements in place with Financial Aid Offices at public institutions regarding compliance with Ministry policies and guidelines for the administration of the Ontario Student Assistance Program.

MINISTRY RESPONSE

The Ministry agrees with the Auditor General's recommendations and is currently in the process of reviewing the OSAP inspection process. Part of the review will include inspection compliance ratings, follow-up measures and updating tracking tools to ensure corrective action is taken in a timely manner. The Ministry will pursue measures to strengthen accountability with its public institution partners to ensure compliance with Ministry policies and guidelines for OSAP administration within the next year.

4.5.3 Insufficient Follow-Up to Ensure Timely Corrective Actions

Compliance officers we spoke with during the audit told us that follow-up inspections occur within the year, generally six to 12 months after the initial inspection that identified an issue, to allow time for corrective action.

Based on a sample of files we reviewed for inspections conducted within the three academic years between 2014/15 and 2016/17, we found that:

- For 23% of institution inspections sampled, the Ministry had not sent the inspection report to the institution's Financial Aid Office within its stated timeline of 30 days after the inspection. The dates they were sent ranged between 32 and 63 days after the inspection had been completed.
- For 20% of institution inspections sampled, we noted that the management response outlining corrective actions to identified deficiencies had not been sent to the Ministry within 30 days. Those that were submitted late ranged from 34 to 79 days after receipt of the Ministry's inspection report. In an additional 13% of cases, there was no evidence that the institution provided any management response to the Ministry.
- In 23% of the inspections sampled where the institution submitted a management response, the response did not address all issues cited in the inspection report. However, in each of those instances, the Ministry followed up until it received an appropriate management response.
- For most of the private institutions in our sample that failed an inspection, we found no evidence that the Ministry had conducted the required follow-up inspection within one year after the inspection.

RECOMMENDATION 7

To help ensure Financial Aid Offices (Offices) take corrective action on a timely basis on deficiencies noted by a Ministry of Training, Colleges and University inspection, we recommend that the Ministry:

- ensure inspection reports are provided to Offices within 30 days of the inspection;
- ensure that in all cases the Offices have provided a thorough and timely response to

all deficiencies identified in the inspection report; and

- conduct follow-up inspections of all institutions that fail an inspection on a timely basis.

MINISTRY RESPONSE

The Ministry agrees with the Auditor General's recommendations and is currently in the process of reviewing the OSAP inspection process. Part of the review will include updating the inspection reporting and tracking tools. The Ministry will provide inspection reports to Financial Aid Offices within 30 days of inspection. The Ministry will ensure that Financial Aid Offices provide a corrective action plan that addresses all the deficiencies identified in the inspection report within the required timeline. The Ministry will conduct follow-up inspections of all institutions that fail an inspection within six months to a year, depending on the severity of the issues identified in the inspection.

4.5.4 Inadequate Tracking of Inspection-Related Data Hinders Corrective Action

The Ministry maintains a spreadsheet to track compliance inspections due and completed, and to report on the results of the inspections and the status of corrective action taken. Concerns with the documentation related to the inspection process were as follows:

- Twenty-nine percent of public institutions received no compliance rating, and for 33% of private institutions, there was no indication whether they had passed or failed the inspection (see **Figure 8**).
- Relevant information from the prior inspection schedule required to keep track of inspection status was not transferred to the new schedule. This data included the dates of previous inspections, current review status, follow-up required, and the inspector conducting the inspection. Without this

information on the inspection schedule, it was necessary to review each separate inspection file.

- The spreadsheet contained no information that would allow management to track whether the required oversight activities were in fact occurring. For instance, the spreadsheet did not record the date that inspection reports were sent to institutions, the date the institutions provided an action plan to the Ministry to address deficiencies, or the date of a follow-up Ministry inspection. This information is only stored in individual inspection files which we tested on a sample basis (see **Section 4.5.3**).
- Issues or deficiencies identified during an inspection were recorded only in general terms—for example, described only as related to “admissions” or “refund/withdrawal procedures.” But there were no specifics about the actual deficiencies. As a result, the Ministry was unable to track or analyze in a meaningful way issues identified in its inspection process. This prevents it from being able to identify trends and common deficiencies that could be resolved on a system-wide basis, and identifying best practices that could be shared across the entire system.

At the time of our audit, the Ministry informed us that it was planning to design a database to more completely and consistently record inspection information.

RECOMMENDATION 8

In order to ensure appropriate corrective action is taken following an inspection of Financial Aid Offices, we recommend that the Ministry of Training, Colleges and Universities record key inspection-related data in a consistent manner. This would include the date and results of both current and previous inspections, deficiencies noted, the corrective action committed to and the date it is performed.

MINISTRY RESPONSE

The Ministry agrees with the Auditor General’s recommendation and is currently in the process of reviewing the OSAP inspection process. Part of the review includes updating inspection tools to record key information, such as results, deficiencies noted, actions taken or required of both current and past inspections. The updated tools will assist in determining appropriate follow-up based on the severity of issues identified during the inspection.

4.5.5 Inadequate Data Impedes Analysis of and Reporting on Student Investigations

As with the inspection schedules maintained by the Ministry, we found weaknesses with how the results of investigations of OSAP recipients were reported. Specifically:

- The Ministry’s schedule of investigations does not contain basic information, such as institution type, to allow the Ministry to trend and analyze investigations to determine which particular types of institutions were vulnerable to certain issues.
- Neither the nature nor the source of the issue is described in adequate detail to allow meaningful conclusions to be drawn.

Compliance officers, responsible for conducting investigations, are not provided with policies and manuals. This creates inconsistencies and lack of standardization in procedures and documentation. Further, without standard procedures, processes and documentation requirements in place, there is no assurance of appropriate due diligence in the conduct of investigations.

RECOMMENDATION 9

To ensure investigations of students are conducted in a consistent high-quality manner, we recommend that the Ministry of Training, Colleges and Universities:

- include in its schedule/database of investigations the information necessary to analyze trends and patterns: and
- create procedural guidelines and checklists for investigations and documentation standards.

MINISTRY RESPONSE

The Ministry agrees with the Auditor General's recommendation and is in the process of reviewing its current investigation tracking system to include more details as per the recommendations. In addition, the Ministry has already begun to develop a procedures manual to assist in investigations.

4.5.6 Ministry Does Not Track Program Complaints So Cannot Make System-Wide Fixes

The Ministry does not track or trend complaints about OSAP to allow for system-wide corrective action; nor does it keep lists of students calling or writing to voice concerns. Instead, policy analysts deal with each issue on an individual basis, with resolution conducted by phone. Appropriate notes are to be attached to the student's system file where applicable. However, no independent database of student complaints is maintained, so systemic issues raised by students cannot be identified or tracked.

The Ministry informed us that although it does not track complaints, it tracks inquiries made to the Ministry through social media.

RECOMMENDATION 10

In order to take timely corrective action on a system-wide basis as appropriate, we recommend that the Ministry of Training, Colleges and Universities:

- track and maintain a complaints database on the Ontario Student Assistance Program; and
- analyze the data on a periodic basis.

MINISTRY RESPONSE

The Ministry agrees with the Auditor General's recommendation for student concerns and complaints that may come from avenues other than social media. The Ministry's Communications Branch currently uses a web-based database to track any OSAP issues that come through social media channels. To ensure efforts are not duplicated, the Ministry will develop a database to more closely track and monitor complaints received by students from channels other than social media, including phone calls, emails and written correspondence. In addition, the Ministry will include data collected through other avenues, such as user-testing focus groups, and determine methodologies that will facilitate reporting.

The Ministry will review the database on a regular basis to ensure issues are addressed in a timely manner and to identify possible trends or systemic issues that need to be addressed on a systemic basis.

4.5.7 Ministry Inspections Failed to Capture Misuse of \$220,000 in OSAP Funds

The Ministry's inspection process failed to detect an Ontario university (Laurentian) that was applying grant money provided by OSAP's Bursary for Students with Disabilities toward services the university was already being funded for by the Ministry's Integrated Accessibility Fund for Students with Disabilities program. In essence, the university was double-dipping by making disabled students pay for services that the government had already funded.

This happened between 2011 and 2017, and involved \$219,197 in Ontario student bursaries being used inappropriately. The issue was first noted through a formal email complaint to the Ministry in April 2016 by a former student and bursary recipient.

The Ministry had previously inspected the institution in October 2013, 2½ years before the student complained in April 2016. However, the issue went undetected.

Only after being notified by the student, and after reviewing the scope of the complaint through its own inspection processes in March 2017, did the Ministry's Investigations and Compliance Unit conclude that the university abused current Ministry policies regarding bursary funding to disabled students. Nine months later, in November 2017, the university offered to repay the Ministry \$258,881 (\$219,197 plus a penalty) over five years in equal instalments.

The Ministry has since added a requirement to its inspection process of Financial Aid Offices that of the sample of 20 cases selected for inspection, five must pertain to students who received aid through the Bursary for Students with Disabilities.

4.6 Loan Repayment and Default

4.6.1 Large Amount of Student Loans Uncollected Since Inception of OSAP

At the time of our audit, there was almost \$1 billion in student loans in arrears since OSAP began in 1975 (see **Figure 9**). About half—\$490 million, representing 68,500 student loans—was overdue for more than 10 years, although collection efforts continue. An additional \$231 million in 48,200 accounts has been overdue between four and 10 years. Almost \$463 million of this amount has been written down.

About \$69 million in loans has gone into default in each of the last five years. The cumulative amount of loans in default represents about 18% of the loans receivable balance at March 31, 2018. However, the Ministry expects the annual value of loans going into default to drop in future because it now awards fewer loans.

Figure 9: Age of Loans in Default as of March 31, 2018

Source of data: Ministry of Finance and Government of Ontario Integrated Financial Information System

Age	Loan Value*	
	(\$)	# of Loans
Less than 90 days	21,267,403	4,673
90–179 days	20,863,083	4,623
180 days–1 year	24,668,488	5,344
1–2 years	58,160,296	12,721
2–4 years	107,132,553	23,556
4–6 years	90,993,063	20,102
6–8 years	72,130,750	15,269
8–10 years	68,265,370	12,841
More than 10 years	490,338,584	68,515
Total	953,819,590	167,644

* Represents gross amount of defaulted loans before write-downs because collection efforts continue on gross amount.

4.6.2 Effective Collection Efforts Start Only Nine Months after Loans Go into Default

Although student loans are considered in default after 90 days in arrears, aggressive collection efforts do not begin until months later. Parties involved in the collection of overdue loans include the federal National Student Loans Service Centre (Centre), the Ontario Ministry of Finance (Finance), and private collection agencies.

The Centre makes some collection efforts on loans that are overdue between 90 and 270 days by sending notices of arrears and making phone calls at intervals between 105 and 270 days in arrears; verifying the accuracy of current contact information for the loan recipient; and offering ways for borrowers to bring their delinquent accounts back into good standing. This may include allowing up to three months of interest in arrears to be added to the principal balance of the loan, and to be repaid over the life of the loan. The Centre also assists in back-dating applications for repayment assistance up to six months in cases where borrowers missed the deadline for the Repayment Assistance Plan.

The Centre transfers defaulted amounts to Finance for more aggressive collection efforts when

Figure 10: Recovery of Defaulted Loans by Collection Method, 2013/14–2017/18 Fiscal Years (\$)

Source of data: Ministry of Finance

Collection Method	2013/14	2014/15	2015/16	2016/17	2017/18	Total	% of Total
Private collection agencies	25,067,289	23,577,764	25,009,364	27,140,116	26,557,037	127,351,570	47
Income-tax garnishments	24,829,546	25,105,817	26,385,120	25,400,144	24,449,686	126,170,313	46
Soft collections (e.g., form letters, phone calls, etc.)	2,813,932	2,748,418	2,831,270	2,896,064	3,091,709	14,381,393	5
Bankruptcy and consumer proposals	1,041,740	939,843	996,903	942,433	1,006,789	4,927,708	2
Total collected/recovered	53,752,507	52,371,842	55,222,657	56,378,757	55,105,221	272,830,984	100

the loans are nine months in arrears. The Ministry informed us that the Canadian government does the same thing for its loans.

The two most effective approaches used by Finance were the engagement of private collection agencies and garnishing income-tax refunds through the Canada Revenue Agency. The latter had a slightly worse collection rate—an average of 46%, compared to 47% for collection agencies over the last five years. Combined, these two collection methods accounted for 93% of all loans recovered, as illustrated in **Figure 10**.

Collection Agencies Get 16% Commission

Private collection agencies are paid a 16% commission on the amounts they recover—about \$20 million of the \$127.4 million collected over the last five years (the Province pays the commission and applies 100% of the recoveries to students' outstanding loan balances). In contrast, about 1% of the entire amount recovered from income-tax refunds over the same period (\$126.2 million) was paid as a fee to the Revenue Canada Agency. Attempting to collect from tax refunds first should, therefore, lead to higher net recoveries.

Finance staff told us that they transfer uncollected loans to private collection agencies first, before attempting to collect income-tax refunds.

Defaulted accounts remain with the agencies until an account is paid in full, a debtor is deceased, declares bankruptcy, or receives medical loan forgiveness in the case of a permanent disability.

Finance told us that if there have been no payments on an account approximately one year after it has been assigned to an agency, the process for garnishing income-tax refunds begins. Finance also informed us that regardless of the age of an overdue account, private agencies will continue to make calls, send letters, report debts to credit bureau agencies, and even pursue legal action.

When asked why it does not try to recover overdue amounts from income-tax refunds before engaging agencies, Finance informed us that its agreement with the Canada Revenue Agency requires it to first make every reasonable effort to collect the debt prior to asking the tax department. In addition, amounts collected through the income-tax garnishing program only cost the Province about 1% in administration fees charged by the Canada Revenue Agency. Any changes to the existing system would therefore bring additional costs for the Ministry, including the need for additional staffing to manage the process internally.

Many other jurisdictions in Canada had similar collection processes—like Ontario, for example, others considered that a loan was in default after 90 days. However, Manitoba forwards all loans to

the Canada Revenue Agency for collection if no payment has been received for five months, until the borrower has either repaid the loan, including outstanding interest, or enters the Repayment Assistance Plan.

RECOMMENDATION 11

To improve collection of defaulted loans of the Ontario Student Assistance Program in the most cost-effective manner, we recommend:

- the Ministry of Training, Colleges and Universities work with the federal government, which contracts with the National Student Loans Service Centre, to initiate collection efforts on student loans sooner after they go into default; and
- the Ontario Ministry of Finance renegotiate its contract with the Canada Revenue Agency to enable garnishing of income-tax refunds sooner than at present.

MINISTRY OF TRAINING, COLLEGES AND UNIVERSITIES RESPONSE

The Ministry agrees with the Auditor General's recommendation and will engage with the federal government and the National Student Loans Service Centre to identify opportunities to apply more assertive collective measures once the borrower's student loans go into arrears or the borrower defaults on their student loan payments.

MINISTRY OF FINANCE RESPONSE

The Ministry of Finance agrees with the Auditor General's recommendation that there is value in re-evaluating when garnishments of income tax refunds take place. The Ministry will assess options for changing the timing, including any cost and staffing impacts. The Ministry will engage the Canada Revenue Agency to identify any barriers to proposed timing changes.

4.6.3 Private Career Colleges Have High Default Rates

We analyzed default rates by institution types for the five calendar years from 2012 to 2016, and found that students who attended private career colleges had the highest default rates of all institutions approved for OSAP funding, followed by public colleges and public universities.

We noted that default rates were slowly improving for all types of institutions. See **Figure 11** for the five-year trend by institution type in overall default rates.

In 2016, the highest default rate for a private career college was 47.1%, whereas the highest default rates for public colleges and universities were 14.8% and 10.8%, respectively. Further, 41 private career colleges had default rates of at least 20%. **Figure 12** lists the top 10 institutions with the highest default rates in 2016, which are all private career colleges.

We also noted that programs with the highest default rates were in both publicly funded colleges and private career colleges. In 2016, there were 16 programs of study that had default rates of at least 60% (see **Figure 13**). It is unclear why the Ministry supported programs with such high default rates. The Ministry was unaware why certain institutions and specific programs within institutions had high default rates.

Private Career Colleges Cover Only a Small Portion of Defaults under the Cost-Sharing Program

The effectiveness of the default cost-sharing program with private career colleges was limited, as institutions are only required to cover a small portion of defaulted loans. Cost-sharing applies to those private institutions with an overall default rate above a specified threshold, currently 20%.

The process to determine the amount to be recovered from private career colleges is complicated. It begins every July, when the Ministry calculates default rates of private institutions using

the cohort of students from the three previous academic years. For example, the 2016 default rates pertain to the cohort of students from the 2013/14 academic year.

If an institution's default rate on student loans is above the threshold specified by the Ministry for that year, the institution is required to provide

financial security to the Ministry in the form of either a promissory note or collateral such as a letter of credit for the next academic year. However, only if the institution is above the threshold two years later will it be required to pay.

For example, institutions that were above the threshold in 2016 (which relates to the 2013/14

Figure 11: Overall Default Rates, 2012–2016, and Use of Repayment Assistance Plan, 2016, by Type of Institution (%)

Source of data: Ministry of Training, Colleges and Universities

Type of Institution	Default Rates ¹					Repayment Assistance Plan Usage Rates ²
	2012	2013	2014	2015	2016	2016
Private career colleges	20.60	18.80	18.50	17.00	16.40	42.70
Ontario colleges	13.40	13.20	12.10	10.80	9.80	34.30
Ontario universities	4.60	4.50	4.00	3.60	3.30	30.30
Other private and publicly funded institutions	4.20	3.70	3.70	3.40	2.50	35.70
Overall	9.80	9.60	9.00	8.10	7.50	33.40

1. The default rate is calculated based on the number of defaulted loans as a percentage of the total number of loans issued for students at the institution. For example, the 2016 default rates reflect the repayment status of students who were issued Canada-Ontario Integrated Student Loans in the 2013/14 academic year and completed or exited their studies by 2014/15. The status of these loans was assessed as of July 2016 or about two years after the student was expected to begin repayment.
2. Repayment Assistance Plan (RAP) usage rates are calculated based on the number of borrowers who used RAP for one or more terms as a percentage of the total number of loan recipients. The 2016 usage rate represents the number of loan recipients in 2013/14 that received and applied for repayment assistance for one or more six-month term between 2013/14 and July 2016.

Figure 12: Top 10 Institutions and Associated Programs with Highest Default Rates, 2016

Source of data: Ministry of Training, Colleges and Universities

Institution	Overall Default Rate (%)	Institution's Most Defaulted Program	Default Rate of Program (%)
Windsor Career College	47	Graphic Design	43
Academy of Learning, Kingston	46	Medical Office Administrator	29
Looks Aesthetic Academy	43	Advanced Medical Aesthetics and Laser Technician	43
Everest College, Hamilton (King Street)*	41	Executive Office Assistant	60
Luba Mera Institute of Aesthetics and Cosmetology	40	Advanced Aesthetics and Cosmetology	40
Academy of Learning, Guelph*	35	Accounting and Payroll Administration	60
Trillium College, St. Catharines*	33	Business Management	67
Everest College, Windsor*	33	Law Enforcement Foundations	50
Canadian College of Business, Science and Technology, Scarborough	33	Health Office Administration	29
Maxwell College of Advanced Technology	33	Personal Support Worker	29

* In the top 10 institutions with the highest default rate in 2014 and/or 2015.

Figure 13: Programs of Study and Associated Institutions with Default Rates of at Least 60%, 2016

Source of data: Ministry of Training, Colleges and Universities

Program with Highest Default Rate		Default Rate (%)	Institution	Institution Type
1	Culinary Skills – Chef Training	88.9	Canadore College	College
2	Police Foundations	72.7	Trillium College, Peterborough	Private Career College
3	Business Administration	66.7	CDI College, Hamilton	Private Career College
4	Business Management	66.7	Trillium College, St. Catharines	Private Career College
5	General Arts and Science	66.7	Cambrian College	College
6	Welding Techniques	66.7	Sault College	College
7	General Arts and Science – One-Year	64.7	Lambton College	College
8	Business Management	63.6	Trillium College, Peterborough	Private Career College
9	Hairstyling	63.6	Trillium College, Toronto (Church St.)	Private Career College
10	Accounting and Payroll Administration	60.0	Academy of Learning, Guelph	Private Career College
11	Business Administration	60.0	CDI College, Ajax	Private Career College
12	Event Management	60.0	CDI College, Hamilton	Private Career College
13	Community Services Worker	60.0	CTS Canadian Career College, Barrie	Private Career College
14	Executive Office Assistant	60.0	Everest College, Hamilton (King St.)	Private Career College
15	Paralegal	60.0	Mohawk College	College
16	Construction Techniques	60.0	Sault College	College

cohort of students) and were required to provide financial security for the 2017/18 academic year, won't necessarily have to actually pay any money until the 2019/20 academic year, when the Ministry will recheck these institutions to determine if they are still above the default cost-sharing threshold.

We would expect a “cost-sharing” program to be split at or near 50/50—meaning the institution and the Ministry equally bear the costs of defaults. However, our review of defaulted loans for all institutions above the threshold for the six years between 2011 and 2016 found that:

- For 2011 and 2012, the latest years for which payments would have been required under cost-sharing, institutions were only required to cover or share the costs of 3% of the total amount of defaulted loans. That is, for \$14 million in defaults, the Ministry is to absorb \$13.6 million and the private institutions only \$417,000 (\$214,000 for 2011 and \$203,000 for 2012). At the time of our audit, the Ministry had collected only \$21,000 for

defaults in 2011, as many of the private institutions with high defaults had permanently closed. For the 2012 defaults, the Ministry had only just informed institutions of their required payments.

- For the remaining years, 2013 to 2016, that we examined, the Ministry planned to review the default rates for these institutions each year from 2017 to 2020 to determine if they are still above the threshold and how much of the defaulted loans (if any) should be recovered.

We also noted that over the last six years, 99 institutions had a default rate higher than 20% at some point during those six years, and six institutions had default rates greater than 20% for all six years.

In January 2014, the Ministry introduced performance standards for private institutions in order for them to remain eligible for OSAP. The standards required them to:

- maintain overall graduation and employment rates for graduates of programs approved for OSAP that are at least 80% of the average of

publicly funded colleges *in one of every three years*; and

- maintain overall Canada-Ontario Integrated Student Loan default rates below the default cost-sharing threshold (20%) in *at least one of every four years*.

If an institution does not meet the requirements in any one year, it would not be eligible for OSAP approval for three years, after which it could re-apply. At the time of our audit, the Ministry had not yet started measuring the first standard for the 2018/19 fiscal year.

RECOMMENDATION 12

To reduce default rates on Ontario Student Assistance Program (OSAP) loans for students at private career colleges, and to recover a greater proportion of defaulted loans, we recommend that the Ministry of Training, Colleges and Universities:

- revise the cost-sharing program to ensure institutions cover a greater proportion of any defaults;
- recover cost-sharing amounts from institutions sooner—within one year, for example, rather than six;
- follow up with those institutions that have high default rates in two or more consecutive academic years; and
- measure performance standards set for private institutions and take appropriate action regarding their eligibility for OSAP when the standards are not met.

MINISTRY RESPONSE

The Ministry agrees with the Auditor General's recommendations and will review the current default cost-sharing program in an effort to recover a greater proportion of defaulted provincial loans in a more timely manner. The Ministry will determine an appropriate timeline to ensure it is following up more regularly with institutions that consistently have high default

rates, and will continue to set and measure performance standards for private institutions.

The Ministry will take appropriate action where private institutions do not meet the standards set out by the Ministry for OSAP designation, including restricting institutions from future OSAP approval for a time-limited and/or indefinite period.

4.7 OSAP System Access Controls

4.7.1 Unclear If Assessed Risks to Applicant Data Have Been Addressed

The Ministry performed a privacy-impact assessment at the inception of the OSAP transformation project in 2016/17 to identify the potential risks to privacy and for loss or theft of personal student information collected and maintained in the OSAP system.

Although findings and action items were outlined in the assessment, the Ministry was unable to provide any formal documented evidence to demonstrate that issues had been addressed. Examples of issues identified during the privacy impact assessment include failing to maintain a records-retention schedule for OSAP data in compliance with the Archives and Recordkeeping Act, and failing to ensure that data moving between Ontario University Application Centre/Ontario College Application Service systems and the OSAP website is encrypted.

Privacy impact assessments determine whether appropriate controls are in place to safeguard personal information of OSAP applicants and recipients. Industry standards suggest these assessments be performed on a scheduled basis, with the length of time between assessments dependent on the industry and level of risk the entity is willing to assume. However, the Ministry informed us that it will not perform a new privacy-impact assessment following the scheduled system rollover for the 2018/19 application.

The Office of the Privacy Commissioner of Canada, for example, requires that a privacy-impact

assessment be completed for all new or redesigned programs and services. This would include an assessment to determine that the changes identified as part of the annual rollover to accept new application data for the upcoming year do not have a negative impact on privacy. If the Ministry were to follow this protocol, an assessment should be completed annually.

RECOMMENDATION 13

To improve safeguarding of personal information in the Ontario Student Assistance Program system, we recommend the Ministry of Training, Colleges and Universities ensure that action items from the last privacy impact assessment be addressed and documented, and that it promptly evaluate the benefits of doing such assessments yearly.

MINISTRY RESPONSE

The Ministry agrees with the Auditor General's recommendation and takes the protection of student information seriously. The Ministry has begun the process of implementing all action items from the last privacy impact assessment that are applicable for the OSAP system. The Ministry agrees to immediately evaluate the benefits of doing privacy assessments yearly and is in contact with appropriate privacy offices within the Ontario Government for evaluating the benefits of doing yearly assessments.

4.7.2 OSAP Information System Vulnerable to Unauthorized Use

The Ministry did not have a formal process in place to review who is authorized to access the OSAP information system, or the level of authorization of each user. Although the Ministry completed a review of user access rights at Financial Aid Offices in July 2018, it was unclear whether this was a one-time review or whether it was performed annually.

During our review of access control violations, we noted that an employee at one Financial Aid Office terminated in June 2017 still had access to the OSAP system until February 2018. This should have been detected by the Ministry if user access reviews were being performed on an annual basis.

We also noted that the checks around system access by Ministry employees included only whether a user's access was appropriately listed as either active or inactive, but not whether the level of access was appropriate. This may result in users having more access rights than necessary.

The Ministry also lacked a formal process to revoke system access for employees of Financial Aid Offices at educational institutions. We noted in 40% of terminated employee files we reviewed that the Ministry specified only that system access had to be removed, but had taken no steps to actually revoke access until we advised it of our findings. The risk is that access credentials of terminated employees could be used to submit and process unauthorized or fraudulent transactions.

Passwords for the OSAP system are not set to expire, contrary to Government of Ontario IT standards requiring that passwords expire in 90 days for normal users and 30 days for those with administrative system access.

We also noted that staff at the Ministry and Financial Aid Offices receive no formal training regarding privacy breaches and protection of personal information. Rather, training slides are posted on a secure website and staff is notified that they are available. However, the training is not mandatory, and the Ministry does not track who has read the material.

RECOMMENDATION 14

To mitigate the risk of unauthorized users gaining access to the Ontario Student Assistance Program system and potentially processing unauthorized or fraudulent transactions, we recommend that the Ministry of Training, Colleges, and Universities (Ministry):

- perform user-access reviews for both Ministry and Financial Aid Office users to determine whether they have the correct level of access;
- revoke access immediately for terminated employees of both the Ministry and Financial Aid Offices; and
- provide training to Ministry staff and Financial Aid Offices regarding privacy breaches and protection of personal information.

MINISTRY RESPONSE

The Ministry agrees with the Auditor General's recommendation and takes protection of student information seriously. The Ministry instituted a process in October 2018 to increase the frequency of user-access reviews for both Ministry and Financial Aid Office users during the year.

The Ministry started a full access review and will continue to revoke access immediately for terminated employees of both the Ministry and Financial Aid Offices. As recommended by the Auditor General, the Ministry is performing a review and will make the necessary changes to formalize the process to revoke access.

The Ministry will also provide privacy training to Ministry staff and emphasize to institutions the importance of securing data. The Ministry will review its current privacy training methods to address the Auditor's recommendations and improve its training tools made available for institutions within the next year.

Appendix 1: OSAP Programs by Application Type for the 2017/18 Academic Year

Prepared by the Office of the Auditor General of Ontario

2017/18 Name of Program	Previous Name of Program	2017/18 Program Description
Application for Full-Time Studies¹		
Combined Canada-Ontario Loan	Canada-Ontario Integrated Student Loan	Student's combined entitlement from both the Canada Student Loan and the Ontario Student Loan capped at \$5,000 per academic term.
Ontario Grant	Ontario Student Grant ²	<p>Composed of four components:</p> <ul style="list-style-type: none"> • Base Component: A flat per-term amount not based on student's assessed need. Can cover up to 50% of average tuition, based on student's family income and size. • Need Component: Eligibility based on student's allowable costs less total expected resources, including any federal aid. • Tuition Top-Up Component: Provides additional grant funding to students with an individual income of less than \$30,000 or a family income less than \$50,000 if funding from federal student grants, Base and Need components is insufficient to cover the lesser of the actual tuition or average tuition amount. Only for students attending public colleges and universities in Ontario. • Distance Component: Provides an additional grant amount where the post-secondary institution is more than 80 km away from student's home and student has to either commute or live away from home.
	Living and Learning Grant (MCYS)	Provides \$465 per month to full-time students aged 18-24 who have left the care of an Ontario Children's Aid Society. Funded by Ministry of Children, Community and Social Services as an extension to support provided until youth turns 21.
Canada Grant	Grant for Full-Time Students ³	Provides students from low-income families \$86.54 per week of study, to a maximum of \$4,500 per academic year. As family income increases, grant decreases, to a minimum of \$100 per academic year for family income at top of threshold.
	Grant for Full-Time Students with Dependents	Eligible students with one or more dependent children and with a family income below a set threshold receive \$46.51 per week of study.
	Grant for Students with Permanent Disabilities ⁴	Provides \$2,000 per academic year to students with permanent disabilities to cover standard educational costs (living, tuition, books, etc.). The grant typically displaces the Canada Student Loan.
Application for Services and Equipment for Students with Disabilities		
Ontario Bursary	Ontario Bursary for Students with Disabilities	Provides up to \$2,000 per academic year to students with disabilities for disability-related services and equipment required to participate in post-secondary studies.
Canada Grant	Canada Student Grant for Services and Equipment for Students with Permanent Disabilities	Provides up to \$8,000 per academic year for disability-related services and equipment for students with permanent disabilities.
Application for Deaf Students Studying outside Canada		
Ontario Bursary	Ontario Out-of-Country Bursary for Deaf Students	Provides non-repayable assistance to cover additional costs above standard OSAP assistance for deaf students to study out of country at an institution where language of instruction is American Sign Language (or Quebec Sign Language).

2017/18 Name of Program	Previous Name of Program	2017/18 Program Description
Application for Part-Time Studies		
Ontario Grant	Ontario Part-Time Grant	Provides up to \$500 per academic year to eligible part-time low-income students.
Canada Grant	Grant for Part-Time Studies	Provides up to \$1,800 per typical academic year to part-time low-income students.
	Grant for Part-Time Students with Dependents	Provides up to \$1,920 per academic year to part-time low-income students with dependent children under 12 years of age.
	Grant for Students with Permanent Disabilities ⁴	Provides up to \$2,000 per academic year of study to students who meet the definition of permanently disabled.
Canada Loan	Part-Time Canada Student Loan	Allows students to have up to \$10,000 principal and interest outstanding.
Application for Scholarships		
Ontario Scholarship	Ontario Graduate Scholarship	A merit-based scholarship, for Master's and PhD students, jointly funded by Ontario (2/3) and the institution offering the award (1/3).

1. The maximum total amount of Ontario student loans and grants is \$180 per week of study for a single student and \$450 per week of study for any other individual. A student's study period can range from a minimum of 12 weeks to a maximum of 52 weeks.
2. This grant combined the following six grants from 2016/17: 30% Off Ontario Tuition Grant; Ontario Access Grant; Ontario Access Grant for Crown Wards; Ontario Child Care Bursary; Ontario Distance Grant—Commuting and Travel; and Ontario Student Opportunity Grant.
3. This grant combined two grants from 2016/17: Grant for Students from Low-Income Families and Grant for Students from Middle-Income Families.
4. Same grant available to both part-time and full-time students.

Appendix 2: Information Required for OSAP Application

Prepared by the Office of the Auditor General of Ontario

Information	To Determine	How Verified?	
		Automatically (A) or Manually (M)	
Basic personal data (e.g., name, sex, Social Insurance Number, date of birth)		A	Social Insurance Registry at Employment and Social Development Canada
Prior-year income of student, parents, and/or spouse	Available resources	A	Canada Revenue Agency
Estimate of income to be earned by student during study period	Available resources	A	Canada Revenue Agency (verified after study period ends)
Income from governments (e.g., EI, Ontario Works, Second Career) for the prior year	Available resources	AM	Canada Revenue Agency, Second Career Agreement, and the Ministry of Children, Community and Social Services
Parents' marital status and living arrangements	Dependency and financial need		Not verified
Canadian citizenship	Eligibility		Rely on existence of SIN
Permanent resident	Status in Canada	M	Record of Landing
Protected person	Status in Canada	M	Proof of a temporary SIN and other refugee or protected person documentation
Student's dependent children	Child Care Allowance	M	<ul style="list-style-type: none"> • Child's birth certificate • For disabled child under 18, documentation from physician clearly stating disability • For disabled child 18 or older, proof that child was claimed as dependent for tax purposes
Parents' dependent children	Financial contribution		Not verified
Foreign income	Financial resources	M	Document issued by foreign tax office, foreign employer or signed affidavit
Canadian non-taxable income	Financial resources	M	Documents issued by organization providing the prior year's non-taxable income
Ontario residency	Residency in Ontario		Not verified
Student disability	Living costs	M	Documentation from physician clearly stating disability

Appendix 3: OSAP Grants and Loans for Last Six Fiscal Years (\$ 000)

Source of data: Ministry of Training, Colleges and Universities

	2012/13	2013/14	2014/15	2015/16	2016/17	2017/18
Repayable Financial Aid						
Ontario Student Loans	912,331	980,372	949,436	1,004,437	1,055,913	212,086
Ontario Medical Resident Loans	3,427	3,585	4,561	3,506	2,025	2,976
Total Repayable Financial Aid	915,758	983,957	953,997	1,007,943	1,057,938	215,062
Non-repayable Financial Aid						
Grants						
Ontario Student Grant	–	–	–	–	–	1,486,581
Ontario Student Operating Grant-Loan Forgiveness*	477,263	540,606	563,147	563,891	563,681	69,112
Ontario Tuition Grant*	317,011	311,922	318,998	330,014	331,847	–
Ontario Access Grant*	49,792	57,406	54,200	47,638	49,008	8,965
Canada Student Grant—for persons with permanent disabilities	9,207	9,384	10,517	9,484	9,162	8,490
Distance Grant*	4,941	5,752	5,568	5,379	3,700	134
Life after High School	–	–	–	–	–	507
Ontario Part-Time Grant	372	431	453	531	620	917
Total Grants	858,586	925,501	952,883	956,937	960,014	1,574,706
Bursaries						
Disabled Bursary	4,526	3,587	4,220	3,858	4,194	3,808
Child Care Bursary*	66	37	1,735	2,215	2,309	500
VRS Out of Country Bursary	1,102	1,183	1,382	1,563	1,388	1,044
Total Bursaries	5,694	4,807	7,337	7,636	7,891	5,353
Scholarships						
Ontario Graduate Scholarships	30,693	30,409	34,385	29,986	29,937	29,358
Aiming for the Top Scholarship	17,117	9,851	4,979	5,237	5,097	4,880
Total Scholarships	47,810	40,260	39,364	35,223	35,034	34,238
Debt Reduction						
Repayment Assistance Plan—Stage 1 (interest relief)	13,516	16,163	18,904	20,251	22,442	28,168
Repayment Assistance Plan—Stage 2 (principal relief)	6,246	7,944	10,217	12,486	14,977	18,462
Interest paid for students in study or 6-month grace period	18,566	19,372	20,465	6,359	254	213
Total Debt Reduction	38,328	43,479	49,586	39,096	37,673	46,843
Other						
Access Funding	–	–	–	–	–	970
Net Tuition Billing	–	–	–	–	6,100	–
Everest College Closure	–	–	7,571	–	623	59
Chiefs of Ontario	–	–	–	–	326	175
Indspire (awards for Indigenous students)	–	–	–	–	100	–
Higher Education Quality Council of Ontario	–	–	–	–	–	176
Total Other	–	–	7,571	–	7,149	1,380
Total Non-repayable Financial Aid	950,418	1,014,047	1,056,741	1,038,892	1,047,761	1,662,519

* These grants were combined into the new Ontario Student Grant in 2017/18.

Appendix 4: Audit Criteria

Prepared by the Office of the Auditor General of Ontario

1. **Eligibility:** Eligibility for financial assistance is assessed on a timely basis in accordance with Ministry of Training, Colleges and Universities (Ministry) policy and information in student applications is verified against supporting documentation.
2. **Change in Eligibility:** Eligible students are awarded the correct amount of grants and/or loans according to Ministry policy. Changes to student (borrower) circumstances, such as changes to income, course load, or family structure, are identified and reflected in student files and entitlements are assessed and adjusted based on these changes, as necessary. Overpayments are identified and collected on a timely basis.
3. **Governance/Oversight:** The roles and responsibilities of all parties involved in the administration and delivery of OSAP (Ministry of Training, Colleges and Universities, Financial Aid Offices in post-secondary institutions, the National Student Loan Service Centre, Ministry of Finance, and private collection agencies) are clearly established. All parties are carrying out their duties in accordance with program requirements, and timely corrective action is taken where required.
4. **Collection of Defaulted Accounts:** Collection efforts on defaulted loans are initiated on a timely basis and escalate in severity. All collection efforts are fully documented in applicable client files within Ministry systems. There is adequate oversight of collection activities to ensure that collection efforts are effective, timely and in compliance with Ministry policies and procedures.
5. **Data Security:** Appropriate procedures and controls are in place to safeguard the privacy of applicants' personal information.
6. **Performance Management:** Appropriate measures are in place to monitor program performance against established expectations and to assess the effectiveness of the program in achieving legislated and stated goals.

Chapter 3

Ministry of Children, Community and Social Services

Section 3.11

Ontario Works

1.0 Summary

Many Ontarians who are either unemployed or underemployed need help to pay for their basic living expenses including food, shelter and clothing. In 2017/18, more than 450,000 individuals (that includes recipients and their dependents) received assistance from the Ministry of Children, Community and Social Services' (Ministry) Ontario Works program.

Ontario Works is designed to provide temporary financial assistance and employment supports to help recipients obtain employment and to become self-reliant. To be eligible for assistance, applicants must demonstrate that they live in Ontario and that their income and assets are below specified amounts. Applicants are also required to participate in activities to help them obtain employment, unless specific circumstances are temporarily preventing them from doing so, such as being a sole parent with pre-school-aged children.

The Ministry contracts with 47 service managers (large municipalities or groups of smaller municipalities) and 101 First Nations to deliver the Ontario Works program. In 2017/18, the Ministry provided almost \$3 billion in transfer payments to these service managers to deliver the program.

Since our last audit in 2009, the average monthly number of Ontario Works cases increased by almost 25% from 202,000 to 250,000 in

2017/18. Although Ontario Works is intended to be a temporary assistance program, we found that since 2008/09, the average length of time people depend on the program has nearly doubled, increasing from an average of 19 months to almost three years in 2017/18. Service managers have identified that 36% of recipients have barriers affecting their employability, such as homelessness and mental health concerns, that they need help to resolve. We also found that in each of the last five years, the Ontario Works program has helped only 10% to 13% of recipient cases to successfully find employment and leave the program.

The cost of the Ontario Works program to the Province has also increased more than 55% since our audit in 2009, from \$1.9 billion to almost \$3 billion in 2017/18. In addition, beginning in January 2018 the Province funds 100% of the cost of financial assistance payments to recipients, whereas in 2009 service managers funded 20% of this cost.

Overall, we found that the Ministry's oversight of the program and the service managers that deliver it is ineffective. The Ministry has not collected sufficient information to understand the significant increase in time recipients spend on assistance, nor has it adequately assessed or held service managers accountable for their efforts to help Ontario Works recipients to overcome significant barriers and to find employment to become self-reliant.

Our audit also found that many of the same issues we identified in our 2009 Annual Report are still present today. We found that in many cases, service managers do not take the necessary steps on a timely basis to help recipients obtain employment or ensure that only eligible applicants are accepted in the program. For example, we found required checks to verify applicant information, such as income and assets, were frequently not completed. As well, we found that the Ministry still does not monitor and ensure that service managers complete financial reassessments of recipients on a timely basis, nor whether they investigate fraud tips to confirm that recipients are still eligible for Ontario Works. Completing these processes also reduces the risk of overpayments by service managers to ineligible recipients.

Furthermore, due to the implementation of the Ministry's IT system, Social Assistance Management System (SAMS), for a period of over two years, from November 2014 to March 2017, the Ministry suspended its Eligibility Verification Process that requires service managers to review recipients who have a high risk of ineligibility. The Ministry re-introduced this process in April 2017, and the reviews completed during the first year identified almost \$11 million in overpayments and the need to terminate about 4,200 Ontario Works cases, equivalent to 2% of the entire caseload. Although these reviews identified many ineligible recipients, we found that service managers did not complete more than 40% of the eligibility verification cases assigned to them during 2017/18. The Ministry has also not conducted an analysis of service managers' employment results to take action to improve the overall effectiveness of the Ontario Works program.

The following are some of our specific concerns about the **Ministry's administration of the Ontario Works program**:

- **Few recipients find employment and the Ministry does not take action to improve results.** We found significant differences in recipient employment outcomes between service managers that should be followed up

by the Ministry to identify best practices and instances that require corrective action. For example, in 2017/18, we noted that while the percentage of recipient cases exiting to employment across all service managers was 10%, this ranged from as low as 2% of all cases at one service manager, to as high as 29% at another.

- **Ministry contracts with service managers lack meaningful targets for recipient employment and mechanisms to hold them accountable for program delivery.** We found that service managers' contracts do not specify the program requirements that service managers are expected to comply with. In addition, although these contracts allow for the Ministry to recover funds where service managers do not achieve their recipient employment and earnings targets, the Ministry advised us that it has never recovered funding for failing to achieve targets. More significantly, we found that almost half the current contracts lack meaningful targets for employment and earnings as service managers had already achieved their targets halfway into their two-year contracts.
- **The Ministry lacks measures to assess whether service managers are effective in helping 36% of recipients identified as having barriers to employment to overcome them.** We identified that caseworkers had assessed 36% of Ontario Works recipients as having barriers that affect their ability to prepare for or find employment because they needed to stabilize their life. Service managers across Ontario told us that these barriers include mental health conditions, addictions and homelessness. Although the Ministry expects service managers to help recipients overcome these barriers, it does not analyze and assess whether service managers are effective in assisting recipients to overcome their employment barriers. If service managers do not make progress assisting

these individuals, it is possible that they will not leave Ontario Works for employment for many years.

- **The Ministry does not measure whether recipients find stable employment to become self-reliant.** A one-time Ministry study that examined recipient exits to employment in 2013 found that 35% of these individuals returned to Ontario Works within about a year-and-a-half of their exit. However, the Ministry's current performance measures do not measure whether individuals leaving the program retain employment over time or later return to Ontario Works.
- **The Ministry does not know whether service managers are meeting its staff-to-recipient guidelines.** We found that the Ministry does not collect information from service managers on the number of caseworkers they employ and their recipient caseload (recipient-to-caseworker ratio). It also does not compare service manager caseloads to its caseload guidelines to assess whether service managers are staffed to effectively deliver the Ontario Works program. We compared the recipient caseloads of the service managers we visited and found that one of the service managers significantly exceeded the Ministry's guidelines for a typical recipient caseload in each of the last five years. On average, in 2017/18, caseworkers at this service manager had a caseload of 158 recipients compared with the Ministry's guidelines of between 90 and 120 recipients per caseworker. In addition, all four of the service managers we visited exceeded the Ministry's caseload guidelines for recipients with significant barriers to employment, which Ministry guidance suggests may need to be as low as 45 recipients to each caseworker.
- **The Ministry's IT system is inadequate for caseworkers to manage recipient cases.** We found that the Ministry's IT system, Social Assistance Management System (SAMS),

does not have the functionality to allow caseworkers to record recipient skills, barriers to employment, or referrals to training or community services in a way that would enable service managers to gather and analyze such factors for their entire caseload. Without this information, service managers face challenges to understanding the profile of recipients on their caseload, tracking recipients' progress toward obtaining employment, and designing suitable training and employment programs for the individuals on their caseload.

- **The underlying cause of overpayments to recipients is not tracked, limiting the ability of service managers to prevent them.** We found that service managers do not have the ability to record the reason that overpayments occur in their information system (SAMS). Without consolidated data to understand the most common systemic causes of overpayments, service managers are unable to identify which of their processes they need to improve to prevent or reduce the number of overpayments in the future.
- **Ministry efforts to prevent fraudulent special diet applications are insufficient.** The Ministry is aware that the special diet allowance is not always administered as intended, and that some recipients are using it to supplement their monthly income rather than to pay for extra dietary costs associated with a particular medical condition. However, it has not taken any action to address this issue.
- **Immigration status affecting recipient eligibility is not consistently verified with the federal government.** The Ministry has an agreement with the federal government to obtain information on the immigration status of Ontario Works recipients. However, it does not use this agreement to check that all recipients (who cannot demonstrate their legal status in Canada) are still eligible, or should be terminated from Ontario Works because they are no longer legally permitted

to remain in Canada or have already been removed from the country. We reviewed Ontario Works recipient data and identified over 500 individuals where there is a risk that they may no longer be eligible for Ontario Works. We asked the Ministry to request that the federal government check the status of a sample of these 500 individuals. However, the Ministry informed us that the federal government would not release the full results of any completed checks to the Ministry because they had been requested for the purposes of our audit. As a result, the information the Ministry obtained was limited to summary results on the immigration status of these individuals. These summary results identified eligibility concerns for one-quarter of these individuals for which the Ministry requires additional information from the federal government to confirm their eligibility. Therefore, we were unable to complete our work in this area.

The following are some of our specific concerns about the **delivery of the Ontario Works program by service managers**:

- **Critical information is overlooked by caseworkers, increasing the risk of errors in determining applicant eligibility.** At the four service managers we visited, we found that caseworkers did not always investigate red flags in applicant information or obtain or review required documentation relevant to assessing eligibility for Ontario Works, including in as many as 60% of the files we reviewed at one of the service managers. In one case, for example, a caseworker failed to identify that people in Canada on work permits are considered temporary residents and are not eligible for Ontario Works. As a result, overpayments totalling more than \$9,200 were made to this ineligible recipient.
- **Overpayments can occur because all service managers do not reassess recipients when required.** At two of the four service managers we visited, we found that in 20% to 35% of the recipient files we reviewed, caseworkers did not meet with recipients at least once every two years as required to review their financial information and status to confirm that they remain eligible for Ontario Works and the amount of financial assistance they are receiving. If service managers do not perform these reassessments on time, there is a risk that overpayments may be made for several months or years to recipients who are no longer eligible for assistance or eligible for a lower amount of assistance.
- **Caseworkers do not consistently work with recipients to help them progress toward obtaining employment.** At the four service managers we visited, caseworkers did not always meet with recipients on a timely basis to review their progress in activities designed to help them find employment, including in 50% of the files we examined at two service managers. Caseworkers are required to meet recipients at least once every three, four or six months, yet in several of the files we examined, periods between reviews were longer than one year, or twice the maximum allowable time. In one case, a recipient's progress had not been reviewed for approximately three years.
- **Decisions to waive recipient employment participation requirements are questionable when not supported with evidence.** At the four service managers we visited, we found that caseworkers did not always obtain sufficient evidence to confirm that recipients are unable to participate in activities designed to help them obtain employment. At one of the service managers, we found that in as many as 40% of the files we reviewed recipients' were allowed not to participate without evidence to explain the reason for this. This included, for example, a recipient deferred due to medical reasons for a period of one year without supporting medical documentation as required.

- **Service managers across Ontario are approximately one year behind investigating approximately 6,000 fraud tips to ensure only eligible recipients are receiving assistance.** We noted that service managers investigated about 17,000 fraud tips in the last three years. More than 25% of the investigations identified an overpayment, and 10% resulted in terminating the recipient from Ontario Works. Timely reviews of these fraud tips are critical to identifying and minimizing overpayments.

Overall Conclusion

Our audit concluded that the Ministry of Children, Community and Social Services, together with service managers, does not have effective systems and procedures in place to ensure that only eligible recipients receive financial assistance and that recipients receive the employment supports they require to obtain employment and become self-reliant. We found that service managers were not taking sufficient steps to ensure that all recipients are eligible for the program, and that all recipients are participating as required in employment assistance activities aimed at obtaining employment. As well, changes to the Ministry's Social Assistance Management System are required in order for the Ministry and service managers to improve their administration of the program.

Our audit also concluded that the Ministry does not have effective systems and processes to measure, evaluate and publicly report on the effectiveness of the Ontario Works program. While the Ministry does collect some relevant performance-related information from service managers, other critical information about recipients is not systematically collected or not used to measure and evaluate the effectiveness of the Ontario Works program. This includes information on recipient barriers to obtaining employment and employment sustainability. In addition, the Ministry does not report the information it does collect on recipient employment outcomes to the public.

This report contains 19 recommendations, with 45 action items, to address our audit findings.

OVERALL MINISTRY RESPONSE

The Ministry of Children, Community and Social Services (Ministry) welcomes the advice of the Auditor General with respect to the delivery and oversight of the Ontario Works program. This program provides a vital service to the people of Ontario to help those in need find sustainable employment and achieve self-reliance. The Ministry is committed to working with service managers to implement an accountability model that focuses on the achievement of outcomes and the recommendations of the Auditor General will be important as the Ministry moves forward to improve the effectiveness and integrity of the program.

OVERALL RESPONSE FROM SERVICE MANAGERS

The four audited service managers welcome the advice of the Office of the Auditor General of Ontario and are committed to addressing the Auditor General's recommendations in order to better serve the needs of all Ontario Works recipients.

We will continue to review our existing processes and take the additional steps that are required to ensure that we comply with the Ministry of Children, Community and Social Services' (Ministry) requirements. Through our partnership with the Ministry, we will also work to explore opportunities to increase the efficiency of existing processes to ensure that our resources are used effectively.

We welcome the opportunity to reflect on how we can improve the delivery of Ontario Works to help vulnerable Ontarians in financial need, and on how to best assist them to work toward obtaining employment, and becoming self-sufficient.

2.0 Background

In Ontario, social assistance is provided by the Ministry of Children, Community and Social Services (Ministry) under two programs:

- Ontario Works—for unemployed or under-employed people in temporary financial need; and
- Ontario Disability Support Program—intended to help people with eligible disabilities live as independently as possible and to reduce or eliminate disability-related barriers to employment.

In 2017/18, these two programs provided social assistance to approximately 610,000 individuals as well as to their qualifying family members for a total of 950,000 people a month, on average. Approximately 60% of these individuals received assistance through the Ontario Disability Support Program and 40% received assistance from Ontario Works. Total provincial transfer payments for these two programs totalled \$8.1 billion in 2017/18, which accounted for 5.3% of total provincial expenditures. Transfer payments for Ontario Works, the subject of this audit, were almost \$3 billion in 2017/18.

2.1 Overview of Ontario Works

The Ministry's Ontario Works program is a social assistance program that provides financial and employment assistance to unemployed or under-employed Ontarians who are in temporary financial need. Ontario Works provides financial assistance to help eligible applicants with basic living expenses such as food, clothing, and shelter. It also provides various employment assistance activities for eligible applicants intended to increase their employability and to help them obtain employment and become self-reliant.

To be eligible for assistance, applicants must demonstrate financial need by providing evidence

that their income and asset levels are below specified amounts. In addition, applicants are also required to sign an agreement to participate in activities designed to gain skills to progress toward obtaining sustainable employment, unless granted a deferral. Applicants who can be granted a deferral include applicants who are sole-support parents with pre-school-aged children, applicants with caregiver responsibilities, or applicants experiencing exceptional circumstances such as illness.

The *Ontario Works Act, 1997* (Act) and its regulations govern the delivery of the Ontario Works program. The Act gives the Ministry the authority to designate delivery agents to administer the program. The Ministry has designated 47 Consolidated Municipal Service Managers and District Social Services Administration Boards as well as 101 First Nations—referred to in this report as service managers—to deliver the program. A service manager is typically either a large municipality or a grouping of smaller ones. In 2017/18, the Ministry provided almost \$3 billion in transfer payments to service managers to deliver the Ontario Works program; service managers provided Ontario Works assistance to approximately 250,000 cases and 454,000 beneficiaries (individuals plus their dependents) a month, on average.

2.1.1 Role of Ministry and Service Managers in Delivery of Ontario Works

Service managers are responsible for delivering the Ontario Works program to eligible individuals who live in their geographic area in accordance with the Act and its regulations, as well as program directives and policies issued by the Ministry. Service managers operate local Ontario Works offices that residents use to access services. **Appendix 1** lists service managers, their respective number of local offices, Ministry funding, and caseloads for the 2017/18 fiscal year.

Service managers' primary responsibilities include:

- determining applicants' initial and ongoing eligibility for the program;
- providing recipients with financial assistance and supports to help them to work toward obtaining employment; and
- establishing processes to prevent and detect fraud, recover overpayments and prevent the misuse of assistance.

The Ministry is responsible for administering the Ontario Works program, including setting overall program requirements and standards for program delivery that service managers must follow.

Figure 1 shows the governance structure for the Ontario Works program as of May 2018. The Ministry enters into contracts with service managers to deliver Ontario Works and provides funding to service managers to cover the costs of delivering the program. Funding provided to service managers includes reimbursement for the financial assistance payments made to Ontario Works recipients, and funding to cover service managers' program delivery costs which includes providing employment supports to Ontario Works recipients, and administration costs. The Ministry is also responsible for monitoring service managers' delivery of the program within the context of the Act, regulations, directives and policies it has developed.

2.1.2 Number of Ontarians Receiving Ontario Works Assistance

Since our last audit of the program in 2009, the average number of Ontario Works cases increased by almost 25% from 202,000 to 250,000 in 2017/18. Over this same period, the population in Ontario increased by approximately 10%. The majority of the increase in the Ontario Works case-load occurred in 2009/10 following the downturn in the economy that began in late 2008. **Figure 2** illustrates the average monthly number of cases and beneficiaries each fiscal year between 2003/04 and 2017/18.

Although the number of Ontario Works cases has remained stable over the past five years,

the Ministry told us that it is still higher than its pre-recession levels. In contrast, the unemployment rate was 5.8% in 2017/18, down from 6.3% in 2007/08. The Ministry explained that policy changes since 2008 have increased the number of people eligible for the Ontario Works program. For example, the amount of assets a person is permitted to have has risen, which has allowed more people to qualify. In addition, the Ministry said that once on Ontario Works, individuals and families may have circumstances that hinder their exit from the program such as a low level of education, or loss of jobs in their industry such as manufacturing.

The average length of time individuals are accessing Ontario Works has also increased, from 19 consecutive months in 2008/09 to 35 consecutive months in 2017/18. **Figure 3** shows the increase in number of consecutive months spent on Ontario Works between 2008/09 and 2017/18.

2.1.3 Provincial Cost of Ontario Works

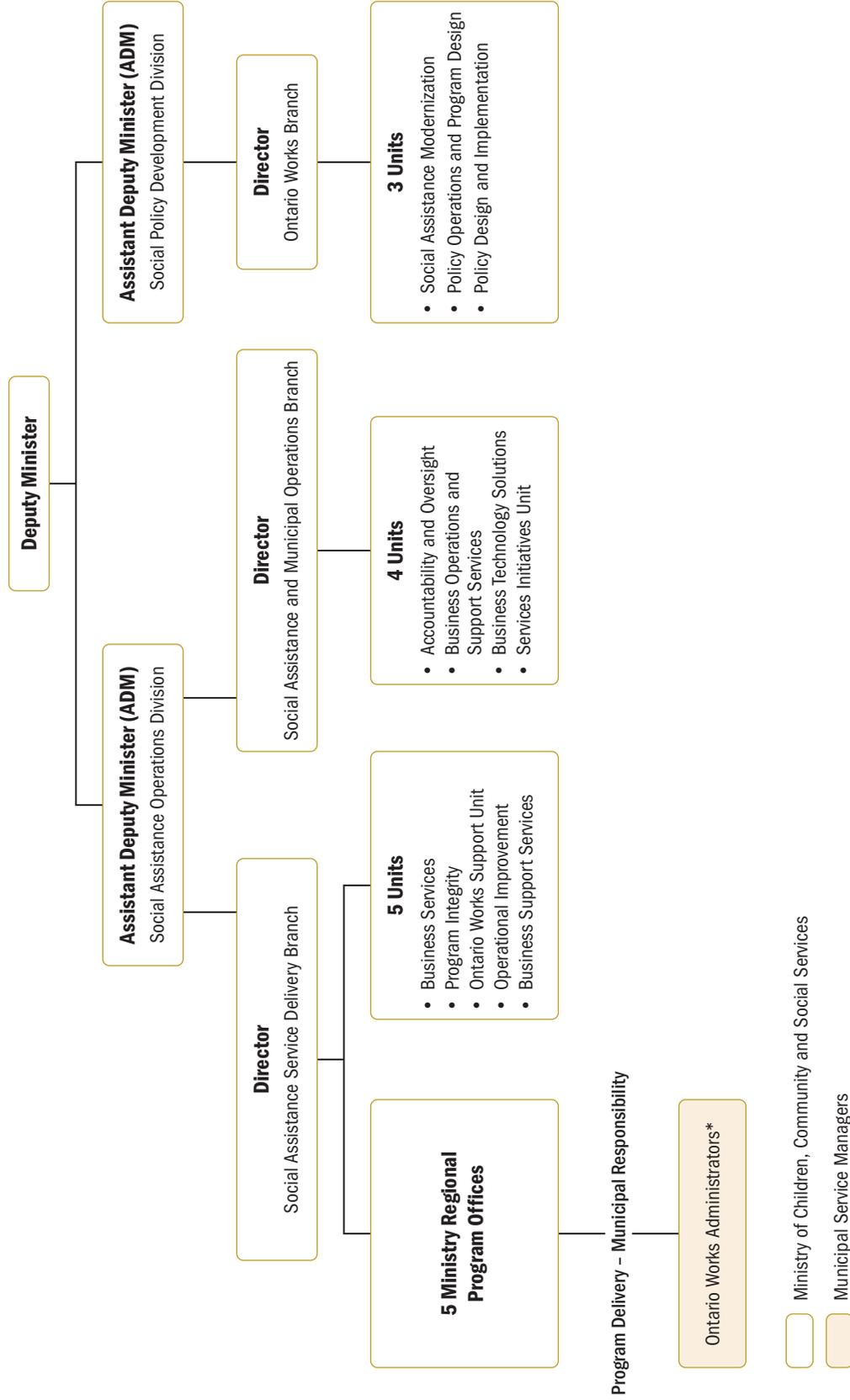
Total Ministry funding provided to service managers for the Ontario Works program has increased by approximately 60% from \$1.9 billion in 2008/09 when we last audited the program to nearly \$3.0 billion in 2017/18 as illustrated in **Figure 4**.

Key reasons for the increase include:

- an increase of 19% in the average number of Ontario Works recipients and beneficiaries from 380,000 in 2008/09 to 454,000 in 2017/18 as shown in **Figure 2**;
- financial assistance rate increases since 2009 ranging from 1% to 2% each year, and as high as 4.8% in 2014 for single recipients;
- changes to applicant asset and income exemptions, and other policy changes;
- the Ministry's estimated annual costs associated with key changes in the last five years, and projected costs of key changes for the next three years (**Appendix 2**);
- a change in February 2017 to end the deduction of child support income from social assistance payments (at the time that it

Figure 1: Ontario Works Governance Structure, May 2018

Source of data: Ministry of Children, Community and Social Services



* Ontario Works Administrators are employees of the 47 Consolidated Municipal Service Managers and District Social Services Administration Boards referred to in this report as service managers. Ontario Works Administrators are individuals appointed by service managers, with the approval of the Ministry, to oversee the delivery of the program in accordance with the *Ontario Works Act*. Administrators report to senior management within their municipalities, and are accountable to the Ministry through the Regional Program Office in their geographical area.

implemented this change, the Ministry estimated that it would increase Ontario Works financial assistance expenditures by approximately \$48 million each year from now on); and

- a gradual increase in the percentage of total financial assistance and employment assist-

ance expenditures that the Province reimburses to municipalities.

Historically, the provincial and municipal governments have shared the costs of Ontario's social assistance programs. However, in 2008 as part of the Provincial-Municipal Service Delivery Review and Agreement, the Province and municipalities

Figure 2: Average Monthly Ontario Works Caseload and Beneficiaries, 2003/04–2017/18

Source of data: Ministry of Children, Community and Social Services

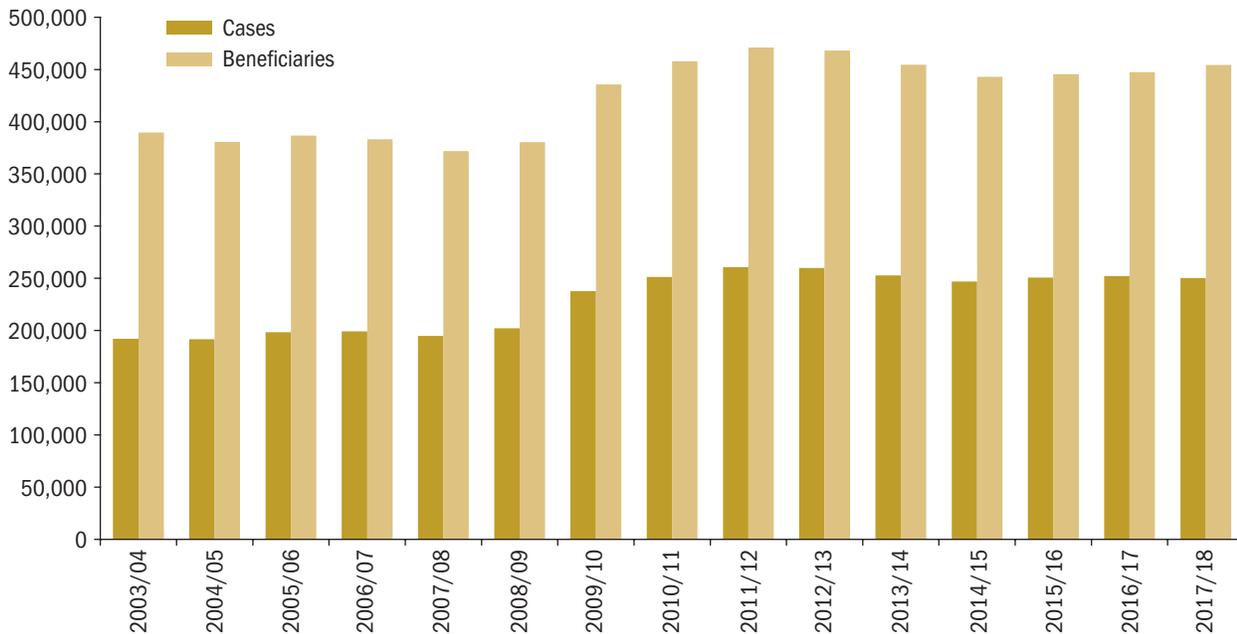


Figure 3: Average Number of Consecutive Months Recipients Are on Ontario Works, 2008/09–2017/18

Source of data: Ministry of Children, Community and Social Services

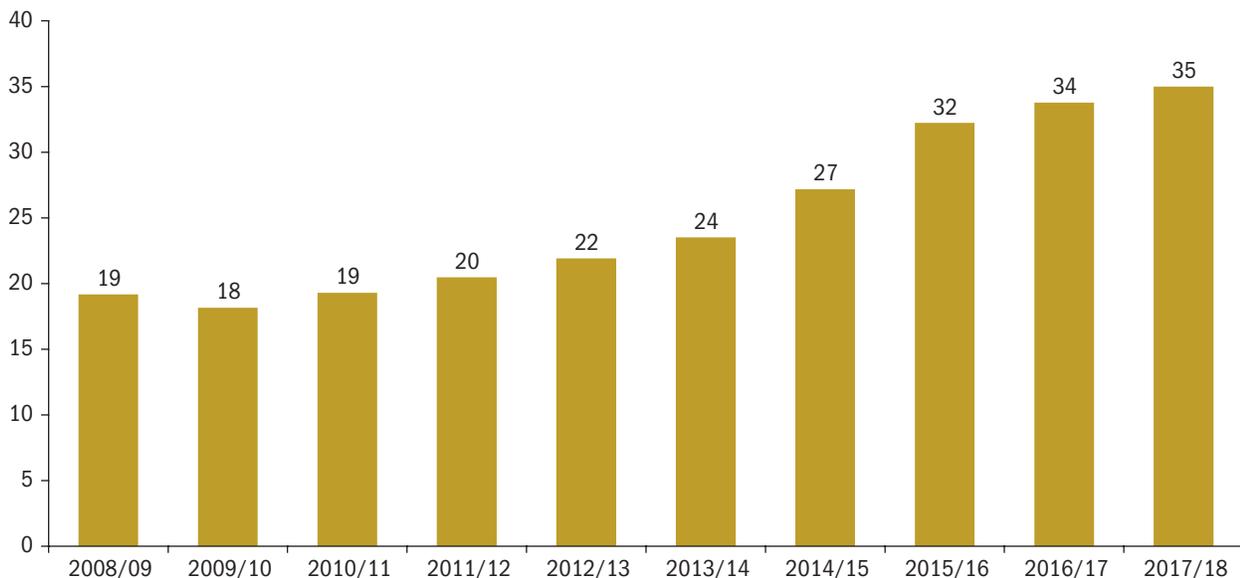


Figure 4: Provincial Transfer Payments to Service Managers and Average Monthly Caseload, 2008/09–2017/18

Source of data: Ministry of Children, Community and Social Services

	Average Monthly Caseload #	Financial Assistance (\$ million)	Program Delivery		Total (\$ million)
			Employment Assistance (\$ million)	Administration (\$ million)	
2017/18	250,292	2,399	210	366	2,975
2016/17	252,247	2,279	204	375	2,858
2015/16	250,640	2,174	196	353	2,723
2014/15	246,903	2,013	189	365	2,567
2013/14	252,767	1,888	184	362	2,434
2012/13	259,819	2,031	177	328	2,536
2011/12	260,766	1,998	173	332	2,503
2010/11	251,280	1,924	189	318	2,431
2009/10	237,634	1,803	193	205	2,201
2008/09	202,181	1,534	171	194	1,899

Figure 5: Ontario Works Provincial-Municipal Cost Sharing 2009–2018

Source of data: Ministry of Children, Community and Social Services

	Financial Assistance and Employment Assistance Cost Share %										
	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018	Ongoing
Provincial Share	80.0	80.6	81.2	82.8	85.8	88.6	91.4	94.2	97.2	100.0	100.0
Municipal Share	20.0	19.4	18.8	17.2	14.2	11.4	8.6	5.8	2.8	0.0	0.0

reached a consensus that the Province would fully fund the cost of financial assistance and employment assistance expenditures to reduce uncertainty and volatility in municipal expenditures. To implement this change, the Province increased the proportion of expenditures that it funded over a nine-year period beginning in 2010. Because of this agreement, the provincial share of Ontario Works financial assistance and employment assistance expenditures has increased from 80% at the time of our last audit to 100% beginning in 2018. **Figure 5** illustrates the annual changes to provincial-municipal cost-sharing arrangements.

The Ministry also pays up to 50% of service managers' administration costs. This has not changed since our 2009 audit. However, since 2011/12 the Ministry has provided service managers with the flexibility to use program delivery

funding (for administration and employment costs) interchangeably according to their local needs. Therefore, the Ministry may reimburse service managers for more than 50% of their administration costs.

2.2 Eligibility for Ontario Works

Service managers are responsible for determining an applicant's eligibility for Ontario Works. To be eligible for assistance, applicants must meet the eligibility criteria set out in the *Ontario Works Act, 1997* and its regulations. Applicants must live in Ontario and be legally entitled to reside in Canada permanently. An exception is refugee claimants who are eligible even though they have yet to be granted the right to stay in Canada permanently.

Applicants must be willing to make efforts to find, prepare for and keep a job. They also must demonstrate financial need by providing evidence that their income and asset levels are below specified amounts. Unless specifically exempt, all of an applicant's assets are included in the determination of eligibility. Exemptions include an applicant's house and vehicle. To be eligible, as of September 2017, a person's net assets must be worth less than \$10,000 if the person is single and \$15,000 if the person has a spouse. Prior to September 2017, the asset limits were \$2,500 for a single person and \$5,000 for a person with a spouse.

2.2.1 Role of Caseworkers in Determining Eligibility for Ontario Works

People seeking help from Ontario Works can apply online, in person at a service manager's Ontario Works office, or by telephone. The Ontario Works caseworker's responsibilities begin when an applicant makes contact to schedule an in-person meeting. At that meeting, the caseworker begins the process of determining if the applicant qualifies for assistance. Caseworkers are responsible for verifying information provided by the applicants to prove their eligibility and carrying out applicable third-party checks, such as with Equifax Canada Inc. and the Canada Revenue Agency. Service managers carry out third-party checks using the information-sharing agreements that the Ministry has entered into.

If an applicant qualifies for Ontario Works and becomes a recipient, the caseworker will create a formal plan, referred to as a participation agreement. The participation agreement is a plan that sets out the employment activities, including their duration, that the recipient will undertake. The recipient must sign this agreement and carry out the agreed activities as a condition of receiving assistance. The activities in the agreement are intended to help the recipient gain skills and progress toward sustainable employment.

All recipients must participate in employment activities unless the caseworker waives their requirement to participate. The Ontario Works regulations set out the circumstances under which service managers may defer an applicant's requirement to participate. These circumstances include:

- if the participant is a sole parent with pre-school-aged children;
- if the participant is a caregiver for a family member;
- if, in limited cases, the participant is over 65 years of age and does not qualify for the full Old Age Security pension or the Guaranteed Income Supplement; or
- if exceptional circumstances apply to the participant.

Following the initial appointment, caseworkers are typically required to meet with Ontario Works recipients every three months to adjust the participation agreement as the recipient progresses or their circumstances change, and to discuss other programs and supports that can help the recipient. Ministry policy also requires caseworkers to meet with recipients at least once every two years to review recipients' financial status and information to ensure that they remain eligible for Ontario Works.

2.2.2 Demographics of Ontario Works Recipients

As of March 2018, more than 60% of Ontario Works cases were single recipients without children. Over 60% of Ontario Works recipients were born in Canada, and the primary recipients of Ontario Works were between the ages of 25 and 34 years. As well, as of March 2018, 44% of all Ontario Works recipients lived in the Greater Toronto Area. These demographics have remained relatively stable since our last audit, not changing more than 5% in each of these categories when compared with March 2018. **Figures 6 to 9** illustrate the demographics of Ontario Works cases by family structure; residency status in Canada; age of applicant; and geographical location.

Figure 6: Ontario Works Cases by Family Structure, March 2018

Source of data: Ministry of Children, Community and Social Services

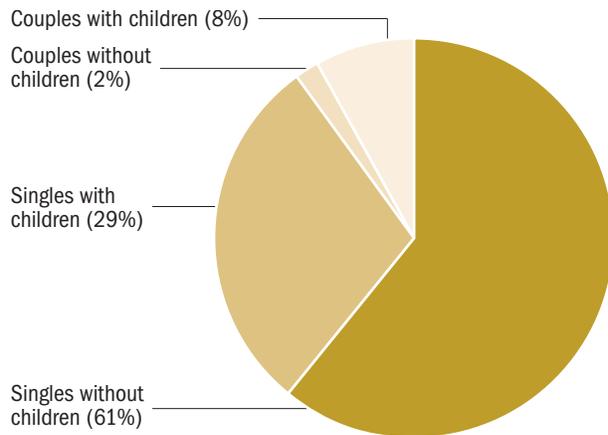


Figure 7: Percentage of Ontario Works Cases by Geographical Location, March 2018

Source of data: Ministry of Children, Community and Social Services

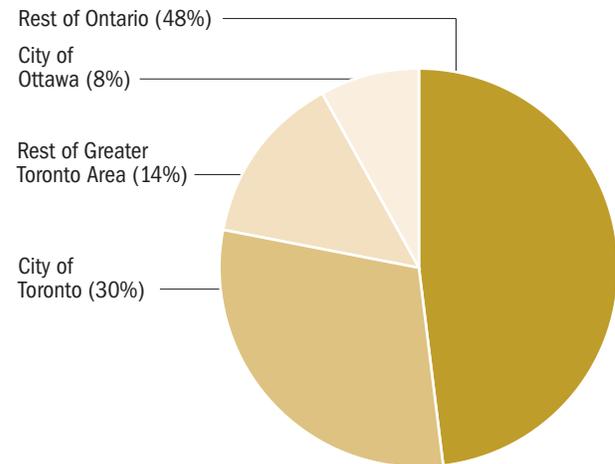
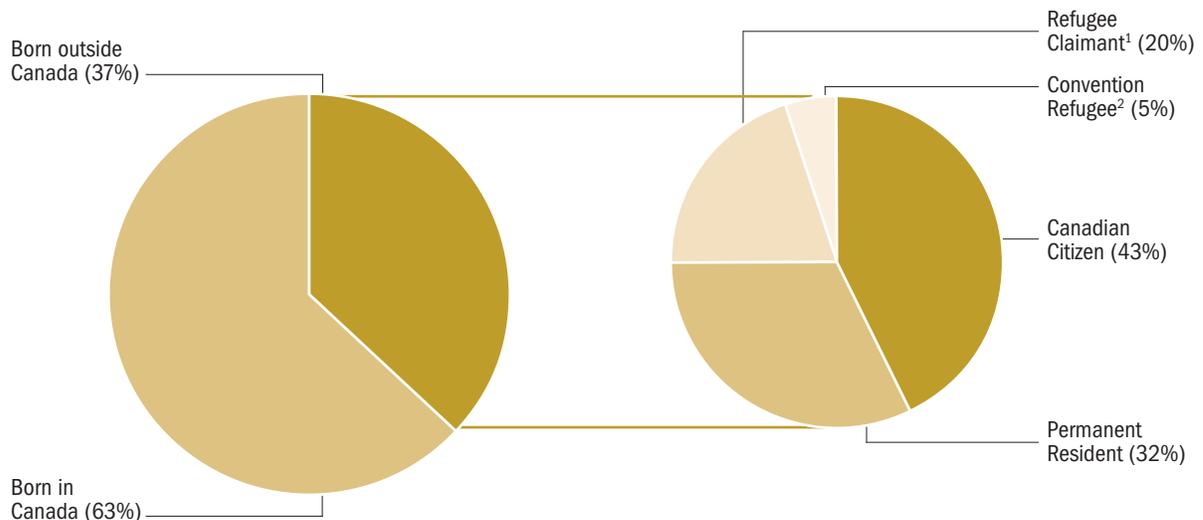


Figure 8: Ontario Works Cases by Residency Status in Canada, March 2018

Source of data: Ministry of Children, Community and Social Services



1. Refugee Claimants are individuals who have made a claim for refugee status, but have not yet had their status determined. Refugee claimants are eligible for Ontario Works effective the date they formally make a claim for refugee protection.
2. Convention Refugees relate to asylum seekers approved by the Immigration and Refugee Board of Canada and granted convention refugee status. They are eligible to apply for Permanent Residence, but in these cases have not yet done so and retain the status of convention refugees.

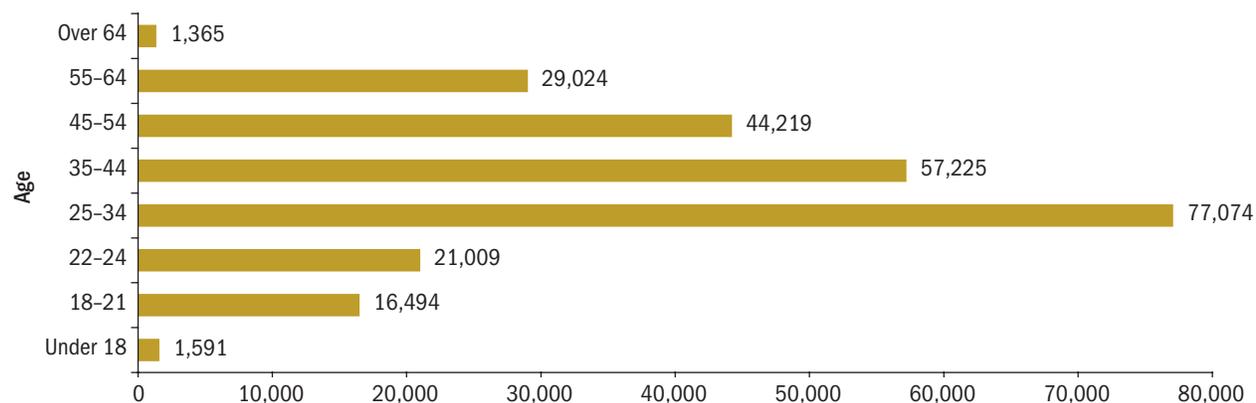
2.3. Financial Assistance for Ontario Works Recipients

Eligible Ontario Works applicants receive financial assistance for basic needs and shelter, and may qualify for other allowances such as a special diet allowance, pregnancy nutritional allowance or

remote communities' allowance. The amount of financial assistance and allowances available are set by the Province and are based on family size. **Figure 10** shows the rates for basic needs and shelter at the end of the 2017/18 fiscal year and at the time of our last audit in 2008/09.

Figure 9: Ontario Works Cases by Age of Head of Family,* March 2018

Source of data: Ministry of Children, Community and Social Services



* The Head of Family is the applicant.

Figure 10: Maximum Monthly Ontario Works Basic Needs and Shelter Rates in 2008/09 and 2017/18 (\$)

Source of data: Ministry of Children, Community and Social Services

	Single Person		Single Person with One Child		Couple		Couple with Two Children	
	2008/09	2017/18	2008/09	2017/18	2008/09	2017/18	2008/09	2017/18
Basic needs	216	337	360	354	429	486	429	486
Shelter allowance	356	384	560	632	560	632	660	744
Total Maximum Allowance	572	721	920	986	989	1,118	1,089	1,230

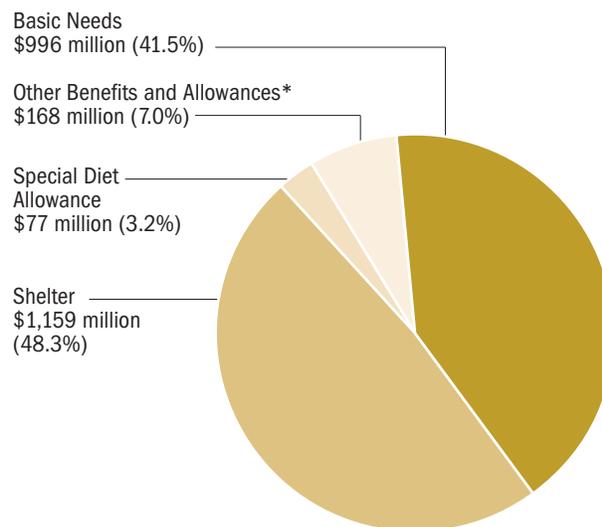
In addition, eligible applicants receive assistance for health and non-health-related expenses, referred to as mandatory and discretionary benefits. Mandatory health-related benefits include drug coverage; discretionary health-related benefits include dental care for adults. See **Appendix 3** for a list of mandatory and discretionary benefits.

The Ministry does not prescribe the rates for discretionary benefits; therefore, service managers have the authority to set rates they deem appropriate. Service managers also have the authority to provide any health or non-health-related benefit they feel is appropriate where failure to provide this benefit would harm the health of the recipient. Service managers can set the rate for the discretionary benefits they provide, but the Ministry provides maximum funding of \$10 per Ontario Works case per month.

Figure 11 shows the type of financial assistance and associated costs provided by service managers

Figure 11: Breakdown of Financial Assistance Payments to Ontario Works Recipients, 2017/18

Source of data: Ministry of Children, Community and Social Services



* Other benefits and allowances include mandatory and discretionary benefits described in **Appendix 3**.

Figure 12: Ministry-Mandated Employment Activities

Source of data: Ministry of Children, Community and Social Services

Community Placements	The program can help arrange placements in a community agency so that participants can gain work experience. Participants will be able to practice skills, improve their confidence and get up-to-date job references and contacts.
Education Programs	Education programs are available to help participants finish high school, improve language skills or upgrade reading, writing or math skills.
Employment Placements	The program can connect participants who are ready for a job with employers who are hiring. The program can also help participants prepare for an interview and help with training for a job, if required.
Job-Specific Skills Training	If participants need special training or skills for a job, the program can assist with finding help to develop those skills.
Learning, Earning and Parenting (LEAP)	If participants are young parents between the ages of 16 to 25, LEAP provides supports to finish high school, improve parenting skills, prepare for and find work.
Literacy Screening and Training	The program can help participants access help to improve reading, writing and math skills.

to Ontario Works recipients in the 2017/18 fiscal year. Basic needs and shelter assistance made up 90% of the total amount of financial assistance payments. Mandatory and discretionary benefits and other allowances comprised 7% of payments, and special diet allowances accounted for 3% of payments to Ontario Works recipients.

The special diet allowance is available to recipients and their families who require a special diet due to one or more approved medical conditions from a list of more than 40. In order to be eligible for the special diet allowance, applicants must submit an application form completed by a health-care professional such as a doctor, nurse or dietitian. Service managers use a special diet payment schedule issued by the Ministry to determine the amount of the allowance depending on the medical condition. The monthly amounts vary from \$30 to \$59 (depending on age) for lactose intolerance, \$32 to \$63 (depending on age) for a milk allergy, \$97 for an allergy to wheat, and up to \$191 for an individual with cystic fibrosis. An individual may have multiple special requirements; however, the total allowance for any one member of a family may not exceed \$250 per month.

2.4 Ontario Works Employment Assistance

As noted in **Section 2.2.1**, Ontario Works recipients are required to participate in employment assistance activities as a condition of eligibility for receiving basic financial assistance. These activities include unpaid community service activities, or employment support activities such as job search, participation in basic education or job-specific training and development of employment-related skills. The Ministry requires service managers to submit a service plan every two years. The plan sets out how the service manager will invest in employment-related strategies that best reflect their caseload, local conditions and priorities, and offers the best results to their participants. Each service manager is required to provide and make available to recipients each of the programs listed in **Figure 12**.

For Ontario Works recipients who are not yet able to benefit from one or more of these employment assistance activities due to personal circumstances—such as homelessness, transience, or lack of available child-care—the Ministry requires service managers to help these participants to resolve these obstacles as a first step toward participating in employment assistance activities.

2.5 Oversight and Performance Measurement

As described in **Section 2.1.1**, the Ministry enters into contracts with service managers for the delivery of Ontario Works. The Ministry's primary means of monitoring service managers' delivery of Ontario Works is through its team of approximately 30 regional program supervisors and program managers who are responsible for the financial monitoring and oversight of individual or clusters of service managers. These staff review service managers' reimbursement claims for payments made to Ontario Works recipients. They also negotiate contracts with service managers and are expected to review service managers' progress reports related to these contracts. These contracts are two years in duration and require service managers to set annual targets and report results for indicators that include recipient employment earnings and the percentage of recipients who find employment. **Figure 13** illustrates the performance indicators that service managers were required to report on in the calendar years following our 2009 audit.

The Ministry also requires service managers to participate in its Eligibility Verification Process.

Figure 13: Ontario Works Performance Indicators Reported by Service Managers

Source of data: Ministry of Children, Community and Social Services

2010–2015
Average monthly employment earnings per case
Average amount of monthly earnings at exit from Ontario Works
% of caseload with monthly employment income
% of caseload exiting to employment
Job retention rate since exiting to employment (in months)
Job retention rate % among those exiting to employment
Average length of time to exit assistance due to employment
2016–2018*
Average monthly employment earnings per case
% of caseload with employment earnings
% of caseload exiting to employment
% of total exits from assistance due to employment

* Service managers were required to select and report on only two of the four employment outcome indicators between 2016 and 2018.

In this review process, the Ministry identifies a sample of Ontario Works cases as having a high likelihood of missing or incorrect information. Such information may affect a recipient's eligibility or the amount of assistance the recipient receives. The Ministry identifies the cases for eligibility verification by comparing a recipient's income or expense information to tax data. Equifax Canada then combines this information with other consumer credit information to provide the Ministry with the highest risk cases. The Ministry then assigns high-risk cases for service managers to review to determine whether the recipient still meets eligibility requirements and whether the amount of assistance should be changed.

3.0 Audit Objective and Scope

Our audit objective was to assess whether the Ministry of Children, Community and Social Services (Ministry) with municipal service managers have effective systems and processes in place to:

- ensure only eligible recipients receive financial and employment support that is commensurate to their needs, in accordance with legislative and policy requirements; and
- measure, evaluate, and publicly report on the effectiveness of the Ontario Works program in helping people in temporary financial need to find employment.

In planning for our work, we identified the audit criteria (see **Appendix 4**) we would use to address our audit objective. These criteria were established based on a review of applicable legislation, directives, policies and procedures, and internal and external studies. Senior management at the Ministry and the service managers we visited reviewed and agreed with the suitability of our objective and related criteria.

We focused on the Ministry's and service managers' activities in the five-year period ending March 2018. We conducted our audit between

January 2018 and September 2018. We obtained written representation from Ministry management and the four service managers we visited that, effective November 8, 2018, they have provided us with all the information they are aware of that could significantly affect the findings or the conclusion of this report.

Our audit work was conducted at the Ministry and four of the 47 service managers across Ontario: City of Toronto, City of Windsor, District of Thunder Bay Social Services Administration Board, and Regional Municipality of Peel. Collectively, the four service managers we visited represented approximately 42% of the total Ontario Works caseload in 2017/18. We also sent a survey to all 47 service managers and received a response from each of them to gain a better understanding of how they deliver the Ontario Works program across the province.

Our audit work included an analysis of policies and procedures, and relevant documents and reports, as well as detailed discussions with staff at the Ministry's corporate office involved in the design, funding, oversight and performance measurement of the Ontario Works program.

We also met with the Ministry's regional program managers and supervisors responsible for overseeing the financial and operational performance of the four service managers we visited.

Our audit work at service managers included interviews with key personnel responsible for delivering the Ontario Works program in accordance with legislative and policy requirements, as well as interviews with caseworkers responsible for providing services to Ontario Works recipients. We also performed data analysis and reviewed Ontario Works recipients' files to determine whether service managers comply with Ontario Works program requirements, and to identify trends related to service managers' efficiency, effectiveness, and compliance with program requirements. We also obtained information from service managers about the outcomes of Ontario Works recipients that used their employment services. However, we did not evaluate

service managers' administration of contracts with external parties that provide employment supports to recipients.

In addition, to gain an understanding of Ontario Works recipients' experience in the program, we spoke to senior staff at the Income Security Advocacy Centre. The Centre is a community legal clinic funded by Legal Aid Ontario that advocates on behalf of low-income Ontarians and has provided advice to the government on improving the Ontario Works program.

We also reviewed the relevant audit reports issued by the Ontario Province's Internal Audit Division in determining the scope and extent of our audit work. We last audited the Ontario Works program in 2009.

We conducted our work and reported on the results of our examination in accordance with the applicable Canadian Standards on Assurance Engagements—Direct Engagements issued by the Auditing and Assurance Standards Board of the Chartered Professional Accountants of Canada. This included obtaining a reasonable level of assurance.

The Office of the Auditor General of Ontario applies the Canadian Standards of Quality Control and, as a result, maintains a comprehensive quality control system that includes documented policies and procedures with respect to compliance with rules of professional conduct, professional standards and applicable legal and regulatory requirements.

We have complied with the independence and other ethical requirements of the Code of Professional Conduct of the Canadian Professional Accountants of Ontario, which are founded on fundamental principles of integrity, objectivity, professional competence and due care, confidentiality and professional behaviour.

4.0 Detailed Audit Observations: Ministry of Children, Community and Social Services

4.1 Cost of Ontario Works Increasing but Ministry Does Not Effectively Oversee or Hold Service Managers Accountable

4.1.1 Service Managers Do Not Always Comply with Ministry Requirements

The Ministry contracts with service managers to deliver Ontario Works but it is the Ministry's responsibility to ensure that the service managers comply with legislation and Ministry policies designed to ensure that the program is effective. However, we found that the Ministry does not conduct inspections of service managers to confirm their compliance despite the fact that the provincial share of Ontario Works financial assistance and employment assistance expenditures increased from 80% at the time of our last audit in 2009 to 100% in 2018. When service managers do not complete requirements that affect, for example, eligibility, or do not do so on a timely basis, ineligible recipients may remain undetected for longer, resulting in larger overpayments that service managers must later recover (discussed in **Section 4.4**).

Our audit identified several areas where the Ministry needs to take steps to improve service managers' compliance to ensure that only those who are eligible for the program receive assistance and that individuals progress toward obtaining employment. These issues are discussed in **Section 5**, which details our observations about service managers. Specifically, in relation to eligibility, we found:

- third-party checks of financial information were not performed in many cases (**Section 5.1.1**);

- critical information relating to establishing eligibility was not always obtained or reviewed (**Section 5.1.2**);
- individuals' ongoing eligibility was not always reassessed every two years as required by Ministry policy (**Section 5.1.3**);
- targeted eligibility reviews of recipients with a high risk of ineligibility were not always completed (**Section 5.1.4**); and
- fraud tips and incarceration alerts were not always reviewed or investigated within the timeframes required by the Ministry (**Section 5.1.5**).

Relating to ensuring that individuals progress toward obtaining employment to become self-reliant, employment results varied from a low of 2% of recipients finding employment during 2017/18 at one service manager visited to 15% at another service manager visited. Regarding compliance with Ministry requirements, we identified that:

- not all the decisions to exempt recipients from employment activities were supported with the required evidence (**Section 5.2**); and
- not all recipients had met with their caseworker as regularly as required by Ministry policy to ensure that they were participating in employment activities (**Section 5.3.1**).

4.1.2 Ministry Cancelled its Process to Review Service Manager Compliance and Seven Years Later It Has Yet To Replace It

The Ministry stopped completing reviews that assess service managers' compliance with Ontario Works requirements in 2011 with the intent of replacing them with a new risk-based program to monitor service managers. However, as of 2018, seven years after it stopped completing compliance reviews, it has yet to implement a process to replace these reviews.

At the time of our 2009 audit, and up until 2011, the Ministry's staff conducted compliance reviews of service managers. Compliance reviews consisted of examining a sample of Ontario Works recipient

case files to assess whether the service manager complied with program requirements and standards. These reviews covered areas such as recipient eligibility and financial assistance, the provision of discretionary benefits, overpayment collection, and the completion, appropriateness, and effectiveness of recipient participation agreements.

In our *2009 Annual Report*, we noted that these compliance reviews identified many of the same issues and concerns that we raised during our audit at that time.

RECOMMENDATION 1

We recommend that the Ministry of Children, Community and Social Services (Ministry) re-institute its reviews of service managers' compliance with Ontario Works requirements, or implement a suitable process, to reinforce to service managers the need to comply with requirements designed to ensure:

- financial assistance is provided in the correct amount and only to eligible individuals; and
- recipients progress toward obtaining employment to become self-sufficient.

MINISTRY RESPONSE

The Ministry agrees with the recommendation and acknowledges that strengthened oversight processes and tools are required to achieve greater accountability in meeting Ministry requirements designed to ensure service managers provide financial assistance in the correct amount to eligible individuals and that recipients progress toward obtaining employment to become self-sufficient.

The Ministry will establish a multifaceted outcomes-based approach with required tools and processes to ensure service managers effectively and efficiently achieve program objectives and client outcomes.

This outcomes-based approach to accountability, supported by appropriate data analysis and reporting, will place the onus on service

managers to have the appropriate strategies and controls in place to meet Ministry requirements including the achievement of positive outcomes for recipients. This approach emphasizes clearly defined expectations while providing service managers with flexibility to meet the needs of their communities.

By April 2020, the Ministry will:

- define and clearly communicate expectations, requirements, standards and targets which will include program oversight, and eligibility verifications;
- develop a strong agreement based on the Ontario Government's Transfer Payment Accountability best practices, with specific expectations, reporting requirements, corrective actions, and risk management requirements;
- implement a series of new mechanisms to proactively identify and prevent performance and eligibility issues;
- establish a process to actively monitor a range of performance indicators covering service delivery and management against targets; and
- benchmark performance results as means for continuous improvement of operations.

This approach will be further strengthened by the end of 2020/21 with:

- a Risk-Based Certificate of Assurance process to be completed by service managers;
- targeted Quality Assurance reviews by the Ministry to validate the accuracy and consistency of service manager reported findings; and
- third-party reviews for targeted situations when significant concerns or opportunities are identified.

4.1.3 Ministry Contracts with Service Managers Lack Mechanisms to Hold Service Managers Accountable

Contracts Do Not Specify Program Requirements or Service Delivery Targets that Service Managers Must Meet

We found that the contracts with service managers for the delivery of Ontario Works do not include a requirement for service managers to comply with Ontario Works legislation, Ministry program directives or key Ministry policies. For example, one of the Ministry's key policies is the requirement for service managers to participate in its Eligibility Verification Process described in **Section 2.5**; however, the contracts do not include a requirement for service managers to complete these reviews.

In addition, the contracts also do not include measures and targets for service delivery (based on the standards defined in the Ontario Works legislation and Ministry directives) such as reducing overpayments, improved overpayment collection and timely investigation of fraud referrals.

Service Managers' Administration and Employment Assistance Funding Is Not Linked to Their Performance

The current contracts with service managers (described in **Section 2.5**) include a requirement to achieve annual performance targets for indicators relating to recipient employment earnings and the percentage of recipients who find employment. The contracts also allow the Ministry to recover funds when service managers do not achieve these targets. However, the Ministry advised us that it has never exercised its ability to recover funding from service managers for failing to achieve these targets.

In addition, for the performance indicators that the service managers currently report on, service managers are only required to pick and set targets for two of the Ministry's four indicators (as noted in **Figure 13**). We reviewed the indicators chosen by service managers for 2017, the first year of the current two-year contracts between the Ministry and

service managers, and found that almost 30% of service managers did not have any targets in their contracts for the number of recipients expected to leave the program for employment. These service managers had only chosen and set targets for the Ministry's two performance indicators related to measuring employment earnings for recipients of Ontario Works.

Furthermore, we found that service managers are required to assign a points weighting to achieving each of the targets set and are considered to have achieved the outcomes built into their contracts if they exceed a certain threshold of points. The Ministry advised us that 23 out of 47 service managers in Ontario had already achieved enough points at the end of 2017, the first year of the current contracts, to meet their two-year contractual obligation. This suggests that the targets established in these contracts are of little value in encouraging service managers to improve their performance to help recipients to find employment and become self-sufficient.

RECOMMENDATION 2

To hold service managers accountable for delivering the Ontario Works program in compliance with the program's requirements, and to improve program outcomes, we recommend that the Ministry of Children, Community and Social Services (Ministry) update its contracts with service managers to include:

- requirements to comply with Ontario Works legislation, Ministry directives and policies;
- additional performance indicators and meaningful targets to measure service managers' progress in assisting Ontario Works recipients find employment and become self-sufficient;
- targets for service delivery, including reducing and preventing overpayments; and
- mechanisms to hold service managers accountable for meeting the terms of the agreements.

MINISTRY RESPONSE

The Ministry agrees with the recommendation and will implement, for April 2020, a comprehensive service contract with service managers for the delivery of Ontario Works, reflecting principles and requirements of the Ontario Government's Transfer Payment Accountability Directive. This contract will act as one of the primary mechanisms for governing the accountability relationships and interactions between the Ministry and service managers.

The service contract will include specific expectations including complying with program requirements, reporting requirements, corrective actions and risk management requirements. The Ministry, in consultation with service managers, will establish key performance indicators as well as appropriate targets related to service delivery and those that demonstrate recipients' progress toward finding employment and becoming self-sufficient.

The Ministry is also exploring further enhancing the service contract by the end of 2020/21 with provisions for Certificate of Assurance, Quality Assurance Reviews and third-party audits where warranted to hold service managers accountable for meeting the terms of these agreements.

4.2 Ministry Lacks Targets and Performance Indicators to Improve the Effectiveness of Ontario Works

4.2.1 Only 10% of Recipients Find Employment and the Ministry Has Not Taken Action to Improve Results

We found that the Ministry has not set provincial targets for the number of Ontario Works recipients it expects to find employment. It also does not combine the employment results it collects from individual service managers to monitor and evalu-

ate the overall effectiveness of the Ontario Works program in getting recipients into the workforce.

To understand how many recipients typically find work and leave the program annually, we combined the monthly data collected by the Ministry from service managers for the percentage of recipients who leave the program for employment. We found that province-wide, only 10% to 13% of Ontario Works recipient cases left the program for employment in the last five years, including just 10% in 2017/18. **Figure 14** shows the province-wide results over the last five years for exits to employment, as well as the results we calculated for the Ministry's performance indicators related to recipient employment earnings.

Ministry Does Not Compare Service Manager Employment Results to Identify Best Practices and to Take Corrective Action

We found that the Ministry does not compare the employment results it collects from service managers to identify best practices and instances that require corrective action. We analyzed these results and found significant differences between service managers' employment results that the Ministry should follow up. For example, in 2017/18, at one-third of all service managers, the percentage of recipient cases exiting to employment was more than 20%, but at one-fifth of service managers, it was less than 10%. **Figure 15** shows the service managers with the highest and lowest percentage of exits to employment compared with the provincial average.

As described in **Section 5.4**, we found that the employment supports for Ontario Works recipients offered by the four service managers we visited varied. Therefore, it is important for the Ministry to investigate the links between service manager employment supports and recipient employment outcomes to take action to improve results.

Figure 14: Ontario Works Performance Indicator Results, 2013/14–2017/18

Source of data: Ministry of Children, Community and Social Services

	2013/14	2014/15	2015/16	2016/17	2017/18
% of caseload exiting to employment	13	12	9	10	10
% of caseload with employment earnings	10	10	11	12	12
Average monthly employment earnings per case* (\$)	732	778	810	778	815

* A case refers to a single individual or a family unit on social assistance (for example, a family on social assistance is counted as one case).

Figure 15: Service Managers' Performance Indicator Results, 2017/18

Source of data: Ministry of Children, Community and Social Services

	% of Caseload Exiting to Employment	% of Caseload with Employment Earnings	Average Monthly Employment Earnings per Case (\$)
Province	10	12	815
Service Manager High	29	22	966
Service Manager Low	2	9	698

Ministry Does Not Publicly Report on Recipient Employment Outcomes

The Ministry reports various statistics about the Ontario Works program publicly on its website including the number of recipients on assistance; recipient demographics; the length of time recipients spend on assistance; and the percentage of recipients with earnings. However, the Ministry does not publicly report on the number and proportion of Ontario Works recipients who find employment each year. Reporting these results would provide Ontarians with information on the effectiveness of the program in helping individuals to get a job.

4.2.2 Ministry Does Not Have Targets to Reduce Rapidly Increasing Time Recipients Are on its Temporary Assistance Program

The intent of the Ontario Works program is to provide temporary financial assistance to those in need to help them find employment and become self-sufficient. However, we found that similar to our observations when we last audited this program in 2009, the Ministry has not defined what it

considers to be a temporary period. In addition, as shown in **Figure 3**, we found that recipient time on assistance has almost doubled, from an average of 19 consecutive months in 2008/09 to nearly three years in 2017/18.

Despite this trend, we found that the Ministry has not established province-wide or service manager specific targets and performance indicators for recipient time on assistance. It also does not currently have targets and performance indicators in place that measure the length of time it takes Ontario Works recipients to find employment. We noted that until 2015, the Ministry did have an indicator that measured how long it took recipients that left Ontario Works for employment to do so. However, the Ministry stopped tracking data and measuring outcomes for this indicator in 2015 in order to implement its Information Technology system, and it has yet to replace the indicator with a new one.

In other jurisdictions, we found that some Canadian provincial social assistance programs measure and report on an individual's time on assistance. For example, British Columbia's Income Assistance program reports the median time on assistance

for those it considers employable. In addition, the Saskatchewan Assistance Program reports on the percentage of individuals it deems employable who leave the program within six months.

Ministry Lacks Information to Explain Increasing Time on Assistance

We noted that the Ministry has data for the length of time on assistance province-wide and by service manager, but it does not regularly analyze and compare time on assistance to labour market conditions or to the demographics of recipients. Such comparison could improve its understanding of the reasons for the growing duration of time on assistance. In addition, the Ministry does not compare differences in time on assistance between service managers to determine whether these differences are reasonable and to take corrective action where they are not.

According to our analysis of Ministry data for 2017/18, the average length of time an individual spent on Ontario Works at one service manager could be more than twice as long as the average at another, depending on where in Ontario an individual lived. **Figure 16** shows the differences in the average length of time on assistance between service managers in Ontario.

Ministry Employment Indicators Do Not Measure Whether Recipients Find Stable Employment

The Ministry's current performance indicators relating to whether an individual has found employment do not measure whether recipients find stable employment. This is because these indicators do not make the distinction between those who temporarily leave Ontario Works—such as for

seasonal work or a temporary contract—and those who have found long-term employment. Individuals who are on and off Ontario Works for temporary work count as an exit to employment every time they leave the program. We noted that until 2015, the Ministry did have indicators that measured how long individuals who left the program for employment kept their job. However, the Ministry stopped tracking data and measuring outcomes for these indicators in 2015 in order to implement its Information Technology system and has yet to replace them with new ones.

Although the Ministry's current performance indicators do not track the proportion of individuals who leave Ontario Works for employment and remain employed, the Ministry provided us with a study it did that examined cases of recipients who left the program for employment between January and March 2013. The study found that 35% had returned to Ontario Works assistance by October 2014.

4.2.3 Ministry Lacks Performance Indicators to Measure and Improve Outcomes for Recipients with Significant Barriers to Employment

The Ministry requires service managers to assist recipients on Ontario Works to overcome barriers that hinder their ability to prepare for or search for employment. However, we found that the Ministry does not have performance indicators and related targets to measure the effectiveness of service managers' efforts in assisting recipients to overcome those barriers.

In our survey, almost 90% of service managers across the province identified mental health

Figure 16: Comparison of Average Number of Consecutive Months Recipients Are on Ontario Works, 2013/14–2017/18

Source of data: Ministry of Children, Community and Social Services

	2013/14	2014/15	2015/16	2016/17	2017/18
Provincial Average	24	27	32	34	35
Service Manager High	30	35	40	41	42
Service Manager Low	11	13	16	17	19

conditions or addictions as two of the most significant barriers to employment faced by individuals on their caseload. Other significant barriers reported by many service managers included homelessness and unstable housing and lack of education and skills. Service managers indicated that individuals with multiple barriers to employment often need to stabilize their life before trying to enter the job market.

According to our analysis of data from the Ministry, about 100,000 individuals, equivalent to approximately 36% of adults receiving Ontario Works as of March 31, 2018, had been categorized by their caseworker as needing to stabilize their life and requiring assistance to overcome their employment barriers. **Figure 17** shows the percentage of recipients on Ontario Works as of March 31, 2018, according to their category of current objective, such as stabilizing their life, training, finding employment, or retaining a job.

If service managers do not help these recipients that represent 36% of the adult caseload to progress in stabilizing their life, it is possible these individuals will not leave the Ontario Works caseload for employment for many years. But the Ministry does not measure these categories to see how successfully recipients are moving from one objective to the next and to eventual stable employment.

Another concern was that, as shown in **Figure 17**, about 10% of recipients (28,000) did not have an objective recorded in the Ministry's IT

Figure 17: Objectives of Ontario Works Recipients, March 2018

Source of data: Ministry of Children, Community and Social Services

	% of Total Recipients
Life stabilization	36
Preparing for employment	14
Training	7
Finding employment	26
Retaining employment	7
No objective	10
Total	100

system. We found that the Ministry does not require service managers to complete this information. As a result, this missing information limits the Ministry's ability to monitor the progress of these recipients toward obtaining employment and becoming self-sufficient.

RECOMMENDATION 3

To improve the effectiveness of the Ontario Works program in helping people to obtain employment and become self-sufficient, and to assess the effectiveness of the service managers it funds, we recommend that the Ministry of Children, Community and Social Services (Ministry):

- establish performance indicators and targets for recipients' length of time on assistance;
- establish performance indicators and targets to measure whether recipients obtain sustainable employment;
- establish performance indicators and targets that provide sufficient information to help the Ministry measure the progress of service managers in helping recipients resolve their barriers to employment;
- monitor the performance of the program and service managers to identify and take corrective action where targets and expectations are not being met; and
- publicly report on the effectiveness of the Ontario Works program in helping recipients to find and retain employment.

MINISTRY RESPONSE

The Ministry agrees with the recommendation. To support continuous quality improvement and spreading of best practices, the Ministry is developing a performance measurement framework with extensive input from service managers and people with lived experience. The framework will include indicators for recipients' length of time on assistance; sustainability of employment obtained; and measures of whether barriers to employment are being removed over time.

The framework is expected to be finalized by the end of 2018/19. Following its completion, the Ministry, in consultation with service managers, will establish targets for key accountability measures that align with the framework. These measures and the associated targets will be incorporated into service contracts by April 2020. The Ministry will then monitor the performance of the program and service managers to identify and take corrective actions where warranted. The Ministry will also explore and identify the appropriate mechanisms to report performance publicly.

RECOMMENDATION 4

To improve the efficiency and effectiveness of the Ontario Works program, which is intended to provide temporary assistance, we recommend that the Ministry of Children, Community and Social Services (Ministry) assess the suitability of the program as it is currently designed and take steps to improve its effectiveness in meeting the needs of recipients who have significant employment barriers and require extensive assistance to become employed, or who received assistance for lengthy periods of time without successfully obtaining employment.

MINISTRY RESPONSE

The Ministry agrees with the recommendation and acknowledges that improvements to the program can be made to support those with significant employment barriers. The Ministry will review the effectiveness of the Ontario Works program in supporting these recipients, which will include identifying opportunities with partner ministries such as Training, Colleges and Universities, Health and Long-Term Care, and Municipal Affairs and Housing to integrate local supports to help recipients find and maintain employment, with a focus on life stabilization interventions for those with significant barriers to employment.

4.3 Ministry Does Not Know Whether Service Managers are Delivering Ontario Works Cost-Effectively

4.3.1 Service Managers May Not Be Meeting Ministry Staff-to-Recipient Guidelines

As described in **Section 2.1.1**, the Ministry provides funding to service managers to cover the costs of delivering Ontario Works. However, we found that the Ministry does not obtain data on service manager staffing levels, such as the number of caseworkers employed, to analyze and assess whether service managers are staffed according to Ministry established guidelines, and allocate sufficient staff to deliver the Ontario Works program effectively.

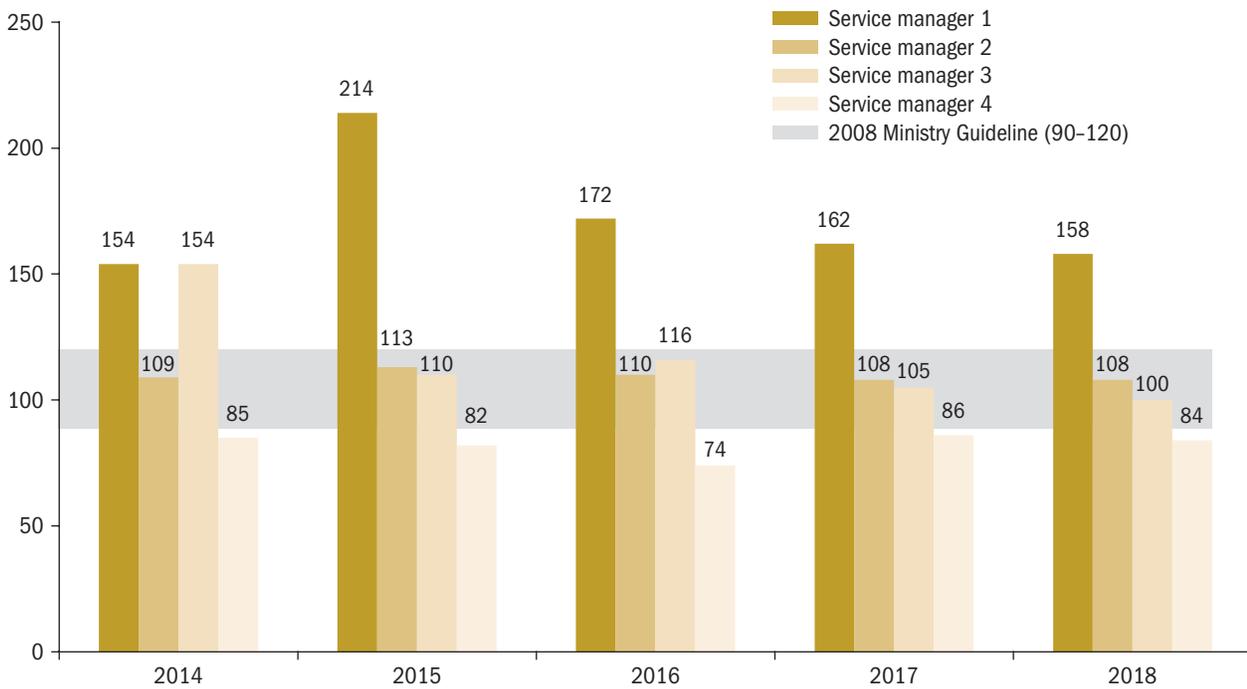
The Ministry established guidelines in 2008 that indicated a suitable caseload was between 90 and 120 recipients per Ontario Works caseworker. However, it does not require service managers to adhere to these guidelines—service managers can set their own staffing levels.

We obtained data on service manager staffing and determined that there are significant differences between service managers' caseworker-to-recipient caseloads. As illustrated in **Figure 18**, we found that the caseload at one of the service managers we visited was significantly higher than the caseload at all three of the other service managers we visited. In addition, we noted that this service manager's caseload—which reached as high as 214 cases per caseworker in 2015—significantly exceeded the Ministry's 2008 guidelines in each of the last five years.

The Ministry's guidelines also suggested that for recipients with significant barriers to employment, a lower recipient-to-caseworker ratio of 45:1 may be necessary. As of March 31, 2018, at the four service managers we visited, between 28% and 44% of adults in their Ontario Works caseloads were identified as requiring life stabilization activities, and therefore had significant employment barriers to overcome. Therefore, it is possible that all four

Figure 18: Average Annual Caseloads at Service Managers Visited by the Office of the Auditor General of Ontario, 2014–2018

Source of data: Ontario Works Service Managers



of the service managers we visited are exceeding what the Ministry considers an optimal recipient-to-caseworker ratio.

We note that service manager responses to our survey also identified concerns about caseloads. Many service managers explained that one of the challenges to effective delivery of the program was not being able to spend enough time with Ontario Works recipients. Responses indicated that staff face challenges dealing with recipients who have multiple barriers including mental health issues, addictions, literacy concerns, and lack of housing. Service managers told us that staff generally require more time to handle such cases.

4.3.2 Ministry Does Not Compare Differences in Service Manager Administration Costs to Determine if Reasonable

We found that there are significant differences between administration costs to deliver the Ontario

Works program at the service managers. As noted in **Section 2.1.3**, the Ministry funds at least 50% of service managers' administration costs. However, the Ministry does not analyze the costs to identify whether they are reasonable and if not, what corrective measures are needed. As well, the Ministry has not investigated the impact of these differences on the quality of services provided to Ontario Works recipients.

We analyzed and compared service managers' administration costs (see highs, lows and averages in **Figure 19**) and found differences between service managers, including significant differences that ought to be followed up by the Ministry. Specifically, we found costs for internal services, such as legal, accounting and human resources, averaged less than \$100 per Ontario Works case at 21 (45%) service managers, whereas at 12 service managers the cost per case was over \$200, and as high as \$700 at one service manager.

Figure 19: Service Manager Program Delivery Costs per Ontario Works Case, January to December 2017 (\$)

Source of data: Ministry of Children, Community and Social Services

	Office Accommodation ¹	General Office Expenditures ²	Technology ³	Internal Services ⁴
Provincial Average	166	96	67	196
Service Manager High	373	439	246	700
Service Manager Low	67	23	6	4

1. Includes costs such as annual rental of a building.
2. Includes costs such as furnishings, building maintenance, telephone and postage.
3. Includes computer hardware, software, networks, operating costs, and maintenance.
4. Includes costs associated with administration services such as legal, accounting and human resources.

RECOMMENDATION 5

To ensure that service managers deliver the Ontario Works program efficiently and effectively, we recommend that the Ministry of Children, Community and Social Services (Ministry):

- collect, analyze and compare service manager staffing and recipient caseloads both among service managers and with Ministry guidelines, and then to follow up on significant differences to identify promising practices and instances that require corrective action to improve outcomes;
- compare the costs of service managers to deliver the Ontario Works program to understand and identify the reasons for such differences and to take corrective action where necessary; and
- evaluate whether the proportion of service managers' program delivery costs that it funds is effective in improving outcomes for Ontario Works recipients.

MINISTRY RESPONSE

The Ministry agrees with the recommendation. To ensure that service managers are delivering the program efficiently and effectively, the Ministry will undertake a review of service managers' caseworker-to-recipient ratios as well as staffing models to identify promising practices

as it relates to improving outcomes for recipients in a cost-effective manner. The Ministry will also undertake a robust analysis of service managers' delivery expenditures to identify and share best practices as well as ongoing monitoring of expenditures to ensure that spending is conducive to achieving recipient outcomes. These reviews will be completed by the second quarter of 2020/21.

The Ministry is also undertaking a review of the current Ontario Works program delivery funding model. This review will consider a new model that reflects the most effective approach to cost sharing to maximize recipient outcomes. This review will be completed by the second quarter of 2020/21.

4.4 Ministry Efforts to Prevent Overpayments and Improve Their Collection is Limited

As of March 31, 2018, \$730 million in outstanding overpayments to recipients remain uncollected, representing an increase of \$100 million from the total of \$630 million in overpayments that were outstanding as of March 31, 2014. **Figure 20** illustrates new annual overpayments, recoveries, and write-offs in each of the last five years, including whether they relate to active or inactive (former) recipients.

Overpayments of financial assistance to recipients occur when an individual receives a payment greater than the benefit the individual was entitled to receive. There are a variety of reasons for overpayments, ranging from delays in reporting changes to personal and financial circumstances, failure to disclose relevant financial information, misrepresentation of relevant personal and financial facts, and administrative errors.

4.4.1 Ministry Requires Service Managers to Reassess Eligibility Only Every 24 Months, Increasing the Risk That Overpayments Remain Undetected

In January 2012, the Ministry revised its policy for how frequently service managers are required

to reassess a recipient's eligibility to continue to receive Ontario Works benefits from every 12 months to every 24 months. However, we found that one of the four service managers we visited had its own policy to continue to perform eligibility reassessments every 12 months in order to better prevent large overpayments that could otherwise occur if changes in recipient circumstances go undetected. In addition, in response to our survey, more than 15% of service managers said that their policy for financial reassessments continued to be every 12 months. As described in **Section 4.4.3**, identifying overpayments as early as possible while a recipient is still receiving assistance can increase the proportion of overpayments that a service manager can successfully recover.

Figure 20: Overpayments 2013/14–2017/18 (\$ million)

Source of data: Ministry of Children, Community and Social Services

	Beginning Balance April 1	New Overpayments	Recoveries	Write-offs	Adjustments*	Ending Balance March 31
2013/14						
Active	134	69	(52)	0	(13)	138
Inactive	463	52	(33)	(2)	12	492
Total	597	121	(85)	(2)	(1)	630
2014/15						
Active	138	187	(138)	(2)	12	197
Inactive	492	56	(32)	(50)	(16)	450
Total	630	243	(170)	(52)	(4)	647
2015/16						
Active	197	131	(93)	(2)	(43)	190
Inactive	450	86	(79)	(2)	39	494
Total	647	218	(172)	(4)	(5)	684
2016/17						
Active	190	98	(91)	(3)	(24)	170
Inactive	494	59	(46)	(2)	22	527
Total	684	157	(137)	(5)	(2)	697
2017/18						
Active	170	82	(60)	0	(20)	172
Inactive	527	55	(39)	(3)	18	558
Total	697	137	(99)	(3)	(2)	730

* Adjustments primarily relate to changes in the status of Ontario Works recipient cases with overpayments between active and inactive.

The Ministry told us that it revised its policy for financial reassessments from 12 months to 24 months because it planned to require service managers to supplement these reassessments with its Eligibility Verification Process (described in **Section 2.5**). This verification process had service managers review recipient files that the Ministry identified as most at risk of being ineligible. However, the Eligibility Verification Process was suspended for more than two years, between November 2014 and March 2017, and the verification process is still not functioning as intended (see **Section 5.1.4**).

Ministry Does Not Track Whether Service Managers Complete Financial Eligibility Reassessments

As discussed in **Section 5.1.3**, at the service managers we visited we found that caseworkers did not always complete financial eligibility reassessments within the 24-month timeframe required by the Ministry. In our follow-up in 2011 to our *2009 Annual Report*, the Ministry advised us that the new, more effective computer system that it was going to develop would be able to identify non-compliance with program requirements such as completing financial eligibility reassessments. However, we found in this audit that the Ministry has not ensured that all service managers use the current information system (Social Assistance Management System) in a way that would enable the Ministry to track when an Ontario Works recipient's eligibility was reassessed. Therefore, the Ministry is unable to determine whether all service managers complete these reassessments within the required two-year period and take the necessary corrective action.

4.4.2 Underlying Causes of Overpayments Not Tracked, Limiting Ability of Service Managers to Prevent Them

We found that service managers do not have the ability to record in their information systems the reason that overpayments occur. The reason for overpayments is determined by the Ministry's IT system, but these system-generated reasons are too general to understand why an overpayment occurred. Without data to understand the most common systemic causes of overpayments, along with data to analyze how caseworkers or the information system identified the overpayment, service managers are unable to identify how to prevent or reduce systemic overpayments in the future.

As a result, service managers were only able to tell us anecdotally what they thought the most common causes of overpayments were. According to service manager responses to our survey, the most common reason for overpayments was due to undeclared income or assets by the recipient. Other common reasons included unreported changes to the recipient's circumstances, such as a spouse or child moving out, and recipient incarcerations.

Service managers also reported that caseworkers can make mistakes when inputting recipient information, leading to overpayments, and that the complexity of the IT system—the Social Assistance Management System—contributes to this.

RECOMMENDATION 6

To reduce the number and size of overpayments to recipients, we recommend that the Ministry of Children, Community and Social Services (Ministry):

- revisit its decision that extended the timeframe for reassessing recipient eligibility from every 12 months to every 24 months with a view to selecting a risk-based time period that most effectively prevents overpayments; and

- enhance its systems and processes to determine and record the cause of overpayments to enable service managers to analyze and take action to minimize their occurrence.

MINISTRY RESPONSE

The Ministry agrees with the recommendation and that action should be taken to reduce the occurrence of overpayments where possible, and will be undertaking the following in 2019/20, to support enhanced efforts in the prevention and timely detection of overpayments:

- enhancing its data analytics capacity as well as third-party information sharing to identify high risk cases; and
- increasing the number of eligibility reviews completed on cases with a higher likelihood of overpayments.

In addition, the following initiatives are part of the Ministry's service delivery modernization plan that the Ministry expects will have an impact on reducing the occurrence of overpayments:

- introducing flexible and convenient service channels (e.g., online) for recipients to report earnings and changes in circumstances in a timelier manner; and
- streamlining the process for accessing federal benefit programs for recipients aged 65 and older to reduce the occurrence of overpayments.

The Ministry also acknowledges that information on the reasons for overpayments would help service managers take appropriate action in addressing their occurrence and will determine the best means to collect this information, analyze results and ensure action is taken by the end of 2019/20.

4.4.3 Ministry Could Have Assisted Service Managers to Recover Millions More in Overpayments

We found that across all service managers, 76% of outstanding overpayments had been made to individuals who were no longer Ontario Works recipients. We also found that service managers recover significantly fewer overpayments from former recipients than from current recipients. As of March 31, 2018, total outstanding overpayments were \$730 million. Of that, 76%, or \$558 million, relate to inactive (former) Ontario Works recipients as shown in **Figure 20**. Ministry data shows that during 2017/18, service managers collected just \$39 million, or 7%, of the \$582 million related to inactive accounts. However, during this same period, they collected \$60 million, or 24%, of the \$252 million related to active accounts.

We noted that service managers can recover overpayments of financial assistance to individuals who are receiving assistance through automated deductions from future payments until the overpayment is repaid. However, for individuals who no longer receive assistance, recovery of overpayments is generally time consuming and requires more effort. Therefore, identifying overpayments as early as possible while individuals are still actively receiving Ontario Works benefits can increase the proportion of overpayments recovered by service managers.

At Least \$35 Million of Overpayments Could Have Been Recovered but Plan to Increase Debt Repayment Rate from 5% to 10% Cancelled

Service managers can seek a rate of repayment up to 10% on overpayments, but generally charge active recipients 5%. In July 2015, the Ministry received Treasury Board approval to increase the default recovery rate for overpayments to active Ontario Works recipients from 5% to 10%. However, it later decided not to go ahead with the planned change due to concerns about the impact on recipients.

The Ministry estimated that if the 10% default recovery rate had been implemented, it would have recovered additional overpayments of at least \$35 million between April 2016 and March 2018 from active Ontario Works recipients.

Increasing the rate of recovery for overpayments also increases the chances that the government will recover a larger proportion of the overpayments since the proportion of total overpayments recovered from active recipients in 2017/18 was more than three times that recovered from former recipients.

Ministry Did Not Act on Advice to Use CRA's Collection Program to Recover Millions More from Former Recipients

In our *2009 Annual Report*, we recommended that the Ministry evaluate the merits of referring overpayments owed by inactive recipients from the service managers for collection to the Canada Revenue Agency's Refund Set-Off program (Program). In our *2011 Annual Report* follow-up, the Ministry advised us that a working group it had established to review overpayment policies and practices had recommended that this Program be expanded to all service managers because the amounts collected exceeded the costs of the collection efforts. However, the Ministry did not take steps to implement the Program across all service managers to help recover overpayments from former recipients.

Currently, only one service manager uses this Program. From 2013 to 2017 (the most recent data available), the service manager has recovered overpayments totalling \$4.5 million from over 6,000 individuals that otherwise would have been difficult to recover because the individuals were no longer receiving financial assistance from Ontario Works. This service manager told us that this is an example of an efficient and cost-effective means to collect overpayments.

The Program works in the following way: Ontario Works overpayments are debt due to the

service managers, but at the Ministry's discretion, they may also be deemed debt due to the provincial government. In such cases, the service manager can transfer overpayment cases to the Ministry's Financial Service Unit for collection through the Canada Revenue Agency's Program. Under this Program, the Canada Revenue Agency acts as a collection agency for the Province by intercepting an individual's income tax refund, GST rebate and provincial tax credits, and transferring that money to the Province to repay the Ontario Works overpayment.

We noted that the Ministry of Finance also uses this Program to collect Ontario Student Assistance loans from individuals who have defaulted on their repayment.

4.4.4 Ministry Has Limited Oversight of Service Managers' Effectiveness Recovering Overpayments

Ministry Cannot Determine the Amount of Overpayments It Recovers from Recipients

Ministry data from SAMS indicates that overpayments to recipients total almost \$900 million in the last five years. However, the Ministry confirmed that there may be invalid overpayments and is unable to determine what proportion of the \$900 million relates to these invalid overpayments. As described in our *2015 Annual Report on SAMS—Social Assistance Management System*, in 2014/15 and 2015/16 overpayments increased because of problems during the implementation of this system.

Figure 20 illustrates the substantial increases to overpayments in these years. As a result, the Ministry gave service managers the ability to input arrears (money owed to recipients from the program) into SAMS in order to be able to offset overpayments recorded in error. For example, in order to cancel a \$1,000 erroneous overpayment, the service manager could input a debt of \$1,000 from the program to the recipient to offset the overpayment. While this example does not indicate

a true overpayment, the \$1,000 overpayment and recovery would be included in the Ministry's data on total overpayments and recoveries in **Figure 20**.

The Ministry advised us that the system-related issues that were causing the creation of erroneous overpayments have been resolved. Nevertheless, the Ministry informed us that there are still valid scenarios in which caseworkers should manually reduce overpayments by inputting arrears into SAMS. We found that the Ministry does not monitor service managers' continued use of this override to reduce overpayments.

Because the Ministry is unable to determine what proportion of overpayments and recoveries recorded each year relate to these manually offset overpayments, total recoveries may not reflect actual recoveries from Ontario Works recipients. As a result, the Ministry cannot accurately monitor, compare or assess service managers' effectiveness in recovering overpayments.

Ministry Does Not Review the Effectiveness of Service Managers' Practices for Recovering Overpayments

We found that the Ministry does not review the effectiveness of service managers' practices for recovering overpayments, despite the fact that service managers recover overpayments at rates that differ significantly. In 2017/18, recovered amounts ranged from an average of \$160 per case at one service manager, to an average of \$2,700 at another service manager.

This lack of oversight can have an impact on the amount of money recovered and paid back to the government. In addition, starting in January 2018, the Ministry now funds 100% of payments to Ontario Works recipients (discussed in **Section 2.1.3**). As a result, any money owed by current or former recipients is due in full to the Province.

The Ministry requires service managers to attempt to recover inactive recipients' overpayment debt through voluntary repayment plans and

through the use of a private debt collection agency if service managers choose to use one. In our survey, only six of the Province's 47 service managers reported that they use a collection agency. Therefore, while it is possible that recovery rates could appear to be higher than they are due to caseworkers creating arrears to offset overpayments (as described earlier in this section), the Ministry should still follow up on these differences between service managers and take necessary action to improve recovery rates.

RECOMMENDATION 7

To increase the rate at which service managers recover overpayments, and to have the necessary information to assess service manager efforts to recover overpayments, we recommend that the Ministry of Children, Community and Social Services (Ministry):

- analyze and reconsider increasing the default recovery rate from active Ontario Works recipients to the extent that it does not cause undue financial hardship;
- expand the use of the Canada Revenue Agency's program to recover overpayments from former recipients through tax refunds;
- implement the necessary changes to its systems to separate overpayments to, and recoveries from recipients recorded in error; and
- review and compare service manager practices to recover overpayments to determine if they are effective, and to take corrective action where they are not.

MINISTRY RESPONSE

The Ministry agrees with the recommendation and that the recovery of overpayments can be improved. By the end of 2019/20, it will assess the impact of increasing the default recovery rate from active Ontario Works recipients to the extent that it does not cause undue financial hardship on recipients. Also by the end of

2019/20, in consultation with service managers, the Ministry will:

- complete an assessment of expanding the use of the Canada Revenue Agency's program from former Ontario Works recipients. Options and recommendations will be developed based on this assessment, and will take into consideration cost benefit, and potential policy, process and technology changes;
- identify opportunities to enhance overpayment recovery practices, systems, and reporting methods to separate overpayments to and recoveries from recipients recorded in error;
- review and compare current processes and practices for recovering overpayments from Ontario Works recipients and share best practices with all service managers to facilitate corrective action; and
- develop and review options for most effective management and collection of overpayments from individuals who are no longer social assistance recipients.

4.5 Ministry Efforts to Ensure Only Eligible Applicants Receive Funding for a Special Diet are Insufficient

As described in **Section 2.3**, the special diet allowance is available to recipients and their families who require a special diet due to an approved medical condition. The Ministry has identified that the sustainability of the special diet allowance, which it provides to both Ontario Works and Ontario Disability Support Program recipients, is a significant concern, as the take-up rate and expenditures continue to grow. For Ontario Works, province-wide, the total amount spent on the special diet allowance in 2017/18 was \$77 million, and the average number of monthly Ontario Works cases receiving the allowance was approximately 40,000, representing 16% of the caseload. This compares

with \$67 million and approximately 30,000 cases representing 15% of the caseload in 2008/09.

The Ministry also advised us that it is aware that the special diet allowance is not always administered as intended, and that some recipients may be using it to supplement their monthly income rather than to pay for extra dietary costs associated with a particular medical condition.

In our *2009 Annual Report*, we also highlighted the possible abuse of the special diet allowance through applicants visiting health-care professionals who were known to be predisposed to approve such requests.

In our follow-up in the *2011 Annual Report*, the Ministry advised us that it had begun to use its IT system to identify questionable trends in a timely manner so that action could be taken. However, it has been four years since the last time the Ministry carried out an assessment of the special diet uptake and trends, including engaging medical experts to help identify improbable trends.

As we discuss in the following sections, we noted numerous concerns that highlight the need for additional Ministry oversight of the special diet allowance.

4.5.1 More than 25% of Ontario Works Cases at One Service Manager Receive Diet Allowance Compared with 13% Across the Rest of the Province

We analyzed data provided to us by the Ministry and identified that at one of the service managers we visited, which has the largest caseload in Ontario, 26% of Ontario Works cases in 2017/18 were receiving an allowance for a special diet. By comparison, our analysis identified that for the rest of the Province's 46 service managers, an average of just 13% of Ontario Works cases received an allowance for a special diet.

Some Doctors Authorizing Disproportionate Number of Special Diet Applications

We analyzed the number of special diet applications completed between January 2015 and March 2018 at the service manager with the largest caseload in Ontario and found that a small number of doctors had authorized a disproportionate number of applications compared with other doctors in the same geographic area, and elsewhere in the Province. Our analysis indicated that between January 2015 and March 2018 ten individuals (nine doctors and one dietician) approved 23% of all applications at this service manager. One doctor in particular approved 6% of all applications.

We found that six of these doctors had been subject to disciplinary action from the College of Physicians and Surgeons of Ontario (College) for a variety of allegations and charges, including one for signing off on special diet applications that recipients did not require. We also identified that another doctor who had signed off on the most special diet applications in the province during this period had a disciplinary hearing notice issued against him dated June 2018. Some of the charges against him relate to special diet applications, these include:

- submitting and endorsing applications for the special diet allowance for individuals he had either not assessed or not properly assessed;
- accepting cash payments from individuals seeking execution of special diet allowance forms;
- directing special diet allowance applicants to undergo diagnostic imaging in the absence of medical indications; and
- directing special diet allowance applicants to undergo diagnostic imaging at facilities where he held a financial interest.

The Ministry was not aware of the disciplinary hearing scheduled for this doctor and had not issued instructions to service managers to flag special diet applications from this doctor pending the outcome of the hearing. Service managers have the option to confirm the need for a special diet by

requesting an additional application completed by a different health-care professional.

4.5.2 Prevalence of Health Conditions Requiring a Special Diet Among Recipients Several Times Greater than National Rate

Wheat and milk allergies are among the most common reasons why Ontario Works recipients are given a special diet allowance. We compared the prevalence of allergies to wheat and milk among Ontario Works recipients to published estimates for the Canadian population as a whole and found that the prevalence of these allergies among Ontario Works recipients is many times higher.

According to a national research network on allergic diseases established by Innovation, Science and Economic Development Canada, while the rate of self-reported allergy to any food is around 7.5%, the self-reported allergy to milk and wheat is just 0.7% and 0.4% across Canada. In contrast, we found that 4% of all Ontario Works recipients were receiving a special diet allowance for an allergy to milk, and 5% were receiving a special diet allowance for an allergy to wheat. More significantly, at the service manager with the largest Ontario Works caseload, 9% of recipients received a special diet allowance for an allergy to milk, and 12% were receiving an allowance for an allergy to wheat.

RECOMMENDATION 8

So that all Ontario Works recipients are treated fairly and only receive allowances for a special diet if they have a medical condition that requires it, we recommend that the Ministry of Children, Community and Social Services (Ministry) review the proportion of recipients that the special diet allowance is provided at different service managers to:

- identify, investigate, and address improbably high trends in the proportion of recipients who receive the special diet allowance; and

- reinforce with service managers the need to be diligent in providing the special diet allowance, and in the case of unusual trends, request medical records or a second application completed by a different health-care professional.

MINISTRY RESPONSE

The Ministry agrees with the recommendation and will review special diet allowance approval trends by the beginning of 2019/20, and take steps to address identified areas of concern. The Ministry will also take immediate action to reinforce with service managers the Ministry's expectations when approving special diet allowances, including following up on irregularities that were identified over the course of the Auditor General's audit. This includes requesting medical records or a second application completed by a different health-care professional.

RECOMMENDATION 9

We recommend that the Ministry of Children, Community and Social Services (Ministry) work with the College of Physicians and Surgeons of Ontario (College) and that the Ministry:

- refer physicians to the College suspected by service managers and the Ministry of approving questionable applications for a special diet allowance;
- work with the College to share information with the Ministry on physicians that the College is currently investigating or has previously sanctioned in regard to the special diet application; and
- distribute to all service managers a list of doctors the Ministry suspects of approving questionable applications for a special diet allowance, including doctors the College is investigating or has previously sanctioned.

MINISTRY RESPONSE

The Ministry agrees with the recommendation and will take immediate action to review the integrity of the special diet allowance to identify anomalies in regard to the approval and provision of the allowance, including questionable applications. The Ministry will take appropriate action, including working with the College of Physicians and Surgeons of Ontario, where warranted, and share information with both the College and delivery partners wherever possible.

4.6 Service Managers Offer Different Benefits, Resulting in Inequities Across the Province

The Ministry allows service managers to determine which discretionary benefits they wish to provide and in what amount. However, we found that the Ministry is not aware of the extent of the differences between service managers or the impact of such differences on recipients.

At the four service managers we visited, we found that the discretionary benefits Ontario Works recipients were eligible to receive varied. For example, we found that two service managers offered orthotics and orthopaedic footwear, one service manager offered orthotics only, and the other service manager did not provide either orthotics or orthopaedic footwear. We also identified differences in what service managers provided for baby supplies. For example, one service manager offered up to \$500 per child to purchase a crib, \$500 to purchase a bed where an infant has outgrown a crib, up to \$250 per child to purchase a car seat, and \$250 to purchase a stroller. Conversely, another service manager offered one-time allowances for new-born babies of \$260 for a crib and \$100 for clothing.

In addition, we noted that there are differences between service managers' total expenditure for discretionary benefits. Service managers can bill

the Ministry for funding of up to \$10 per Ontario Works case per month for discretionary benefits. However, we found that in 2017/18, approximately one-third of service managers contributed additional municipal funding and spent more than the maximum funding made available by the Ministry, with four service managers spending at least 30% more than the funding allocation from the Ministry. In contrast, two-thirds of the service managers spent less than the funding allotted by the Ministry, with four service managers spending less than half of the maximum funding.

RECOMMENDATION 10

So that Ontarians in financial need are treated fairly and have access to benefits that support their progression towards employment regardless of where in Ontario they seek assistance from the Ontario Works program, we recommend that the Ministry of Children, Community and Social Services (Ministry):

- review and analyze the differences in discretionary benefits provided by service managers, and their impact on recipient outcomes; and
- based on this analysis, establish guidelines for issuing these benefits to support local decision-making.

MINISTRY RESPONSE

The Ministry agrees with the recommendation. The Ministry will undertake an analysis on the provision of discretionary benefits across service managers to identify local strategies that have had a positive impact on recipient outcomes to support local decision-making by the second quarter of 2020/21. Based on this analysis, the Ministry will develop best practice guidelines that will be used where applicable, when discussing performance concerns with service managers as part of the Ministry's broader efforts in improving the employment outcomes of recipients, and monitoring service manager performance.

4.7 Service Managers Not Satisfied with IT System for Recipient Case Management

Although the Ministry has spent over \$290 million to develop and implement the Social Assistance Management System (SAMS) to manage social assistance programs, including Ontario Works, 45 service managers (96%) reported in our survey that they were not satisfied with SAMS for recipient case management.

The service managers indicated that SAMS is not designed to record and track key information they need to effectively manage the progress of their Ontario Works recipients. For example, although service managers can record notes about individual recipients in SAMS, they cannot generate reports on these notes to analyze recipients' skills, barriers to employment, or referrals to training or community services for their entire caseload. This recipient information can only be reviewed in SAMS on a case-by-case basis.

Without this data, service managers face challenges to understand the profile of recipients on their caseload, track recipients' progress or design suitable training or employment programs to help their recipients work toward obtaining employment.

Service Managers Using Their Own IT and Manual Systems, Leading to Additional Costs

SAMS was launched in 2014 and has been set up at all 47 service managers. Costs to maintain and operate SAMS are over \$50 million annually. Nevertheless, we found that one of the four service managers we visited had developed its own IT system for case management. Another service manager we visited was planning to purchase its own IT system. The use of an alternative system creates additional costs and causes inefficiencies due to the need to maintain information in more than one system. The service manager that was planning to purchase a case management system estimated that it would cost about \$550,000 to do so.

In addition, approximately one-third of service managers also reported in our survey that they use alternative software or track recipients' skills, referrals, progress, and appointments manually using spreadsheets. Some service managers were doing this before SAMS but retained these methods because SAMS did not have the functions that they needed.

RECOMMENDATION 11

To ensure that service managers are able to monitor and track recipients' progress toward finding employment, we recommend that the Ministry of Children, Community and Social Services (Ministry) improve its systems to strengthen its case management capabilities for service managers to better track recipients' skills, barriers to employment, referrals to employment and community programs, and recipient progress.

MINISTRY RESPONSE

The Ministry agrees with the recommendation and acknowledges that the range of tools used by service managers to monitor recipients' progress toward finding employment can be enhanced. The Ministry will work with service managers to identify opportunities to enhance systems, tools and reporting capabilities by the start of 2020/21. As the operator of Employment Ontario, which delivers employment and training services to Ontarians, the Ministry will also engage the Ministry of Training, Colleges and Universities in this work as part of our broader efforts to integrate local employment services to help recipients find and maintain employment.

4.8 Information Affecting Recipient Eligibility is Not Consistently Verified with the Federal Government

We found that the Ministry does not always confirm whether individuals receiving Ontario Works continue to live in Canada, or are legally entitled to reside in Canada, both of which are requirements to be eligible for Ontario Works.

We noted that the Ministry has an agreement with the federal government's Immigration, Refugees and Citizenship Canada (IRCC) to obtain information on the immigration status of Ontario Works recipients, including:

- removal orders from Canada, indicating that an individual may no longer be legally allowed to remain in Canada; and
- the date an individual with a removal order left Canada.

However, we found that the Ministry does not use this agreement to check that all recipients of Ontario Works (who cannot demonstrate their legal status in Canada) are still eligible or should be terminated because they are no longer legally permitted to remain in Canada or have already been removed from the country. Service managers can request these checks from the IRCC on a case-by-case basis at their discretion, but the Ministry does not know how often they do so.

We reviewed Ontario Works recipient data in the Ministry's Social Assistance Management System (SAMS), and identified over 500 individuals where there is a risk that they may no longer be eligible for Ontario Works. For example, we found that there were individuals who have been receiving financial assistance for several years and are listed in SAMS as a refugee claimant. Given the extent of time, these individuals should have had their claim assessed and if accepted be identified in SAMS as a permanent resident; otherwise, if rejected, they would no longer be eligible and should be terminated from Ontario Works. In addition, we also identified that some of these recipients had

not met their caseworker in over one year to update their participation agreement even though there is a requirement for caseworkers to meet with recipients every three months.

We asked the Ministry to request that the IRCC check the status of these 500 individuals. However, the Ministry informed us that because the arrangement it has in place with the IRCC involves using a manual process to check the immigration status of individuals on a case-by-case basis, the IRCC would not be able to check the 500 individuals and only be able to check 50 individuals in the timeframe needed to complete our audit work. Although the IRCC subsequently completed checks on the 50 individuals, the Ministry informed us that the IRCC decided it would not release the full results of these checks to the Ministry because they had been requested for the purposes of our audit rather than for the Ministry's oversight of Ontario Works. As a result, the information the Ministry obtained was limited to summary results on the immigration status of these individuals. These summary results identified eligibility concerns for one quarter of these individuals for which the Ministry requires additional information from the IRCC to confirm their eligibility. Therefore, we were unable to complete our work in this area.

In addition, as part of our audit, we also asked the Ministry if it was able to obtain information from the federal government's Canada Border Services Agency (CBSA) to find out details about the travel history of other Ontario Works recipients. The Ministry informed us that it does not currently have an information sharing agreement with the CBSA and therefore cannot check whether Ontario Works recipients are in the country.

RECOMMENDATION 12

To confirm that only eligible individuals receive financial assistance from Ontario Works, we recommend that the Ministry of Children, Community and Social Services (Ministry):

- identify recipients with risk factors related to their eligibility and utilize its agreement with the federal government to validate the immigration status of these recipients. Where recipients are determined to be ineligible for Ontario Works, take appropriate action to terminate them and recover any overpayments;
- work with the federal government to increase the efficiency of their information sharing to allow for timely checks of the immigration status of all applicable Ontario Works recipients; and
- work with the Canada Border Services Agency to establish an information sharing agreement to obtain information about the travel history of Ontario Works recipients and to identify recipients who are no longer eligible for Ontario Works.

MINISTRY RESPONSE

The Ministry agrees with the recommendation. It is currently engaged with Immigration, Refugees and Citizenship Canada in an effort to modernize its information sharing practices with the goal of a fully automated information exchange to enable more timely exchange of information, reduce administrative effort, and improve the overall efficacy of information exchange processes.

The start of implementation is targeted for the second quarter of 2019/20. It involves centralization at the Ministry, of status validation activities, which will serve to enhance the Ministry's capacity to identify cases with immigration statuses that may constitute risk relative to Ontario Works eligibility, and improve the overall processing time in instances where a change in status renders a recipient ineligible for Ontario Works. The Ministry will use this information to identify individuals who are not eligible for Ontario Works and close their Ontario

Works case, as well as to identify and recover overpayments made to these individuals.

In addition, the Ministry agrees that opportunities exist to improve verification that recipients are meeting the immigration status requirements for the program. The Ministry will assess options, such as the establishment of a data sharing arrangement with the Canada Border Services Agency, to accomplish this. The Ministry has targeted completion of this assessment by the end of 2019/20.

5.0 Detailed Audit Observations: Service Managers

5.1 Service Managers Do Not Consistently Assess Recipients' Relevant Information to Ensure They are Eligible

5.1.1 Required Third-Party Verification Checks Not Always Completed to Confirm Recipients are Eligible

Service managers are required to check whether information provided by applicants regarding their assets and income is accurate by using outside sources, such as the Canada Revenue Agency and Equifax Canada Inc. They are also required to do a similar verification when they reassess financial information provided by current recipients to ensure that they are still eligible for the program and are receiving the appropriate financial assistance. However, similar to the observations in our *2009 Annual Report*, we found service managers frequently do not undertake third-party verifications.

Our review of a sample of Ontario Works recipient files at three of the four service managers we visited identified that no third-party verification checks were completed during the application

process in 15% to 70% of the files. The remaining service manager informed us that it decided not to complete any third-party verification checks from 2014 to the end of 2017 unless it identified a specific reason to do so in individual applicant cases.

We noted that when the Ministry last reviewed service manager files in 2011, it required that service managers complete at least one third-party verification to deem the file compliant. However, the Ministry still does not monitor to ensure that service managers are meeting that requirement. The Ministry also does not prescribe which specific third-party verification checks service managers must complete, although it identified the Canada Revenue Agency and Equifax Canada as the most important resources during the application process. Using data provided by the Ministry, we found that service managers across Ontario had used the Canada Revenue Agency as a resource for fewer than one-quarter of all new applications between June 2012 and May 2018.

Our survey of Ontario's 47 service managers identified that service managers across Ontario have different policies for which third-party verification checks to do, particularly during an individual's application. For example, all but two service managers required a third-party verification check with Equifax Canada to verify applicant information. However, just 43% of service managers reported that they required verification of applicant income and other related eligibility information with the Canada Revenue Agency's tax information. **Figure 21** shows the number and proportion of service managers that reported that they require key third-party verification checks both to confirm applicant information and when reassessing recipients for their ongoing eligibility for Ontario Works.

Figure 21: Service Managers' Policies for Using Third-Party Verification Checks

Prepared by the Office of the Auditor General of Ontario

Type of Third-Party Check	# of 47 Service Managers Doing Mandatory Check	% of 47 Service Managers Doing Mandatory Check
At Initial Application		
Canada Revenue Agency	20	43
Equifax Canada	45	96
Ministry of Transportation	7	15
Ontario Student Assistance Program	7	15
Employment Insurance	25	53
National Child Benefit Supplement	17	36
At Financial Eligibility Review		
Canada Revenue Agency	32	68
Equifax Canada	39	83
Ministry of Transportation	11	23
Ontario Student Assistance Program	4	9
Employment Insurance	19	40
National Child Benefit Supplement	12	26

Note: Results are based on the responses from the 47 service managers across the province to a survey conducted by the Office of the Auditor General of Ontario.

5.1.2 Caseworkers Often Overlook Critical Applicant Information, Increasing Risk of Errors Determining Eligibility

We found that Ontario Works caseworkers did not always obtain documents that established an applicant's eligibility for the program—such as documents that prove the applicant was legally entitled to reside in Canada. We also found that caseworkers did not always investigate red flags in applications, leading to potential mistakes in determining an applicant's eligibility for the program and the correct amount of financial assistance.

We reviewed Ontario Works recipient case files at the four service managers we visited and found that in approximately 20% to 60% of these files, caseworkers either did not obtain or did not review relevant application information.

Instances at the service managers we visited included the following:

- An applicant's spouse provided a work permit document as evidence of permanent residency status in Canada. The caseworker failed to identify that individuals with work permits are classified as temporary residents (visitors) for the purposes of the Ontario Works program and are not eligible for financial assistance. The spouse was included as a member of the benefit unit and the applicant received financial assistance based on the higher rate available to couples. The couple received financial assistance payments from January 2016 up until the time of our audit. Furthermore, in February 2017, the caseworker provided \$405 to the recipient's spouse for the renewal of their work permit. We estimate that the service manager overpaid this recipient by approximately \$9,200 between January 2016 and May 2018.
- For a family of seven (two adults and five children), there was no evidence on file, such as a Permanent Resident Card or valid passport,

to prove their status in Canada, which is a requirement to be eligible for Ontario Works. The service manager confirmed that the caseworker had failed to obtain the required documents. In addition, the recipient may not have declared all of their business interests as required. We found that the recipient appears to have an interest in two active businesses. However, this individual had only declared one of the two businesses to their caseworker. Social media posts indicate that the recipient's businesses are active; however, the recipient has not reported any income to their caseworker in the last two years. This family may not be eligible for Ontario Works if their income exceeds the permitted thresholds or if they do not have residency status in Canada. This family has received \$41,116 since September 2016 when they applied for Ontario Works.

5.1.3 Not All Service Managers Reassess Recipients' Eligibility to Ensure Only Those Eligible for the Program Receive Assistance

Ministry policy requires that caseworkers meet with Ontario Works recipients at least once every two years to review their financial information to ensure that they remain eligible for Ontario Works. At two of the four service managers we visited, we found that in 20% to 35% of the files we reviewed, caseworkers had not met with recipients at least once every two years to obtain updated information and assess whether the recipients continued to be eligible for Ontario Works, and the amount of financial assistance they were receiving. We found that the remaining two service managers we visited did a good job of reviewing the continued eligibility of recipients at least once every two years, as required.

RECOMMENDATION 13

So that only people who are eligible for Ontario Works receive financial assistance and in the correct amount, we recommend that service managers:

- work with the Ministry of Children, Community and Social Services (Ministry) to confirm and formalize the requirement to use the third-party verification checks that will be most effective in verifying an individual's financial circumstances;
- take steps to reinforce the requirement that caseworkers review and document their review of all relevant information required by the Ministry when determining applicant eligibility and financial assistance; and
- reassess the ongoing eligibility of Ontario Works recipients in the time period required by Ministry policy.

RESPONSE FROM SERVICE MANAGERS

The audited service managers agree with the recommendations. All four service managers will work with the Ministry and other service managers to identify and then establish the use of the third-party verification checks that are most effective in verifying the financial circumstances of Ontario Works applicants and recipients.

All four service managers also agree to take further action to ensure that caseworkers understand the steps they are required to take to determine applicant eligibility and financial assistance and reinforce the requirement to do so. Further steps to ensure that the ongoing eligibility of Ontario Works recipients is re-assessed every 24 months will be taken by the two service managers that did not consistently meet this requirement. The remaining two service managers are committed to continuing to re-assess the ongoing eligibility of recipients either every 12 months, or every 24 months as required by the Ministry.

5.1.4 Service Managers Did Not Complete High-Risk Targeted Eligibility Reviews Assigned to Them by the Ministry

Between November 2014 and March 2017, the Ministry suspended its Eligibility Verification Process (described in **Section 2.5**) that had service managers review recipient files that the Ministry identified as most at risk of being ineligible to focus on implementing the Social Assistance Management System (SAMS) IT system.

The Ministry reintroduced the process in April 2017. However, we found that between April 2017 and March 2018, service managers across Ontario completed only 57% of the 43,650 eligibility verification cases assigned to them within the 2017/18 year as required. In addition, service managers cancelled 14% of the cases assigned to them if they determine that the Ministry should not have selected the case for review, for example if the client had moved to another Ontario Works office.

The four service managers we visited completed reviews for approximately 19,000 cases. The percentage of reviews completed varied from 88% at one service manager, to 28% and 24% at two of the others.

We found that the Ministry does not have a process in place to assess whether service managers review cases assigned to them effectively, or whether service managers only cancel the review of cases when it is appropriate. In addition, we found that the Ministry did not take any action against service managers who did not complete the eligibility verification cases assigned to them.

Completing the eligibility verification cases is important because the process often results in significant changes to eligibility, which affects payments to recipients. For example, in 2017/18, the first fiscal year the process was reinstated, 18% of the completed reviews (about 4,500 cases) resulted in service managers identifying overpayments totalling \$10.8 million, and 17% of the completed reviews (about 4,200 cases) resulted in the recipient being terminated.

RECOMMENDATION 14

So that only eligible recipients are provided with Ontario Works financial assistance and in the correct amount, and to prevent overpayments to recipients from increasing, we recommend that service managers complete the eligibility verification reviews assigned to them by the Ministry of Children, Community and Social Services (Ministry) on a timely basis.

RESPONSE FROM SERVICE MANAGERS

The audited service managers agree with the recommendation. Eligibility verification reviews are an important step in ensuring only eligible individuals receive Ontario Works and to minimize overpayments. All four of the service managers agree to take steps to ensure completion of the reviews assigned to them by the Ministry on a timely basis. Two service managers also commit to providing ongoing feedback to the Ministry on its process to select eligibility verification cases for review, to maximize the efficient use of their resources, and/or to address issues that cause overpayments.

5.1.5 Service Managers Do Not Investigate Fraud Tips Promptly to Ensure Only Those Eligible for the Program are Receiving Assistance

As of March 2018, Ontario's 47 service managers had a backlog of approximately 6,000 fraud tips that were on average approximately one year old that they had not reviewed or investigated. We also found that investigated fraud tips often result in identifying recipient overpayments and terminating ineligible recipients.

Service managers may receive allegations of fraud from either external or internal sources. For example, members of the public can provide tips

through the Ministry's Welfare Fraud Hotline if they suspect someone is receiving Ontario Works assistance that they are not eligible for. Internally, service manager staff can make a referral for a fraud investigation if they discover apparent discrepancies in a recipient's case.

Once a tip is received, the Ministry requires that service managers:

- complete a review of the fraud tip within 30 days of receiving it;
- if further investigation is warranted, complete an investigation within six months of completing the review; and
- if evidence of potential fraud is found, refer the case to the police (discussed below).

If an investigation confirms recipients received funds that they were not entitled to, service managers will reduce the recipients' assistance or terminate the case if they are found to be ineligible and set up an overpayment to recover the overpaid assistance.

The Ministry's data indicates that between January 2015 and March 2018, service managers across Ontario completed approximately 17,000 reviews and fraud investigations. We reviewed data from the Social Assistance Management System on the outcomes of these reviews and investigations and identified that more than 25% of them resulted in the service manager identifying an overpayment and 10% resulted in the service manager terminating the recipient.

However, as of March 2018, more than 6,000 fraud tips had not been reviewed that were on average a year old, including approximately 2,000 fraud tips at the four service managers we visited. Province-wide, we found that approximately 90% of these 6,000 referrals had not been reviewed within the required 30 days, including 90% of the 2,000 referrals at the service managers we visited, to determine whether further investigation was warranted. Furthermore, about 45% of the fraud tips had not been reviewed for more than a year, including 44% of the 2,000 outstanding referrals at the service managers we visited. Among these

outstanding tips, the most common reasons for the tips were suspected undeclared income and incarceration. Ontario Works recipients who are incarcerated are not eligible to receive assistance; service managers receive notifications from correctional services informing them of recipients who are incarcerated.

If fraud tips are not reviewed within the 30-day requirement, there is a risk that ineligible people could be receiving payments for a long period of time, leading to the need to recover even larger overpayments when the service manager completes the investigation. For example, one of the service managers we visited received two incarceration tips in 2015 based on the Ministry's information-sharing agreement with the Ministry of Community Safety and Correctional Services. The tips indicated that a recipient had been incarcerated. The service manager completed its investigation almost two years later in July 2017 and found that the recipient was incarcerated from July 2015 to October 2016. While incarcerated, this individual continued receiving monthly social assistance payments. The investigation resulted in finding an overpayment of approximately \$10,200. Had the service manager commenced an investigation earlier, the size of the overpayment could have been reduced.

In our 2009 Annual Report, we also reported that service managers did not follow up on fraud tips in a timely manner. Despite the Ministry advising us at that time that it would improve fraud investigation processes through the development of additional oversight tools, the Ministry has still not addressed this issue.

Service Managers Not Following Ministry Policies Regarding Referrals to Police

We also found significant differences among Ontario's 47 service managers in the number of referrals to police concerning suspected fraud by recipients relative to the number of fraud tips received by the service manager for investigation.

Five service managers reported in our survey that they had not referred any cases of suspected

Ontario Works fraud to the police. This included one of the four service managers we visited that had received approximately 1,700 fraud referrals and completed 1,000 investigations since 2015. The service manager explained that it does not refer cases of suspected fraud to the police for prosecution because it believes that investigating social assistance fraud is not one of the local police services' priorities. In comparison, another service manager that responded to our survey received just 88 fraud referrals since 2015, completed 71 investigations and referred 20 cases to the police. This service manager indicated that since 2011, 85% of cases it referred to the police resulted in a conviction. We contacted this service manager who advised us that their staff are well trained and are able to gather evidence and present a complete and accurate case to the authorities, and that they have an excellent relationship with the local police, prosecutors and judges.

The Ministry's policies state that if there is sufficient evidence to suspect intent to commit fraud, service managers must refer these cases to the police for investigation and possible prosecution under the Criminal Code. In addition, Ministry policy requires every service manager to develop protocols and procedures with the local police services and the Crown Attorney's Office for the effective investigation and prosecution of cases of suspected social assistance fraud. In our survey of service managers, we found that only 60% had such a protocol in place, which includes three of the four service managers we visited.

RECOMMENDATION 15

To ensure that only eligible individuals receive Ontario Works financial assistance and that overpayments to recipients are identified and minimized, we recommend that service managers take steps to:

- review and investigate allegations of fraud within the Ministry of Children, Community and Social Services' required timeframe; and

- refer cases of suspected fraud to authorities for investigation and prosecution.

RESPONSE FROM SERVICE MANAGERS

The audited service managers agree with the recommendations. All four service managers commit to ensuring that internal processes and procedures are in place to review and investigate fraud allegations within the timeframes required by the Ministry of Children, Community and Social Services (Ministry) to help identify and minimize overpayments to Ontario Works recipients. One of the service managers also commits to working with the Ministry to improve the quality and usability of the management information relating to fraud referrals available to service managers. Three of the service managers committed to continuing to refer cases of suspected fraud to authorities for investigation and prosecution; the remaining service manager will formalize and document a better process through a memorandum of understanding with their Police Services department to allow for the investigation of suspected fraud cases.

5.2 Decisions to Waive Recipient Participation Requirements Are Questionable When Not Supported with Evidence

At the four service managers we visited, our review of recipient files found examples where the requirement for individuals to participate in activities to work toward obtaining employment had been deferred without appropriate documentation to support the deferral. This varied from about 5% of recipient files we reviewed at one service manager, to 40% of the files at another. For example:

- A recipient who was not required to participate in employment assistance activities between February 2017 and

February 2018 due to “Injury, illness or disability.” However, the file had no medical documentation in support of the deferral.

- The requirement for a recipient to participate in employment activities was deferred between May 2016 and October 2017 because the recipient declared that he was a caregiver for his wife. However, there was no written confirmation from a doctor on file regarding care-giving assistance as required by the Ministry. This individual subsequently provided a medical note in April 2018 in support of continuing his deferral from participating in employment activities, but we found that the doctor’s note did not confirm these care-giving responsibilities. The service manager agreed with our assessment of the information contained in the medical note and committed that it would follow up with this individual to rectify the matter.

Figure 22: Ontario Works Recipients Deferred from Employment Activities, March 2018

Source of data: Ministry of Children, Community and Social Services

Reason for Deferral	#	
	Deferred	%
Sole support parent with pre-school-aged child	13,456	26
Caregiver for a family member	3,207	6
65 years of age or older	659	1
Other exceptional circumstances:		
Injury, illness or disability	26,903	51
Pregnancy and/or parental leave	4,637	9
Receiving Workplace Safety and Insurance Board benefits	9	0
Foster parent with child placement	49	0
Victim of family violence	205	0
Family medical leave	100	0
Under house arrest	123	0
Administrator approved*	3,431	7
Total	52,779	100

* Administrator approved deferrals relate to any other exceptional circumstances where the service manager administrator is satisfied that any degree of participation is impractical.

20% of Recipients Deferred from Participating in Employment Support Activities

We analyzed data from the Ministry’s Social Assistance Management System that indicates that as of March 2018, 20% of all Ontario Works recipients were deferred from participating in employment support activities. **Figure 22** identifies the number of participants that caseworkers had granted a deferral from participation to, and the reason for the deferral, and **Figure 23** illustrates the average length of deferrals.

Figure 23: Average Length of Deferrals from Participation in Employment Activities, March 2018

Source of data: Ministry of Children, Community and Social Services

Months	# of Participants	
	Deferred	% of Total Deferred
Less than 3	24,425	46
4-6	12,575	24
7-12	8,420	16
13-24	5,054	10
25+	2,305	4
Total	52,799	100

RECOMMENDATION 16

To help Ontario Works recipients progress toward obtaining sustainable employment, we recommend that service managers take steps to ensure that they only waive the requirement to participate in employment support activities in eligible circumstances when supported by the necessary documentation.

RESPONSE FROM SERVICE MANAGERS

The audited service managers agree with the recommendation. All four service managers agree to review their processes and to take steps (such as providing training to caseworkers and conducting audits) to ensure that caseworkers only defer Ontario Works recipients from participating in employment support activities in appropriate instances that are clearly supported with the necessary documentation.

5.3 Service Managers Do Not Always Work with Recipients to Help Them Progress Toward Obtaining Employment as Required

5.3.1 Caseworkers Do Not Consistently Meet with Recipients to Ensure They Reach Goals

Based on our review of a sample of recipient files at the four service managers we visited, we found that in 20% to 50% of the files we reviewed, caseworkers did not meet with recipients on a timely basis to review and update their participation agreements as recipients progressed toward their goals or their circumstances changed.

The participation agreement is a plan that sets out the employment activities that the recipient will undertake. Ministry policy requires that caseworkers meet with recipients to review their participation agreement at least once every three, four or six months. Periods of four to six months require a documented explanation for extending the review period.

We found that in several of the cases we reviewed, it had been longer than one year since caseworkers had met with recipients to review and update their participation agreements. In some of these cases, the recipients' only activity was an independent job search. This included a case where there was no update to a recipient's participation agreement for a period of approximately three years, during which time the recipient's only approved employment assistance activity was to search for a job.

We reviewed Ministry data for recipients across all service managers and found that as of March 2018, 17% of recipients with participation agreements have independent job search as their only activity assigned by their caseworker. For nearly half of these participants, an independent job search has been their only activity for six months or longer; for one-quarter of these participants it was longer than a year. The average length of time these participants have been

receiving Ontario Works financial assistance is nearly three years. Considering that these participants have been removed from the job market for a significant length of time, independent job search alone may not be sufficient to help them obtain employment.

5.3.2 Ontario Works Recipients are Not Always Assigned Required Employment Activities

At three of the four service managers we visited, we found that in 5% to 15% of the files we reviewed, caseworkers had not assigned employment activities to recipients whose requirement to participate in such activities had not been deferred. As a result, there was no evidence that these individuals were working toward obtaining employment as required.

We analyzed data from the Ministry's Social Assistance Management System for all Ontario Works recipients in the province that indicates that as of March 2018 approximately 46,500 adults did not have employment support activities assigned to them. These recipients, who account for about 20% of adults receiving Ontario Works that have not been deferred, are required to participate in employment support activities. This includes between 5% and 19% of recipients at the four service managers we visited. The Ministry advised us that at the time of our audit it had not yet instructed service managers to address this issue and ensure that recipients are assigned activities to work toward obtaining employment.

RECOMMENDATION 17

To help Ontario Works recipients to progress toward becoming self-sufficient and find employment, we recommend that service managers take steps to:

- meet with recipients regularly in accordance with the Ministry of Children, Community and Social Services (Ministry) requirements

to review and update their participation agreements; and

- assign appropriate employment support activities to all participants.

RESPONSE FROM SERVICE MANAGERS

The audited service managers agree with the recommendations. To help Ontario Works recipients progress toward obtaining employment, all four service managers agree to ensure that caseworkers meet with recipients on a timely basis in accordance with Ministry requirements to review and update recipient participation agreements. All four service managers also commit to taking steps to ensure that caseworkers assign appropriate employment support activities to all participants, with the exception of those deferred.

5.4 Employment Supports and Recipient Employment Results Differ Between Service Managers

5.4.1 Participation in Employment Placement and Job Specific Skills Programs is Low Despite Higher Employment Success Rates

As shown in **Figure 12**, service managers are required to provide Ontario Works recipients access to a range of employment activities. At the four service managers we visited, we obtained information about the employment support programs (employment placements and job specific skills training) they offered to recipients. These programs ranged in length from several days to several weeks, with the goal of helping recipients to obtain employment. Examples of such programs included:

- **Security and Protective Services Training:** A five-week course designed to teach general security guard duties, including six months

of post-program support to help participants obtain employment.

- **Warehouse Operations Training:** A training program in warehouse operations and material handling, including a six-month work placement at the conclusion of training.

We found that the number of such programs offered by the service managers we visited ranged from three to approximately 50. In addition, the percentage of Ontario Works recipients participating in these programs at all four service managers ranged from just 2% to 5%. Across all four service managers we visited, the number of those finishing such training programs who found employment ranged from approximately 50% to more than 75%.

The proportion of recipients finding employment after completing these programs is significantly higher than the provincial average for recipients leaving Ontario Works for employment, which in 2017/18 was just 10% (see **Section 4.2**.) It is also much higher than the percentage leaving the program from these four service managers, which ranged from 2% to 15% in 2017/18.

Two of the four service managers we visited told us they would offer more capacity in these programs if their Ontario Works employment assistance funding was increased. However, one of these service managers also noted that there are local constraints such as the capacity of local delivery partners to accommodate more participants. At one of the service managers we visited, an external review completed in 2014 determined that more employment programs were needed to help recipients find employment. Since this review, this service manager has started two pilot programs to help more recipients to obtain employment.

5.4.2 Many Recipients Referred to Employment Ontario but Service Managers have Limited Information on Their Success

In addition to offering employment support programs funded through Ontario Works, the

service managers we visited told us that they refer recipients to Employment Ontario. Employment Ontario delivery agents, funded by the Ministry of Training, Colleges and Universities, provide employment and training services and related information for job seekers.

Although three service managers could tell us the percentage of recipients they referred to Employment Ontario, which ranged from 8% to 14% of their caseload, only one was able to provide information to us on the success of the recipients they referred. Service managers told us that once a client is referred to Employment Ontario, the Employment Ontario delivery agent has no requirement to report to Ontario Works service managers on the outcomes of their clients.

The 2012 report by Don Drummond and the Commission on the Reform of Ontario's Public Services, *Public Services for Ontarians: A Path to Sustainability and Excellence*, recommended streamlining and integrating employment services, such as those offered by Ontario Works with Employment Ontario. Additionally, the 2012 report from the Commission for the Review of Social Assistance in Ontario, *Brighter Prospects: Transforming Social Assistance in Ontario*, recommended that the Province expand the number of municipalities, where there is interest and capacity, designated as Employment Ontario deliverers. We noted that one of the service managers we visited had been designated as an Employment Ontario delivery agent. This service manager highlighted several benefits to being a delivery agent, including increased communication between the staff of the two programs, shared cost in training for staff, joint job fairs, and a larger network of employer relationships. While this service manager's local area had a similar unemployment rate to the other three service managers we visited, it had the highest percentage of recipients exiting to employment in 2017/18 at 15%.

RECOMMENDATION 18

To increase the proportion of Ontario Works recipients who obtain employment, we recommend that service managers:

- take steps to identify opportunities to increase the proportion of recipients referred to employment supports that have successfully assisted recipients to obtain employment; and
- investigate the possibility and assess the merits of becoming a delivery agent for Employment Ontario.

RESPONSE FROM SERVICE MANAGERS

The audited service managers agree with the recommendations. To help more Ontario Works recipients to both obtain employment and become self-sufficient, all four service managers agree to take steps to explore and identify opportunities to increase the number of recipients they refer to employment supports, particularly those supports that have already proven successful in assisting recipients to obtain employment. The three service managers that are not already delivery agents for Employment Ontario agree to investigate the possibility and assess the merits of becoming a delivery agent for Employment Ontario; one of these service managers plans to present the results of their review to their Board in 2019. Another service manager also indicated that it planned to work with the Ministry of Children, Community and Social Services, and Employment Ontario, to develop an integrated assessment and referral process for individuals that includes outcome tracking and mandatory reporting.

RECOMMENDATION 19

To help increase the proportion of Ontario Works recipients who obtain employment, we recommend that the Ministry of Children,

Community and Social Services (Ministry) work with the Ministry of Training, Colleges and Universities to:

- share information between Employment Ontario and Ontario Works that would help service managers to monitor the progress of Ontario Works recipients they refer to Employment Ontario services in obtaining employment; and
- investigate opportunities to integrate the employment services offered by Ontario Works and Employment Ontario.

MINISTRY RESPONSE

The Ministry agrees with the recommendation, and it will work with the Ministry of Training, Colleges and Universities to:

- share information between Employment Ontario and Ontario Works that would help service managers to monitor the progress of Ontario Works recipients they refer to Employment Ontario services; and
- identify opportunities to integrate local employment services offered by Ontario Works and Employment Ontario, to help recipients find and maintain employment.

Appendix 1: 2017/18 Ministry Funding and Service Manager Caseloads

Source of data: Ministry of Children, Community and Social Services

Service Manager	# of Local Offices	Total Funding (\$ million)	% Share of Total Funding	Average Monthly Caseload	% Share of Caseload
Toronto Region					
Toronto CMSM ¹	15	918.2	30.9	75,230	30.1
Toronto Total	15	918.2	30.9	75,230	30.1
Central Region					
Dufferin CMSM	1	6.4	0.2	538	0.2
Halton CMSM	4	25.3	0.9	2,006	0.8
Peel CMSM	2	241.3	8.1	18,736	7.5
Simcoe CMSM	8	56.2	1.9	5,329	2.1
Waterloo CMSM	3	112.6	3.8	9,183	3.7
Wellington CMSM	3	24.9	0.8	2,091	0.8
York CMSM	4	59.5	2.0	5,744	2.3
Central Total	25	526.2	17.7	43,627	17.4
East Region					
Cornwall CMSM	3	20.5	0.7	1,970	0.8
Durham CMSM	5	98.7	3.3	8,454	3.4
Hastings CMSM	4	31.0	1.0	2,496	1.0
Kawartha Lakes CMSM	2	17.6	0.6	1,510	0.6
Kingston CMSM	2	29.2	1.0	2,602	1.0
Lanark CMSM	3	14.4	0.5	1,037	0.4
Leeds and Grenville CMSM	3	18.9	0.7	1,593	0.7
Northumberland CMSM	1	9.4	0.3	763	0.3
Ottawa CMSM	5	246.7	8.3	19,802	7.9
Peterborough CMSM	1	39.9	1.3	3,536	1.4
Prescott and Russell CMSM	2	12.0	0.4	999	0.4
Prince Edward-Lennox and Addington CMSM	4	10.4	0.3	830	0.3
Renfrew CMSM	4	15.0	0.5	1,321	0.5
East Total	39	563.7	18.9	46,913	18.7
North Region					
Algoma DSSAB ²	4	8.5	0.3	685	0.3
Cochrane DSSAB	6	18.7	0.6	1,454	0.6
Greater Sudbury CMSM	1	35.6	1.2	3,385	1.4
Kenora DSSAB	7	8.0	0.3	608	0.2
Manitoulin-Sudbury DSSAB	5	6.5	0.2	530	0.2
Muskoka CMSM	1	10.7	0.4	837	0.3
Nipissing DSSAB	3	27.9	0.9	2,241	0.9
Parry Sound DSSAB	2	9.5	0.3	718	0.3
Rainy River DSSAB	2	1.8	0.1	219	0.1

Service Manager	# of Local Offices	Total Funding (\$ million)	% Share of Total Funding	Average Monthly Caseload	% Share of Caseload
North Region (Continued)					
Sault Ste. Marie DSSAB	1	25.9	0.9	2,191	0.9
Thunder Bay DSSAB	8	33.1	1.1	2,905	1.1
Timiskaming DSSAB	2	9.3	0.3	684	0.3
North Total	42	195.5	6.6	16,457	6.6
West Region					
Brant CMSM	1	25.1	0.8	2,002	0.8
Bruce CMSM	1	6.4	0.2	554	0.2
Chatham-Kent CMSM	1	30.9	1.0	2,552	1.0
Grey CMSM	1	15.0	0.5	1,327	0.5
Hamilton CMSM	4	145.2	4.9	12,297	4.9
Huron CMSM	1	5.7	0.2	441	0.2
Lambton CMSM	1	33.4	1.1	2,952	1.2
London CMSM	2	141.9	4.8	12,206	4.9
Niagara CMSM	5	108.5	3.6	9,767	3.9
Norfolk CMSM	2	14.9	0.5	1,254	0.5
Oxford CMSM	1	13.7	0.5	1,271	0.5
St. Thomas CMSM	1	15.8	0.5	1,417	0.6
Stratford CMSM	1	7.5	0.3	658	0.3
Windsor CMSM	2	93.1	3.1	8,086	3.2
West Total	24	657.1	22.0	56,784	22.7
First Nations	n/a	145.2	4.9	11,281	4.5
Adjustment for prior year funding		(30.5)	(1.0)		
Total	145	2,975.4	100	250,292	100

1. Consolidated Municipal Service Manager (CMSM).
2. District Social Services Administration Board (DSSAB).

Appendix 2: Estimated Costs Attributable to Ontario Works Policy Changes, 2013/14–2020/21 (\$ million)

Source of data: Ministry of Children, Community and Social Services

	Introduced	2013/14	2014/15	2015/16	2016/17	2017/18	2018/19	2019/20	2020/21
A \$200 monthly flat-rate earnings exemption is introduced. (Earnings above \$200 per month continue to be subject to a 50% exemption)	Sept 2013	18.6	33.4	35.0	35.0	35.0	35.0	35.0	35.0
Asset limit is increased to \$2,500 for singles, \$5,000 for couples and an additional \$500 for each additional dependent	Sept 2013	1.0	6.0	11.0	11.0	11.0	11.0	11.0	11.0
Child support payments no longer treated as income for purposes of calculating financial assistance	Feb 2017				8.1	48.6	47.5	47.5	47.5
Asset limits are increased for single adults from \$2,500 to \$10,000; and for couples from \$5,000 to \$15,000	Sept 2017					0.4	3.6	6.1	6.1
Total		19.6	39.4	46.0	54.1	95.0	97.1	99.6	99.6

Appendix 3: Ontario Works Mandatory and Discretionary Benefits, 2018

Source of data: Ministry of Children, Community and Social Services

Benefits	Health-Related	Non-Health Related
Mandatory	<ul style="list-style-type: none"> • assistive devices, batteries and repairs • dental coverage for dependent children residing in First Nations communities • diabetic and surgical supplies • drug coverage • extended health benefits • eye examinations • travel and transportation for medical purposes • vision care for children 	<ul style="list-style-type: none"> • advance (up-front) child care • full-time employment benefit • guide dog benefit • other employment and employment assistance activities benefit • transition child benefit
Discretionary	<ul style="list-style-type: none"> • child care to attend a medical appointment • dental care for adults • energy and water conservation measures • funerals and burials • prosthetic appliances • vision care for adults 	<ul style="list-style-type: none"> • moving expenses • special services, items or payment on a case-by-case basis • travel and transportation • vocational training

Appendix 4: Audit Criteria

Prepared by the Office of the Auditor General of Ontario

Service Managers

1. Applications for Ontario Works assistance are processed and reviewed on a timely basis, and appropriate decisions on eligibility are reached.
2. Payments to recipients for basic needs, shelter, and mandatory benefits are correctly calculated and issued on a timely basis to eligible recipients. Discretionary benefits are granted based on demonstrated need, and the amounts issued are reasonable and comparable for similar circumstances.
3. Ontario Works recipients are provided with appropriate and effective employment assistance activities suited to their needs and local labour market conditions to assist them to find sustainable employment.
4. Effective oversight processes are in place to ensure the Ontario Works program is delivered in accordance with legislative and Ministry of Children, Community and Social Services (Ministry) policy requirements and to provide the Ministry with accurate operational, performance and financial data.
5. Effective processes are in place to support the prevention and detection of fraud and for the timely recovery of overpayments.
6. Service managers measure, evaluate and report on the effectiveness of their program delivery in helping people in temporary financial need find employment. Corrective action is taken on a timely basis when issues are identified.

Ministry of Children, Community and Social Services

1. The Ministry has effective information systems and oversight processes in place to assess whether service managers are delivering the Ontario Works program efficiently and effectively, in accordance with legislative and program requirements, and funding is used for intended purposes.
2. Meaningful performance measures and targets are established for the Ontario Works program. Results are monitored and compared against targets to ensure that the intended outcomes of the program are achieved. Corrective action is taken on a timely basis when issues are identified.

School Boards—IT Systems and Technology in the Classroom

1.0 Summary

The Ministry of Education (Ministry) funds 72 district school boards to provide elementary and secondary education to about 2 million Ontario students (as of the 2017/18 school year). School boards and individual schools determine how much funding they allocate to operate their school and classroom technology according to their own needs. They take into account many different factors when considering how to spend their budgets to support their operations and capital projects such as the boards' academic and administrative objectives and their IT system priorities.

School boards reported their total IT spending for the 2017/18 fiscal year as \$227.8 million, of which they spent \$160.6 million on IT systems and computers, including software and licences, and \$67.2 million on the boards' IT operations and administration. The Toronto District School Board, one of the four boards we visited in the course of our audit, spent an average \$33.9 million annually on IT over the last five school years.

Each school board in Ontario decides on its own level of spending on IT services. Spending across the boards ranged from 0.17% to 2.70% of total operational expenses, on average, for the last five school years. **Appendix 1** outlines average IT spending at each school board for the school years

2013/14 to 2017/18, and shows IT spending per student for 2017/18.

School boards and schools use IT in the classroom for training in math skills, programming, coding, design and other subject areas, as well as students' quick access to the Web for research. Teachers use IT to aid in designing and delivering lessons and administrative tasks such as tracking attendance and marks.

Our audit looked at how effectively school boards procure, manage and protect IT assets, whether personal information is safeguarded, whether IT support is sufficient, whether data is reported to the Ministry according to legislated requirements, and what, if any, impact the use of IT technology may have in the classroom. We visited four of the 72 school boards and staff at four schools in the province and conducted a survey with all the school boards (discussed in **Section 3**).

Overall, we found that the Ministry had no broad IT strategy for curriculum delivery, use of IT by students and administration of IT. Also, with the school boards making locally based decisions on spending, acquisition and procurement of equipment and systems, students' access to IT such as computers and software varies across the province. We also found that at different boards and schools the age of the computers and laptops in classrooms ranged from new to outdated.

Some school boards we visited informed us that they have not systematically assessed to what

extent their students are using IT in the classroom. As a result, we found that these boards have not done a full analysis of how to best use IT resources in curriculum delivery.

We noted as well that the effectiveness of measures to counter cybersecurity threats that may put student data at risk varies across the province, with different boards providing their staff with different levels of IT privacy and security training.

Our audit also found inefficiencies in the systems that the Ministry and school boards use for reporting student data, and that Ministry-provided training in student data reporting was insufficient to help resolve data validation errors.

The following are some of the specific concerns we noted in our audit:

- **Students' access to information technology and consequently students' learning experiences varied across schools.** The availability of tablets, laptops, computers and applications varied among the schools. Some school boards did not perform an assessment to evaluate whether the classrooms had adequate IT resources to help with learning, whether their IT equipment was up to date, and whether the allocation of IT resources among schools was consistent. For example, at some schools, eight students shared one computer, whereas in others each student was assigned an individual computer. Some school boards were applying no benchmark, policy or best practice to allocate classroom technology to students.
- **The age of IT equipment used in classrooms differed among schools.** We found that some schools had new, modern equipment in classrooms, while others had outdated equipment. The age of the equipment can affect students' learning experience because outdated technology is slow and incompatible with the requirements of the latest software. Older technology can also be vulnerable to hacking and other cybersecurity threats if it is no longer supported by its vendor with regular security updates.
- **School boards are not taking all reasonable steps to prevent inappropriate access to student information.** The system that administers the Ontario Education Number, which is issued to every student in the province, contains students' personal information and educational records. We found that 971, or 19%, of user accounts in this system had never been used. That indicates that many authorized users have no current need to access the system. We also found that accounts of inactive users of the Ministry's IT system are not always being cancelled after they leave their positions at the boards. These accounts are accessible on the Internet, which means that there is a risk that confidential student information may be exposed to the public. In addition, data privacy training to staff is lacking at many schools, also putting student data at risk.
- **Not all boards provide formal security awareness training or have cybersecurity policies.** Educating employees through ongoing awareness training is one of the ways to protect sensitive data, including confidential student data. However, 51 of the 69 boards that responded to our survey (74% of respondents) indicated that they do not provide formal IT security or privacy training to staff with access to technology at school boards and at schools.
- **School boards are not managing cyberbullying effectively.** Although the school boards have established policies and guidelines on bullying prevention and intervention in accordance with Ministry requirements, they do not measure the effectiveness and performance of anti-cyberbullying programs. Of the school boards that responded to our survey, 25 (36%) indicated that they did not log cyberbullying incidents and were

therefore lacking the information to study and address the root causes of such incidents.

- **School boards were inconsistent in their ability to keep track of IT assets such as laptops.** Two of the school boards we visited as part of our audit do not have enough oversight over their classroom IT assets, such as laptops and tablets, to be able to keep track of them, and in some cases board staff were unable to verify whether they had gone missing from the schools.
- **The majority of school boards do not have a formal IT business continuity and disaster recovery plan.** We found that many school boards do not have formal IT business continuity and disaster recovery plans if a natural or man-made event potentially damaged the operation of their IT systems. For example, one board we visited does not have a physical location to serve as a disaster recovery site for its IT systems. Sixty-five of the 69 school boards that responded to our survey (94%) indicated that they were not aware of their key IT risks and did not have formal disaster recovery plans or plans on how to continue business in the event of a major loss of data and IT assets.
- **The Ministry and school boards are not always obtaining value for money on their IT purchases.** The Ministry has spent more than \$18.6 million on virtual learning environment (VLE) software in the past five years, which it provides for free to the school boards; however, more than one-quarter of the school boards we surveyed reported rarely using VLE, and most boards purchase their own software. Also, one board that we visited had purchased 2,710 smartboards at a cost of about \$9.7 million but did not provide training to teachers on how to use them, so some were being used as simple projection screens. It also purchased them without a formal business case for their use.
- **There is no single common centralized student information system at the provincial level, which could potentially provide cost savings.** Each school board procures its own student information system based on local needs and preferences. It is possible that savings could be found through economies of scale if all school boards used one student information system that was managed by the Ministry. However, the Ministry and school boards have not investigated the overlaps and inefficiencies and explored the potential cost efficiency of a centralized student information system.
- **The Ministry's system that boards and schools use to submit student data to the Ministry is inefficient.** Error messages provided by the Ministry's system are not clear and often do not provide enough information to identify and resolve problems. This causes delays for school board staff while they contact Ministry staff to resolve the problems. A study conducted in 2017 by a committee of the Ontario Association of School Business Officials estimated that boards spent an average of 116 days in finalizing one of the three yearly data submissions. The Ministry has no target number of days for finalizing the submissions.

This report contains 14 recommendations, with 26 action items, to address our audit findings.

Overall Conclusion

Overall, we found that the Ministry had no broad IT strategy for curriculum delivery, use of IT by students and administration of IT. We found that students' access to classroom technology varied across the province, with student-to-computer ratios in one board ranging from 1:1 to 8:1, and that the age of equipment and software also varied in classrooms across the province. Our survey of the 72 school boards revealed that 55% of the 69 boards that responded did not have an approved

policy for effective and efficient IT asset life-cycle management, which includes inventory of IT assets and assessment of their working state.

We found that the Ministry and school boards were not always obtaining value for their IT purchases and that hardware and software were not always being used as intended or to their full potential. For example, even though the Ministry has spent more than \$18.6 million on virtual learning environment (VLE) software in the past five years, which it provides for free to the school boards, we noted that boards are purchasing their own classroom software. The boards informed us that VLE is difficult to use, is missing useful functions, and does not completely meet classroom teacher needs.

In addition, we concluded that school boards do not take sufficient measures for preventing cybersecurity threats and providing data privacy training to teachers and staff. The boards also have room for improvement in addressing cyberbullying in the schools.

We also found that the Ministry's system that school boards use to report student data to the Ministry was inefficient and lacking performance targets. Training and support on the system was insufficient to help resolve errors with data validation in a timely manner.

OVERALL MINISTRY RESPONSE

The Ministry of Education thanks the Auditor General and her team for this report. The Ministry is committed to getting education in Ontario on the right track. To accomplish this goal, efforts include restoring public confidence and financial accountability to our publicly funded education system. As such, the Ministry welcomes the opportunity to address the potential for improvements and efficiencies highlighted in the Auditor General's recommendations. These recommendations complement the robust feedback we have received from parents, students, educators and other community members as part of Ontario's consultation on education. The use of technology in schools is

an important component of these consultations and the Ministry looks forward to gathering further public input to address how our education system can best harness technology to drive student success.

The Ministry will continue to work with its education partners to deliver on its promise to ensure Ontario's education system prepares our students for the realities of today and the changing global economy. The Auditor General's recommendations will help inform the Ministry's efforts as we work to build a stronger publicly funded education system for students, parents and educators.

2.0 Background

IT systems at school boards support and enable critical business processes such as enrolment and registration of students in courses; allocating classrooms; recording test scores and marks; producing transcripts; and tracking student attendance. These systems also enable better administration of schools by facilitating bookkeeping and helping to determine the allocation of school staff. School boards are responsible for the operation and maintenance of their IT systems, as well as protecting the security and privacy of information housed in these systems.

The Minister of Education (Minister) is responsible for the administration of the *Education Act* (Act) and the regulations that supplement it. This includes responsibility for early years programs, child care and publicly funded education from kindergarten to Grade 12. The Minister also has authority over school boards through several mechanisms highlighted in the Act. These include the authority to make regulations regarding the duties of school boards and to request any report deemed necessary from school boards.

School boards are responsible for student achievement and well-being, for ensuring effective

stewardship of the board’s resources, and for delivering effective and appropriate education programs for their students. Other relevant responsibilities include:

- monitoring the policies of the schools and the achievement of students and, through the directors of education at the boards, holding the entire system accountable for meeting provincial and board standards; and
- developing a multi-year strategic plan that highlights how each board will meet its responsibilities. Each board is required to report this plan to the Ministry of Education (Ministry) and make it accessible to the public.

School boards have various IT and business operations support teams to support and facilitate the delivery of data reporting and IT needs at schools. IT teams typically include analysts, technical support staff, system administrators, reporting staff and a dedicated liaison to report to the Ministry. These teams are responsible for the operation of the boards’ IT systems as well as the physical IT resources and networks that they reside on. They play a key role in ensuring that the information on the boards’ systems is secure and meets the requirements surrounding privacy and protection of information, as stated in the *Municipal Freedom of Information and Protection of Privacy Act* and other documents. The teams also support the procurement of IT systems and help ensure that these systems are properly maintained and updated.

The Community Services I&IT Cluster is one of nine information and information technology (I&IT) clusters in the Ontario Public Service. (Clusters are groupings of government programs and services that have similar clients and need similar I&IT services.) This cluster has four partner ministries and a reporting relationship to corporate IT in the Ministry of Government and Consumer Services, with the Ministry of Education being the relevant one for this audit. The cluster administers and supports IT systems for the Ministry over the systems’ entire life cycle. The Ministry collects data

through cluster-supported systems for reporting and analysis.

The cluster supports its partnered ministries by:

- providing strategic advice and consultation regarding the use of I&IT;
- providing services and sustaining I&IT business solutions as well as enabling strategic use of data for its ministries’ core business and evidence-based decision-making;
- ensuring that ministries’ I&IT assets are sustainable and current; and
- supporting corporate strategic directions, policies, standards and guidelines on the value and use of information management and technology, in consultation with the Treasury Board Secretariat.

2.1 Information Technology in Classrooms

Technological resources used in classrooms as tools to help learning are known as “classroom technology.” These educational tools are of different types: desktop computers and laptops; Chromebooks, iPads, WinBooks and other kinds of tablets; interactive whiteboards; digital cameras; 3D printers; the classroom’s Internet connection; and learning software of various kinds—for training in math skills, programming, coding, design and other subject areas. Studying in Internet-connected classrooms lets students quickly gather information from the Web. Teachers can use IT tools to shorten the time they need for lesson planning and assessing students.

2.2 Procurement of Information Technology by School Boards and Schools

The Ministry licenses its virtual learning environment (VLE—see **Section 2.3.3**) and other learning software resources and provides these resources to all publicly funded Ontario school boards, Indigenous communities and facilities of education, taking

into account the advice of the Ontario Software Acquisition Program Advisory Committee (Committee). The Committee is composed of English and French educators and representatives from across the province who advise the Ministry on its software purchases.

The Ministry conducts its procurements in compliance with the Ontario Public Service Procurement Directive issued by the Management Board of Cabinet, Ontario's obligations with trade agreements and in accordance with Canadian law. It takes the Committee's advice in assessing assets and negotiating and signing its agreements with the successful vendors.

In addition to the digital resources that the Ministry licenses and provides to them, school boards and schools are entitled to procure IT equipment and software directly from eligible vendors at their own discretion. They base their decisions on local needs, and they too conduct their procurement processes in accordance with the Broader Public Service Procurement Directive.

School boards collaborate with other boards and, where applicable, other public-sector agencies, to develop co-operatives and shared services to lower the cost of their IT procurements. One such co-operative is the Ontario Educational Collaborative Marketplace (Collaborative Marketplace). The Collaborative Marketplace is a not-for-profit sourcing partner for Ontario's education sector, broader public sector, and other not-for-profit organizations. It negotiates and contracts with suppliers so that its members may have the option of a broad choice of products and save on costs. The Collaborative Marketplace also operates in compliance with Broader Public Service Procurement Directive. School boards and schools have the option to procure digital resources through Collaborative Marketplace-approved vendors when they see it will bring them cost savings and an efficient procurement process.

2.2.1 Spending on Information Technology at Selected Boards

At the four school boards we visited, IT spending varied from 0.87% (\$2.3 million) to 1.09% (\$33.9 million) of total operational expenses, on average, for the school year 2013/14 to 2017/18. In the Toronto District School Board (Toronto Board), the IT budget was an average of 1.09% of the overall budget for the last five years. This board's IT spending represented labour-related costs (salaries and benefits, 58%), and costs for major IT systems (supplies and services, 16%), maintenance/software licences (15%), network infrastructure upgrades and hardware purchases (11%). The approach the Toronto Board took to its IT budget was to maintain the current status quo in IT operations with regard to key systems and service delivery.

At the Waterloo Catholic District School Board (Waterloo Catholic Board), IT spending was consistent at 0.8% of the overall expenditures for the 2014/15 and 2015/16 school years. However, in the 2016/17 school year, this board's IT spending increased to 1.2% of overall expenditures as it invested in maintenance for major systems, replacing classroom technology and upgrading infrastructure.

At the Algoma District School Board (Algoma Board), IT spending was relatively constant at 0.9% of the overall expenditures for the 2015/16 and 2016/17 school years. The rate increased slightly to 1.0% for 2017/18 to replace classroom technology.

IT spending also remained comparatively constant, at 1.0%, at Peel District School Board (Peel Board) for the 2015/16 to 2017/18 school years. Most of the IT spending (70%) went for salaries and benefits, and the rest was allocated for IT equipment, software and support services. **Figure 1** shows IT spending over the past five years at the school boards we visited.

Figure 1: IT Spending at the Four District School Boards We Visited, 2013/14–2017/18

Prepared by the Office of the Auditor General of Ontario

	Toronto	Algoma	Peel	Waterloo Catholic
2013/14				
Total expenses (\$ million)	3,023.10	149.89	1,629.09	251.42
IT spending (\$ million)	32.36	1.12	9.71	1.47
IT spending as % of total expenses	1.07	0.75	0.60	0.59
2014/15				
Total expenses (\$ million)	3,075.03	152.92	1,674.05	254.90
IT spending (\$ million)	40.74	1.51	19.11	2.02
IT spending as % of total expenses	1.32	0.98	1.14	0.79
2015/16				
Total expenses (\$ million)	3,110.64	151.76	1,740.00	261.28
IT spending (\$ million)	32.85	1.35	17.55	2.10
IT spending as % of total expenses	1.06	0.89	1.01	0.80
2016/17				
Total expenses (\$ million)	3,159.41	154.92	1,773.01	266.13
IT spending (\$ million)	34.16	1.40	18.41	3.11
IT spending as % of total expenses	1.08	0.90	1.04	1.17
2017/18				
Total expenses (\$ million)	3,283.84	157.21	1,878.43	283.83
IT spending (\$ million)	29.63	1.58	19.01	2.82
IT spending as % of total expenses	0.90	1.01	1.01	0.99

2.3 IT Systems at School Boards and the Ministry of Education

2.3.1 The Ontario School Information System at the Ministry of Education

The Ontario School Information System (OnSIS) is a secure web-based application that collects data on school boards, schools, students and teachers, as well as courses and individual classes. The purpose of the system is to gather accurate and reliable data for analysis, policy development and evidence-based decision-making across policy areas and program areas, and ultimately improve student achievement. In **Figure 2** we have diagrammed OnSIS and the other IT systems described in **Sections 2.3.2** and **2.3.3**.

The Ministry of Education manages OnSIS and the Community Services I&IT Cluster (explained

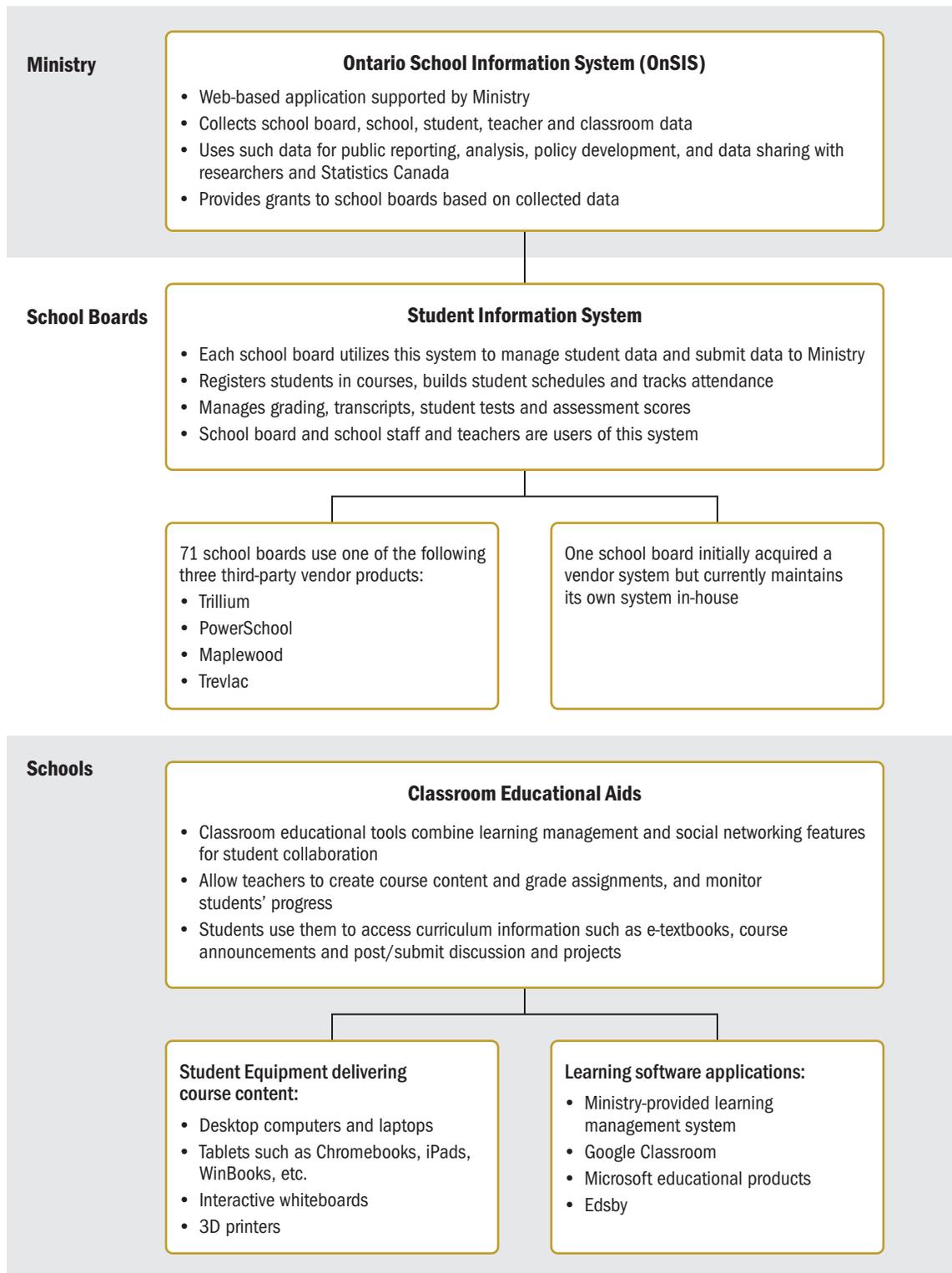
in **Section 2.0**) provides I&IT services to support the OnSIS application. Currently, over 10,000 users in schools and boards in Ontario, such as teachers, principals and administrators, use OnSIS to submit education data needed for their operations.

OnSIS collects hundreds of millions of records three times every year. This data is then validated, anonymized and transferred to the Ministry's IT system for access by Ministry staff. To track each student's progress through the school system, OnSIS requires each student in Ontario to have a unique identification number that stays with that individual student.

The Ontario Education Number serves this purpose, as a unique numeric identifier assigned to each student throughout his or her elementary and secondary education in the province. It is an essential tool for OnSIS in collecting, tracking and

Figure 2: IT Systems at the Ministry of Education (Ministry), School Boards and Schools

Prepared by the Office of the Auditor General of Ontario



processing reliable data on the movement and progress of individual students through the Ontario school system.

School boards can create and assign new Ontario Education Numbers to students and validate existing numbers. When a student transfers from a school in one board to a school in another board, board staff look up the student's existing Ontario Education Number in the application and use the information to transfer the student to the new board. This process is meant to prevent the creation of duplicate Ontario Education Numbers.

2.3.2 Student Information Systems at School Boards

School boards are responsible for the operation and maintenance of their IT systems, as well as protecting the security and privacy of information housed on these systems. A student information system is an information management system for schools to manage student data that they submit to their boards. The schools use student information systems to register students in courses; manage grading, transcripts, results of student tests and other assessment scores; build student schedules; track student attendance; and manage many other student-related data needs. The schools, boards and Ministry are the users of this data.

Each school board procures its own student information system. Three of the four boards we visited use software provided by third-party vendors. The fourth board initially acquired a student information system from a vendor but now maintains its own system in-house.

2.3.3 IT Systems in Schools

Various cloud-based software applications such as the Ministry-provided learning management system (known as the virtual learning environment, or VLE), Google Classroom, Microsoft educational products and Edsby are used to support education in classrooms. These tools combine learning man-

agement and social networking features. Teachers use these classroom technologies to create, distribute and grade assignments and monitor each student's progress. Students use them to access curriculum information, including e-textbooks.

The Ministry's licensed VLE system, which it provides free of cost to the school boards, features a variety of online tools that help with, for example, communication, assessment, student tracking, and course management.

2.4 Cybersecurity

Cyberattacks include both intentional and unintentional unauthorized access, use, manipulation, interruption or destruction of electronic information and/or the electronic and physical infrastructure used to process, communicate and/or store that information. The biggest potential consequences of cyberattacks are disruption of operations and compromise of sensitive data. In extreme circumstances, cyberattacks can lead to damage to physical property and harm to human life.

Schools, school boards and the Ministry host on their information systems a large amount of personal information about students, making the systems an attractive target for a data breach. Stolen personal data can be used for identity theft or for extortion of money by threat of the data's disclosure, or it can be sold to individuals who pose a threat to students' safety.

The primary application supporting operations at a school board is a student information system (**Section 2.3.2**). These applications host personally identifiable information on students, teachers and staff that is required to be protected under Ontario's *Municipal Freedom of Information and Protection of Privacy Act* and Canada's *Privacy Act*. The boards submit this information to the Ministry, which stores it in its own application systems. Theft and misuse of such information can lead to costly class-action lawsuits against the school boards because of the risks it poses to the safety of students and teachers, as well as the possibility of identity theft.

3.0 Audit Objective and Scope

Our audit objective was to assess whether the Ministry of Education (Ministry) and school boards have effective systems and processes in place to ensure that:

- critical information technology (IT) assets and infrastructure are economically and effectively procured, managed and protected;
- legally protected personal information is safeguarded against emerging cyber threats and privacy breaches;
- IT support and services are provided on a timely and efficient basis; and
- relevant student information is efficiently and accurately reported in compliance with legislative requirements on a timely basis.

In planning for our work, we identified the audit criteria (see **Appendix 2**) we would use to address our audit objective. These criteria were established based on a review of applicable legislation, policies and procedures, internal and external studies, and best practices. Senior management reviewed and agreed with the suitability of our objectives and associated criteria.

We conducted our audit between December 2017 and September 2018. We obtained written representation from Ministry management that, effective November 8, 2018, they had provided us with all the information they were aware of that could significantly affect the findings or the conclusion of this report.

Our audit work was conducted at four of the 72 school boards—Toronto District School Board (Toronto Board), Waterloo Catholic School Board (Waterloo Catholic Board), Algoma District School Board (Algoma Board) and Peel District School Board (Peel Board) where we interviewed senior and front-line staff, and reviewed key documents.

In addition, we met with staff at Earl Haig Secondary School in Toronto; St. John Catholic Elementary School in Kitchener (Waterloo Catholic Board); Superior Heights Collegiate & Vocational

School in Sault Ste. Marie (Algoma Board); and Mississauga Secondary School (Peel Board), to understand the use and impact of information technology in classrooms.

We reviewed the four school boards' IT systems and cybersecurity. We also reviewed key IT reporting and monitoring systems at these school boards and at the Ministry that interface with IT systems at school boards. As part of our audit, we also reviewed protection and life-cycle management of critical IT assets and supporting infrastructure, including whether a long-term strategy was being addressed for IT asset infrastructure. We also reviewed whether the Ministry had a broad IT strategy for curriculum delivery, use of IT by students and administration of IT. We did not look at school board curriculums or the possible links between classroom IT use and curriculum delivery or student learning experiences.

In addition, we conducted a survey of all 72 school boards. Sixty-nine boards responded to the survey—a 96% response rate. (References in this report to the survey results represent total respondents to the survey, or 69 school boards.) We designed the survey to capture comprehensive perspectives pertaining to IT systems and operations at school boards in specific areas such as classroom technology, asset procurement, IT budgets, student information reporting and cybersecurity. **Appendix 3** shows the results we gathered from this survey on a number of our key audit criteria.

We conducted our work and reported on the results of our examination in accordance with the applicable Canadian Standards on Assurance Engagements—Direct Engagements issued by the Auditing and Assurance Standards Board of the Chartered Professional Accountants of Canada. This included obtaining a reasonable level of assurance.

The Office of the Auditor General of Ontario applies the Canadian Standards of Quality Control and, as a result, maintains a comprehensive quality control system that includes documented policies and procedures with respect to compliance with rules of professional conduct,

professional standards and applicable legal and regulatory requirements.

We have complied with the independence and other ethical requirements of the Code of Professional Conduct of the Canadian Professional Accountants of Ontario, which are founded on fundamental principles of integrity, objectivity, professional competence and due care, confidentiality and professional behaviour.

4.0 Detailed Audit Observations

4.1 Ontario Does Not Have an IT Strategic Plan for Its Schools

School boards and schools provide several different kinds of classroom technologies to teachers and students to encourage active learning and increase student engagement. Internet-connected laptops and tablets, digital projectors, smartboards and other equipment provide instant access to resources such as educational applications and e-textbooks, and to the latest information from across the globe.

Even though the four school boards we visited have consistently spent about 0.9–1.1% of their total operational expenses on IT (see **Section 2.2.1**), we found that the boards have not developed strategic plans specifying minimum expectations for the use of IT in the classroom. Peel District School Board (Peel Board), for example, had neither evaluated its students' needs for classroom IT nor implemented an approved policy in areas such as student-to-computer ratios, types of classroom technology to use, optimal age of the technology and its refresh cycle (replacement plan).

We found that the Ministry of Education (Ministry) has also not developed a strategic plan for IT use in classrooms across the province or provided direction to the school boards in using IT resources for curriculum delivery. The Ministry and the school boards are also lacking current data to guide their spending decisions on IT in the classroom. The

school boards we visited informed us that they have not systematically assessed to what extent their students are using IT in the classroom.

In the survey we conducted of Ontario's 72 school boards, we asked about their students' access to classroom IT. Of the 69 boards that replied, 29 boards (42% of respondents) answered that they had not assessed or were still assessing classroom technology to fully identify technology needs across their schools, and support their students' learning.

The survey also indicated that 25 school boards (36% of respondents) did not have an approved classroom technology strategy or policy for their schools. Forty-four boards indicated that they had approved strategies or policies. In the absence of formal policies and strategy documents, school boards and schools did not have a benchmark minimum number of pieces of equipment required for learning and teaching in schools, and were unable to assess the effectiveness of the use of technology in their classrooms.

RECOMMENDATION 1

In order to better understand how information technology (IT) resources may be used for curriculum delivery and to guide their allocation of resources, we recommend that the Ministry of Education together with the school boards develop a strategic plan specifying minimum expectations for the use of IT in the classroom.

RESPONSE FROM MINISTRY AND SCHOOL BOARDS

The Ministry of Education (Ministry) acknowledges the importance of supporting the school boards with broader IT strategy to help meet minimum expectations in the school board. The Ministry will continue to work with school boards to develop a strategic plan and determine the role of technology to learning and teaching. The Ministry has partnered with school boards on a broadband modernization

strategy to achieve adequate connectivity to the Internet and improved cybersecurity. School boards will work with the Ministry.

4.1.1 Ontario Students Do Not Have Equal Access to Technology Such as Tablets and Laptops

We found in our visits to the four school boards that the amount of IT equipment in classrooms varied both among school boards and among schools in the same board. The Toronto District School Board (Toronto Board), for example, did not have a policy on the ratio of students to computers. At some schools in this board, eight students shared one computer, whereas in other schools each student was assigned an individual computer.

Different student-to-computer ratios also coexisted among the nearly 260 schools in the Peel Board as well. We did not note any system to encourage and enable private-sector donations to schools of lightly used IT equipment as a way for boards to save on costs and to make student access to IT resources more equitable across the province.

4.1.2 Age of Classroom Equipment Varies across Ontario Schools

In the course of our audit, we also found that the average age and the age range of classroom equipment varied widely across schools. At the Toronto Board, the age of the IT equipment among schools ranged from less than one year to 15 years old. Students at the Algoma District School Board (Algoma Board) and Waterloo Catholic School Board (Waterloo Catholic Board) were provided with classroom devices that ranged in age from one to five years. The Peel Board was not able to identify the overall age range of the classroom equipment in its schools.

Our survey indicated that 44 of the school boards that responded (64% of respondents) provided students with equipment whose age varied from one to 15 years, while the remaining 25 school boards (36% of respondents) reported that the

overall age of their classroom equipment ranged from one to five years old.

We took note of industry best practices, which specify an age range of between one and five years for technology; however, industry best practices may differ from the requirements of the educational sector. Nevertheless, old classroom technology runs more slowly and takes longer to execute tasks than current technology, and it may not be compatible with newer software and applications required for teaching and learning in the classroom. The technological environment in the classroom is intended to facilitate increased student engagement and productivity. When classroom equipment in some schools does not perform as expected because of its age, students might not have the same learning experience across the schools.

4.1.3 Aging Classroom Equipment Not Supported by Vendors

Our audit found that about 56% of classroom equipment used in schools at the Toronto Board was no longer under vendor support due to its age. At the Algoma and Peel Boards, our audit noted that 25% of classroom equipment in their schools was no longer covered by vendor support.

Unsupported and outdated equipment is more likely to fail than newer equipment that is still supported by its vendors with maintenance, updates and repairs. Equipment failure may result in downtime, a costly and time-consuming data recovery process, or complete data loss. In addition, unsupported equipment is more vulnerable than newer equipment to cyber breaches that can disrupt operations and compromise sensitive data (see **Section 2.4**). As a result, unsupported computers require more effort by technology staff to maintain and troubleshoot them.

According to our survey, 42 school boards of the 69 that responded (61%) reported that more than half of their classroom equipment was not supported by its vendors, whereas only seven school boards (10%) indicated that 80% or more of the equipment in their schools was supported.

An appropriate technology refresh cycle, or replacement plan, ensures that classroom devices are updated on a timely basis for best performance as well as to maintain effective vendor support. We found in our survey that 13 school boards (19% of respondents), including both the Toronto and Peel Boards, did not have classroom technology replacement plans for their schools, whereas 36 school boards (52%), including the Waterloo Catholic Board and Algoma Board, replaced their classroom tablets and laptops/desktops every three to five years.

RECOMMENDATION 2

In order to achieve more equitable access to classroom information technology (IT) resources for Ontario students across schools and school boards, we recommend that the school boards:

- perform an assessment to evaluate students' needs with regard to classroom technology; and
- develop and implement a classroom IT policy outlining a computer-to-student allocation ratio, the types of technologies to use in the classroom, the optimal age of the technology systems and devices, and the refresh cycle of classroom technology.

SCHOOL BOARDS RESPONSE

An assessment was performed at two of the four school boards visited. The remaining school boards will perform an assessment to support and evaluate student classroom technology needs.

Two of the four school boards currently have the expected policy, with the other two expected to review and implement an IT policy that will incorporate the computer-to-student allocation ratio, the types of technologies to use in the classroom, the optimal age of the technology systems and devices, and the refresh cycle of classroom technology.

RECOMMENDATION 3

In order to reduce the differences in student-to-computer ratios among schools and potentially bring down the cost of acquiring information technology (IT) equipment, we recommend that the school boards assess the benefits of private-sector donations to schools of lightly used IT equipment.

SCHOOL BOARDS RESPONSE

School boards will collaborate and conduct a formal assessment for the benefits of private-sector donations to schools.

4.2 Personal Information of Students at Risk of Disclosure

4.2.1 Inactive Users with Access to Ministry's IT System Not Being Deleted

The Ontario Education Number is a unique identification number assigned to students throughout their elementary and secondary education in the province (see **Section 2.3.1**). The system that administers the Ontario Education Number collects and stores students' personal information, including name, date of birth and gender, address, and their educational records. Staff who need to work with Ontario Education Numbers are given user accounts with access to the Ontario Education Number application. However, we found Ontario Education Number accounts that exist for users who do not need such access. For example, we found 14 user accounts still assigned to former Toronto Board staff who were no longer employed by the Board, two similar cases at the Peel Board and two at the Algoma Board.

Of the total 5,229 user accounts with access to the Ontario Education Number IT system, we found 971 accounts (19%) have never been used. This indicates that many authorized users have no current need to access the system. We also found that accounts of inactive users of the Ministry's IT system are not always being cancelled after they

leave their positions at the boards. These accounts are accessible on the Internet, which means that there is a risk that confidential student information may be exposed to the public.

The Ministry does not have access to the current employment status of school board staff and therefore is not able to revoke access to the application in a timely manner when staff leave their positions at the boards. Instead, the Ministry relies on the school boards to inform it when their staff no longer require access to the application. It is evident by the large number of inactive accounts we found that some school boards have not been notifying the Ministry of personnel changes consistently and on a timely basis.

The information stored in the Ontario Education Number application is not limited to students currently enrolled in schools. It stores the records of all students who have graduated from Ontario schools since 2003, when the Ontario Education Number system became operational. As a result, there is an increased risk and potential exposure of the personal information of all these people to unauthorized users of the system.

RECOMMENDATION 4

In order to ensure that only authorized users have access to the Ontario Education Number application, we recommend that:

- Ontario's school boards periodically review their lists of users with access to the Ontario Education Number application and notify the Ministry of Education (Ministry) of any changes, so that it can revoke the access of unauthorized users; and
- the Ministry track and review unusual activity in the Ontario Education Number application.

RESPONSE FROM MINISTRY AND SCHOOL BOARDS

The Ministry will continue to review the existing revocation protocol to monitor and limit

unnecessary access to the Ontario Education Number application.

School boards will review their lists of users with access to the Ontario Education Number application at least on an annual basis and notify the Ministry of any changes, so that it can revoke the access of unauthorized users.

4.2.2 Teachers and Staff Lack Formal Training in Protecting Students' Personal Information

All four school boards that we visited indicated that they do not generally provide formal training to teachers who have access to technology and third-party websites on IT security or privacy training. Similarly, our survey found that most boards across the province (74% of respondents) do not provide formal training.

School boards and schools collect personal information on their students, teachers and staff, including the information included in the Ontario Education Number application (for students) and social insurance numbers and employment information (for teachers and staff). Ontario's *Municipal Freedom of Information and Protection of Privacy Act* requires that the boards and schools protect this information. Disclosure of personal information can lead to risks to the safety and security of students and teachers as well as identity theft.

Without guidance from the Ministry or training by the boards on the appropriate use of approved online teaching resources, such as e-textbooks, many teachers make individual decisions to use online tools, applications and third-party websites that are not approved by the boards. Registration on these sites can record personal data. Their use without proper training therefore increases the risk of privacy breaches.

Due to the challenges with the Ministry's virtual learning environment (see **Section 4.6.1**), school boards are instead using other learning tools in their classrooms. Third-party websites, such as Edmodo, offer a platform to create homework

assignments, schedule quizzes and manage progress. In May 2017, Edmodo was hacked, leading to the exposure of 77 million user accounts around the world. Although the jurisdiction that was hacked was not revealed due to privacy reasons, we noted that schools in the Toronto Board continue to use Edmodo.

RECOMMENDATION 5

To safeguard students' personal information, we recommend that the school boards in collaboration with their schools:

- deliver ongoing privacy training to staff who have access to personal data; and
- perform risk assessments and take necessary actions associated with using non-approved websites or software.

SCHOOL BOARDS RESPONSE

School boards will conduct a formal assessment of training needs for privacy training to staff and will perform risk assessments as needed to ensure that student data are protected and that all staff are aware of safeguarding students' personal information.

4.3 School Boards On Alert For Cybersecurity Risks

4.3.1 School Boards Are Vulnerable to Cyberattacks

Cybersecurity is the protection of computer systems and data from theft of, or damage to, their hardware, software or electronic data, as well as from disruption of the services they provide. It also includes protection against the misdirection of data to the wrong servers or recipients. The threats can be both internal to the schools, posed by students seeking to alter their own marks or access and/or tamper with other students' data, or external, by professional criminals dealing in identity theft, for example.

Educating employees through ongoing security awareness training is one of the ways to protect against cyberattacks. However, we found that 74% of the boards that replied to our survey indicated that they do not provide formal information security awareness training to teachers and staff with access to technology.

As the methods and techniques used by attackers to manipulate school board staff into divulging sensitive information become increasingly sophisticated, the importance of providing updated cybersecurity awareness training continues to grow.

We also noted inconsistencies among school boards regarding their cybersecurity policies. Of the 69 school boards that responded, 41 boards (59%) indicated that they do not have a formal cybersecurity policy to safeguard sensitive data and assets at the board and its schools. We also noted that 19 school boards have not updated their cybersecurity and/or information security policy in more than one year.

4.3.2 School Boards We Visited Lacked Data Classification Policy

None of the four school boards we visited has formally documented its policy on data classification. A data classification policy defines how to categorize the information the organization has into groups—such as account data, personal data or commercially valuable data—according to the sensitivity of the data. The classifications are then used to apply protection measures to the data based on its sensitivity. When an organization lacks a formal and well-documented data classification policy that its staff know and understand, staff may not handle sensitive information with proper care.

We found that although school board staff are aware of what data is considered sensitive and they practise basic data protection principles, they may not be applying these practices consistently. Of the 69 boards that responded to our survey, 44 (64%) indicated that they do not have a data classification policy.

RECOMMENDATION 6

In order to mitigate the risks of cyberattacks, we recommend that school boards:

- develop a policy that outlines roles and responsibilities in cybersecurity at both the board and school levels; and
- provide formal information security including cybersecurity awareness training to teachers and staff who have access to information technology.

SCHOOL BOARDS RESPONSE

An awareness program is a key component of the cybersecurity and risk management framework to reduce the school boards' risks. School boards will develop or enhance a cybersecurity policy that outlines roles and responsibilities.

School boards will provide formal information security and cybersecurity awareness training to teachers and staff who have access to information technology.

4.3.3 Effectiveness of Cyberbullying Programs Unknown; Not Being Tracked

Cyberbullying is a form of bullying or harassment that involves the use of communication technologies such as the Internet, social networking sites, websites, email, text messaging and instant messaging to repeatedly intimidate or harass others. As required by the Ministry, school boards have established policies and guidelines on bullying prevention and intervention in accordance with amendments to the *Education Act* in 2012. The four boards we visited have all published cyberbullying policies and procedures to prevent and intervene in cases of bullying. However, school boards and the Ministry do not track metrics to measure the effectiveness and performance of anti-cyberbullying programs. Without appropriate logging and tracking, school boards are not able to address the root causes of such incidents and reduce the occurrence of cyberbullying at schools.

Of the 69 school boards that responded to our survey, 31 boards indicated that they do not have a cyberbullying incident reporting system, while the other 38 boards responded that they have an online tool on their website or a reporting tool to log incidents. Among these 38 boards, incidents of cyberbullying have risen 2% in the past five years.

School boards and the Ministry also have not evaluated whether their prevention strategies are effective. School boards conduct cyberbullying awareness campaigns, such as the annual prevention week, and many publish materials and surveys for staff, students and parents. Nevertheless, school-provided equipment, such as laptops, tablets and Internet connections, was reported as being misused for cyberbullying at 32 boards that responded to our survey. Twenty-five other boards did not have sufficient data to answer this question.

In 2012, the Ontario Government enacted the *Accepting Schools Act, 2012* (Act) to help address bullying and cyberbullying in schools. This Act created several amendments to the *Education Act*, including the incorporation of cyberbullying into the definition of bullying, as well as the requirement for school boards to:

- establish and provide annual professional development for teachers and other staff about bullying prevention and strategies for promoting positive school climates;
- provide programs, interventions or other supports for pupils who have been bullied;
- have a bullying awareness week; and
- have a principal investigate any matter related to bullying.

According to a 2014 Statistics Canada study, about one in five Canadians aged 15 to 20 years has experienced cyberbullying. The study also found a significant association between cyberbullying and mental health: 41% of young Internet users who experienced both cyberbullying and cyberstalking reported an emotional, psychological or mental health condition, whereas a far smaller percentage, 14%, of those who had not been cyberbullied or cyberstalked reported such a condition.

RECOMMENDATION 7

To improve the effectiveness of existing cyberbullying programs in Ontario schools, we recommend that the Ministry of Education track and measure the incidence of cyberbullying in Ontario schools.

MINISTRY RESPONSE

The Ministry of Education will enhance its existing strategies and processes surrounding cyberbullying and will monitor, track and report incidents in Ontario schools.

RECOMMENDATION 8

To improve the effectiveness of existing cyberbullying programs in Ontario schools, we recommend that school boards:

- monitor school-provided equipment to mitigate cyberbullying incidents; and
- formally track, report and review cyberbullying incidents at schools.

SCHOOL BOARDS RESPONSE

School boards will monitor school-provided equipment to mitigate cyberbullying incidents. School boards will develop procedures to formally track, report, and review cyberbullying incidents.

4.4 Not All School Boards Tracking Inventory of IT Assets

IT asset management is a process to gather and maintain a detailed set of information about assets. This process is similar to an enhanced form of inventory control that is used to manage an asset throughout its life cycle. We found inconsistencies between school boards in Ontario generally with respect to the tracking process for IT assets. At the four school boards that we visited, the Algoma Board and Waterloo Catholic Board had inventory tracking processes and up-to-date computer inven-

tory listings. However, both the Peel and Toronto Boards did not track their IT assets and maintain a current and complete inventory listing.

We tested samples of \$10.5 million (10%) of total IT purchases (\$101.4 million) for the period September 2012 to May 2018 and found that the audit sample error rate was 3.99% (or \$417,000 in dollar value). We applied the error rate to the entire population and estimated that over \$4 million worth of IT assets would not be located. In addition, 48% of procured equipment at the Toronto Board—that is, 88 out of 183 samples—lacked basic asset tracking attributes such as location and purchase date.

Our survey indicated that 38 of the 69 responding school boards (55%) did not have an approved policy for effective and efficient IT asset life-cycle management that:

- defined their IT assets in scope (that is, inventoried the relevant IT assets that they would like to keep track of);
- defined the responsibilities for managing and safeguarding the assets; and
- set up an appropriate disposal process (including data wiping of sensitive information).

Beginning with acquisition of an asset, the IT asset management process covers the asset's working state, any damage or misuse, theft, maintenance and, finally, disposal of the asset. A well-functioning IT asset management provides information essential in securing IT infrastructure, eliminating waste, making the best use of current resources and improving efficiency. For instance, it tracks the make and model of dedicated firewall/infrastructure devices in case device specific vulnerabilities are identified.

RECOMMENDATION 9

In order to maintain the security of information technology (IT) assets, and to reduce financial losses due to lost or stolen IT assets at school boards and schools, we recommend that the school boards:

- develop and implement an IT asset management system defining clear roles and responsibilities of the school boards and schools for efficient IT asset life-cycle management; and
- design and implement formal IT asset tracking and reporting procedures.

SCHOOL BOARDS RESPONSE

Two of the four school boards visited currently have an IT asset management system and subsequent to the audit by the Auditor General, one school board initiated a formal IT services management project in 2018, which incorporates asset management. It is expected that through this project an effective and efficient IT asset management system will be implemented, which will include asset tracking and reporting procedures.

The remaining school board will design and implement a board-wide asset management system, including roles and responsibilities for efficient asset life cycle management, and implement IT asset tracking and reporting procedures.

4.5 School Boards Have Not Formally Identified Key IT Risks

Key IT risks that organizations should be aware of include:

- particular events or circumstances that could have harmful effects on the organization's operations;
- ineffective strategies for responding to threats (such as plans to address cybersecurity issues and data breaches, and disaster recovery plans); and
- inadequate monitoring IT processes to assess whether risk stays within an acceptable level.

We found that many school boards do not have processes in place to identify events or circumstances that may negatively affect their operations and potentially damage their IT systems. For example, among the four boards we visited:

- The Toronto Board does not have a physical location to serve as a disaster recovery site for its IT systems.
- The Toronto and Algoma Boards do not have a formal IT disaster recovery plan in place.
- The Waterloo Catholic Board has a disaster recovery plan that it has not yet fully tested.
- The Peel Board does not have a disaster recovery or business continuity plan in place.

Fifty school boards of the 69 that responded to our survey (72% of respondents) indicated that they have no approved disaster recovery plans. At these boards, responses show that no approved plans, policies, tools and procedures are present that enable the recovery or continuation of vital technology infrastructure and systems following a natural or human-induced disaster.

Thirty-eight of the school boards (55%) indicated that they do not have an approved backup policy that defines roles and responsibilities, backup schedules, retention policies, and disposal and security policies and practices.

We also found that the school boards are not clear on what mitigation measures they should use in what scenarios. Mitigation measures are put in place to foresee the kinds of damage that could potentially occur if disaster strikes and to plan for limitation of the damage and recovery. In IT, this could involve plans and exercises for recovering data when servers are physically destroyed, for example.

In our survey, we found that 67 of the 69 school boards that responded (97%) indicated that they had either no formal risk management function or only a partial formal risk management function in place to manage risks to key IT infrastructure. Similarly, 65 school boards (94%) indicated that they are not aware of their key IT risks or are still in the process of identifying key risks and challenges. Only four school boards identified their key IT risks and challenges.

By identifying and proactively addressing risks and opportunities, organizations mitigate risk and protect their stakeholders; in this case, these include school board employees, school staff, students, and the province and its population.

Sixty-four school boards of the 69 that responded to our survey (93%) indicated that they do not have an approved business continuity plan in place. In addition, 44 school boards (64%) indicated they do not have approved service-level agreements for delivery of support and service to their schools in the event of a disaster. Without recognition of threats and key IT risks, and without having proactive measures in place in the event of a disaster, school boards are unable to ensure that personnel and assets would be protected and able to function.

RECOMMENDATION 10

To manage risks to key information technology (IT) processes and infrastructure at the school boards and in the schools, we recommend that the boards develop and test effective disaster recovery plans that:

- define processes for identifying, assessing and managing risks and uncertainties resulting from internal and external events that could impede the boards' ability to achieve their strategic objectives;
- train staff in their roles and responsibilities in disaster recovery; and
- put in place effective mitigation measures.

SCHOOL BOARDS RESPONSE

One of the four school boards visited currently has a disaster recovery plan in place. The remaining three school boards will assess and develop a disaster recovery plan, train staff in their roles and responsibilities and ensure that there are mitigation measures put in place in case of a disaster.

RECOMMENDATION 11

To manage risks to key information technology (IT) processes and infrastructure at the school boards and in the schools, and to help ensure that in case of disaster, essential information technology (IT) assets continue to function

so that the boards are able to achieve their strategic objectives, we recommend that the school boards:

- develop and put in place effective business continuity plans; and
- establish backup policies, including backup schedules, retention policies, and disposal and security policies and practices.

SCHOOL BOARDS RESPONSE

One of the four school boards visited currently has a business continuity plan in place. The remaining three school boards will assess and develop a business continuity plan to put in place.

School boards will review backup policies, including backup schedules, retention policies, and disposal and security policies and practices to help ensure that in case of disaster, essential information technology assets continue to function.

4.6 Ministry and School Boards Not Always Obtaining Value for Money on IT Purchases

Based on our samples of IT procurement records at the four school boards we visited, we noted that overall IT procurement by the school boards was in accordance with the Government Procurement Directive. However, we found that the four school boards were not always obtaining value for money with their purchases of hardware and software because they were not necessarily being used as intended or to their full potential.

4.6.1 Ministry Has Invested in IT Software That May Not Meet Classroom Teaching Needs

The Ministry has spent more than \$18.6 million on virtual learning environment (VLE) software (explained in **Section 2.3.3**) in the past five years, which it provides for free to the school boards. VLE

Figure 3: Actual Student User Logins vs Forecast Student User Logins in Virtual Learning Environment (VLE) System, 2012/13–2016/17

Source of data: Ministry of Education

School Year	Actual VLE	Forecast VLE	Actual vs Forecast
	Student User Logins	Student User Logins	VLE Student User Logins (%)
2012/13	154,324	170,628	90
2013/14	278,488	313,342	89
2014/15	421,783	474,488	89
2015/16	477,233	527,587	90
2016/17	540,036	609,425	89

provides a variety of online tools that help with, for example, communication, assessment, student tracking, and course management.

Based on feedback we collected from the school boards we visited, as well as our survey results, we noted that respondents indicated that the classroom management software is difficult to use, is missing useful functions, and it does not completely meet classroom teacher needs. For example, according to board staff feedback, VLE:

- lacks the ability to perform administrative tasks such as preparing report cards and recording and analyzing attendance;
- has limited data-analysis capabilities; and
- is not user friendly.

Figure 3 shows that the Ministry’s forecast for student VLE user logins versus the actual student VLE user logins in all schools in Ontario’s school boards has been about 90% for the last five years.

However, in our survey, we asked about the frequency of VLE use in the classroom, and 18 of the school boards that responded (26% of respondents) reported that their schools rarely used VLE in their classrooms.

Staff at the school boards we visited, and at the boards we surveyed, also noted that they have received limited training from the Ministry on VLE.

4.6.2 School Boards Are Purchasing Their Own Classroom Software Instead of Using Free Ministry-Provided VLE

We found that due to the challenges with virtual learning environment (VLE) software (discussed in **Section 4.6.1**), school boards are purchasing other learning tools in their classrooms.

For example, the Algoma Board spent an additional \$57,500 over two years to purchase Edsby to use as its classroom management software instead of VLE, which it gets for free from the Ministry. Edsby provides additional features for analysis of student attendance and report cards.

Similarly, our survey indicated that in 2017/18 the York Region District School Board spent \$375,000, and the Greater Essex County District School Board spent \$180,000 in operational costs to maintain their versions of Edsby.

Based on our survey, we noted that up to 60 school boards of the 69 that responded said they are using learning management software in addition to VLE; their combined operational costs each year amounted to over \$1.5 million. The audit interviews and survey we conducted also revealed dissatisfaction with VLE.

On account of this dissatisfaction with VLE and the resulting purchases of other classroom management software, there is no standard tool or set of practices across all school boards in Ontario. School boards are using a range of products that include Google Classroom, Microsoft Office 365, Edsby, Edmodo, SeeSaw, Shobie and Moodle.

4.6.3 Toronto District School Board Did Not Track Training of Teachers to Use Classroom Technology Equipment

We found that IT software and equipment are underused at the schools in the Toronto Board. We noted that teachers in this board are not always being given sufficient training in the requirements of the classroom IT environment and that the board does not provide formal technology training to its teachers.

Smartboards purchased by the Toronto Board are one example. A smartboard is an interactive touch screen connected to a computer that allows users to project an image. Users interact with the boards similarly to tablets, by writing on the images or moving them around with their fingers. Special pens come with a smartboard for writing in different colours. Smartboards let students interact, collaborate and share their work. Anything written on the board can be saved or printed out.

On our visits to the Toronto Board we found that the Board purchased 2,710 smartboards between 2013 and 2018 at a cost of about \$9.7 million. We noted that it purchased these smartboards without a formal business case or plan for their use. The cost of a smartboard and its software can range from \$1,200 to \$4,200. Some teachers who had not been trained to use their smartboards were using them as projection screens; this could be accomplished, however, with a regular \$200 vinyl screen.

RECOMMENDATION 12

In order to ensure a good return on investment in all classroom equipment and student learning software, we recommend:

- school boards ensure that teachers and staff receive necessary training in the use of the technology already purchased and on all future purchases of technology on a timely basis; and
- the Ministry of Education and school boards perform a cost-benefit analysis of the need for and use of equipment and software

that can take the form of a business case before purchase.

RESPONSE FROM MINISTRY AND SCHOOL BOARDS

When technology is purchased for use, the Ministry and school boards will provide the necessary training to prepare teachers and staff to utilize the equipment efficiently.

The Ministry will continue to prepare business cases prior to procurements and school boards will perform a formal cost/benefit analysis prior to all classroom equipment and student learning software purchases.

4.7 Ministry and School Boards May Not Be Obtaining Full Value for Money for Student Information Systems

4.7.1 School Boards and Ministry Have Not Explored Cost Saving Opportunities of Centralized Student Information System

We found that there is no single common centralized student information system at the provincial level. Such a centralized system could potentially bring cost savings to the boards through economies of scale if all school boards used one system managed by the Ministry. However, we noted that the Ministry and boards have not formally assessed whether there are potential overlaps, cost saving opportunities and inefficiencies in the submission of student information.

The student information system (discussed in **Section 2.3.2**) is used to register students in courses; document grading, transcripts, results of student tests and other assessment scores; build student schedules; track student attendance; and manage many other student-related data needs in a school. With the exception of a small number of small school boards and the francophone boards, almost all school boards are individually investing in resources such as system applications, licences, consultants, maintenance and equipment.

The yearly operational and maintenance costs for their student information systems at the four school boards we visited were \$710,000 (Toronto Board); \$89,910 (Algoma Board); \$98,000 (Waterloo Catholic Board); and up to \$1.5 million (Peel Board).

In our survey, 69 school boards reported spending a total of over \$13.1 million per year in operational costs to maintain their student information systems for data reporting. At the same time, the Ministry spent \$1.7 million in operational costs in the 2017/18 school year to maintain its Ontario School Information System (OnSIS) (described in **Section 2.3.1**). All 72 school boards use OnSIS to submit data to the Ministry that they have collected on their student information systems.

We also found that school boards follow different methods to report student data to the Ministry. For example, the Toronto Board has a central repository that its schools send their data to and then the Board submits the data to the Ministry's OnSIS. Smaller school boards allow each school to manage the submission process. In such cases, the school may enter the data directly into OnSIS.

In contrast, British Columbia implemented a centrally managed electronic student information system in 2005. The B.C. system has the benefits of using a single student record, even for students who transfer to another school or board and a centralized system to save on operational costs and bring efficiencies to the data reporting process. The Province and the school districts share the system's operating costs. Each board pays approximately \$10 per student per year, for a total of \$5.8 million, and the education ministry pays \$6 million (based on the monthly enrolments). A governance structure approves and prioritizes changes to the application.

RECOMMENDATION 13

To eliminate duplication, save on costs and realize potential efficiencies in collecting and submitting student data, we recommend that the Ministry of Education, in collaboration with the school boards, investigate implementing a

shared centrally managed student information system and determine whether such a system will achieve these aims.

RESPONSE FROM MINISTRY AND SCHOOL BOARDS

The Ministry welcomes this recommendation and has been working with school boards to explore options for a standardized approach to the student management system.

The Ministry will continue to engage representatives from school boards to collaborate to look for more efficiencies in technology and processes for collecting and submitting student data, including conducting and reporting on the results of adopting and shared systems.

4.7.2 Staff Report That Data Reporting Process Is Difficult and Inefficient

The effort required to submit data for one reporting period to the Ministry's Ontario School Information System (OnSIS) (described in **Section 2.3.1**) can be onerous for school boards. We noted that lack of data validation and lack of clarity in business rules (that is, controls to ensure accuracy of data) contribute to the inefficiencies in the reporting process.

Submissions fall under three reporting periods ending October 31, March 31 and June 30 every year. A study on the student information work flow process conducted in 2017 by a committee of the Ontario Association of School Business Officials estimated that school boards spent an average of 116 days in finalizing the October 31 data submission.

Student information systems at school boards and schools (discussed in **Section 4.7.1**) are supported by three main vendors: Trillium, PowerSchool and Maplewood. These vendors are responsible for incorporating new or revised business rules provided by the Ministry into the student information systems. The school boards are responsible for ensuring that the business rules are updated in a timely manner. However, we found

that school boards and schools are often not aware of these changes to business rules until after they have submitted their data to the Ministry.

In the Ministry's OnSIS, business rules that ensure accuracy of data are enforced at two designated points in time:

- Upon entry of data, rules relating to the immediate area of the data entry are enforced, preventing further entry until errors are corrected (for example, date format, required fields).
- At sign-off, rules relating to the entire submission are enforced, possibly preventing completion of the data submission.

School board staff who are involved in submitting data to the Ministry indicated to us that error messages provided by the Ministry's OnSIS system are not clear and often do not provide enough information to identify and resolve the problems. As a result, board staff contact the Ministry multiple times to fix the errors before making their final data submission.

This results in inefficiencies, as much time and effort are needed to understand what is expected by the Ministry's system and to investigate the errors. Time and effort are also needed to understand what kind of data the individual board student information systems expect. The submission process therefore requires repeated communication between school staff, board staff, the system vendor and Ministry staff to clarify system expectations and understand how to resolve problems.

We interviewed staff at the four school boards we visited regarding the main challenges they face in the data reporting process. These boards and the rest of the 69 school boards that responded to our survey made the following comments on OnSIS data reporting:

- During peak times, OnSIS response is often delayed due to technical difficulties.
- Communication from the OnSIS help desk regarding technical difficulties is often delayed or non-existent.

- New data requirements do not have enough lead time.
- Error information is limited, so that resolving problems takes a long time.
- The OnSIS system has a slow response time.
- The process has a complex interface; it is overly complicated and manually intensive.
- There is a lack of formal training materials.

Fifty-five of the 69 school boards that responded to our survey (80%) mentioned that the training provided by the Ministry on OnSIS data submission and reporting is not sufficient.

RECOMMENDATION 14

To improve the data reporting process for student information, we recommend that the Ministry of Education, in collaboration with the school boards:

- improve the student information workflow with a focus on streamlining processes and providing clear information regarding errors and how to resolve them;
- establish key performance indicators and monitor the time required for boards to sign off on OnSIS submissions and the quality of signed-off data; and
- improve the training provided on OnSIS submission and reporting.

MINISTRY RESPONSE

The Ministry will continue to engage with representatives from school boards to look for efficiencies for data workflow and provide clear information regarding system error and how to troubleshoot them.

The Ministry will establish key performance indicators and monitor the time required for boards to sign off on OnSIS submissions and the quality of signed-off data.

The Ministry is making ongoing enhancement to its quality assurance process and will update existing training and user guides.

Appendix 1: IT Spending vs Total Spending in Ontario School Boards, 2013/14–2017/18 and IT Spending per Student for 2017/18

Prepared by the Office of the Auditor General of Ontario

School Board	IT Spending vs Total Spending in Ontario School Boards						IT Spending Per Student (2017/18)			
	Year (%)						5-Year Avg. (\$ million)	IT Spending (\$ million)	# of Students	IT Spending/Student (\$)
	2013/14	2014/15	2015/16	2016/17	2017/18	5-Year Avg. (%)				
Northeastern Catholic District School Board	2.49	3.05	2.79	2.66	2.50	2.70	1.08	1.05	2,268	464
Conseil scolaire district catholique des Aurores boréales	2.13	2.63	1.77	2.38	2.85	2.35	0.51	0.66	810	810
Trillium Lakelands District School Board	1.51	1.64	1.71	1.91	1.70	1.69	3.57	3.72	16,845	221
Keewatin-Patricia District School Board	1.47	1.70	1.77	1.53	1.59	1.61	1.42	1.48	4,865	304
Conseil scolaire catholique MonAvenir	1.43	1.73	1.44	1.72	0.99	1.46	3.54	2.66	16,746	159
Superior-Greenstone District School Board	0.96	1.65	1.67	1.87	1.04	1.44	0.57	0.43	1,477	291
Conseil scolaire district du Nord-Est de l'Ontario	1.37	1.52	1.05	1.50	1.59	1.41	0.68	0.85	2,154	394
St. Clair Catholic District School Board	0.98	1.85	1.53	1.29	1.30	1.39	1.51	1.48	8,765	169
Renfrew County District School Board	0.88	1.34	1.22	1.34	2.05	1.36	1.74	2.75	9,197	299
Conseil scolaire catholique Providence	0.80	1.22	1.31	1.14	2.03	1.30	1.85	3.18	9,988	318
London District Catholic School	0.75	1.41	1.40	1.46	1.47	1.30	3.09	3.71	19,942	186
Sudbury Catholic District School Board	0.69	1.38	1.26	1.46	1.55	1.27	1.10	1.43	5,976	240
Wellington Catholic District School Board	1.03	1.21	1.28	1.24	1.44	1.24	1.22	1.49	7,933	188
Conseil scolaire Viamonde	0.96	1.47	1.25	1.07	1.44	1.24	2.32	3.05	11,976	255
Brant Haldimand Norfolk Catholic District School Board	0.67	1.24	1.22	1.47	1.57	1.24	1.51	2.04	10,064	203
Renfrew County Catholic District School Board	1.22	1.23	1.03	1.19	1.21	1.18	0.78	0.86	4,787	179
York Region District School Board	1.03	1.54	1.19	1.08	0.97	1.16	16.27	14.54	124,707	117
Conseil scolaire district catholique du Nouvel-Ontario	0.88	0.78	1.11	1.26	1.46	1.10	1.33	1.82	6,652	274
Toronto District School Board	1.07	1.32	1.06	1.08	0.90	1.09	33.95	29.63	246,381	120
Grand Erie District School Board	0.54	0.92	1.15	1.25	1.48	1.07	3.35	4.77	26,549	180
Huron-Superior Catholic District School Board	0.50	0.48	1.05	1.47	1.64	1.03	0.80	1.33	4,768	279
Upper Canada District School Board	0.87	1.07	1.00	1.02	1.17	1.03	3.62	4.26	27,045	157
Simcoe Muskoka Catholic District School Board	0.49	0.93	1.16	1.24	1.31	1.03	2.62	3.50	21,341	164

School Board	IT Spending vs Total Spending in Ontario School Boards					IT Spending Per Student (2017/18)			
	Year (%)					IT Spending (\$ million)	# of Students		
	2013/14	2014/15	2015/16	2016/17	2017/18	5-Year Avg. (\$ million)	IT Spending/Student (\$)		
Near North District School Board	0.79	1.10	0.99	1.03	1.06	1.47	1.60	9,951	161
Rainbow District School Board	0.36	1.14	1.06	1.13	1.22	1.85	2.44	13,236	184
District School Board of Niagara	0.76	1.11	1.18	1.02	0.81	4.26	3.73	37,052	101
Limestone District School Board	0.70	0.75	1.11	1.15	1.15	2.53	3.13	19,685	159
Hamilton-Wentworth District School Board	1.03	1.06	1.04	0.84	0.90	5.69	5.47	49,966	110
Algonquin and Lakeshore Catholic District School Board	0.45	0.96	1.02	0.88	1.55	1.46	2.44	11,816	207
Conseil scolaire district catholique Franco-Nord	0.58	1.02	1.05	1.15	1.03	0.58	0.66	2,796	235
Superior North Catholic District School Board	0.28	1.46	1.37	0.94	0.77	0.18	0.16	708	223
Peel District School Board	0.60	1.14	1.01	1.04	1.01	16.76	19.01	156,328	122
Bluewater District School Board	0.77	0.81	1.00	0.80	1.26	1.91	2.68	16,456	163
Nipissing-Parry Sound Catholic District School Board	0.67	1.12	0.78	0.88	1.10	0.43	0.53	2,665	200
Algoma District School Board	0.75	0.98	0.89	0.90	1.01	1.39	1.58	9,641	164
Waterloo Catholic District School Board	0.59	0.79	0.80	1.17	0.99	2.30	2.82	22,482	126
Dufferin-Peel Catholic District School Board	0.33	1.23	0.81	1.17	0.64	8.08	6.35	80,427	79
Hastings and Prince Edward District School Board	0.77	0.96	0.85	0.85	0.73	1.63	1.47	15,080	98
Durham Catholic District School Board	0.53	0.99	0.86	0.81	0.94	2.27	2.66	21,167	125
Northwest Catholic District School Board	0.38	0.64	0.52	0.62	1.80	0.19	0.46	1,311	353
Ottawa-Carleton District School Board	0.78	0.95	0.78	0.61	0.83	7.06	8.02	73,375	109
Catholic District School Board of Eastern Ontario	0.53	0.90	0.73	0.87	0.79	1.34	1.44	12,713	114
Halton Catholic District School Board	0.78	0.71	0.77	0.85	0.70	2.81	2.81	34,571	81
Simcoe County District School Board	0.56	0.83	1.04	0.86	0.52	4.52	3.26	52,040	63
Lambton Kent District School Board	0.27	1.17	0.80	0.84	0.67	2.01	1.87	21,924	85
Conseil des écoles publiques de l'Est de l'Ontario	0.52	0.76	0.85	0.72	0.88	1.66	2.24	15,245	147
Conseil scolaire district catholique de l'Est ontarien	0.49	0.75	0.71	0.81	0.95	1.23	1.64	10,043	163

School Board	IT Spending vs Total Spending in Ontario School Boards						IT Spending Per Student (2017/18)			
	Year (%)						5-Year Avg. (\$ million)	IT Spending (\$ million)	# of Students	IT Spending/Student (\$)
	2013/14	2014/15	2015/16	2016/17	2017/18	2017/18				
Peterborough VNC Catholic District School Board	0.59	0.74	0.69	1.03	0.63	0.74	1.32	1.16	15,064	77
Conseil scolaire district catholique Centre-Est de l'Ontario	1.40	0.67	0.67	0.64	0.28	0.73	2.28	1.00	23,764	42
Conseil scolaire district du Grand Nord de l'Ontario	0.79	0.69	0.94	0.62	0.58	0.72	0.42	0.37	2,473	151
Huron-Perth Catholic District School Board	0.43	0.57	0.57	0.84	1.21	0.72	0.45	0.81	4,524	178
Halton District School Board	0.40	0.81	0.90	0.76	0.66	0.71	4.94	4.92	64,517	76
Thames Valley District School Board	0.46	0.85	0.71	0.80	0.62	0.69	5.94	5.81	77,573	75
Avon Maitland District School Board	0.68	0.71	0.72	0.54	0.78	0.69	1.38	1.64	15,793	104
Ottawa Catholic District School Board	0.72	0.86	0.62	0.66	0.54	0.68	3.40	2.93	42,077	70
York Catholic District School Board	0.62	0.88	0.54	0.73	0.55	0.67	4.39	3.75	53,728	70
Thunder Bay Catholic District School Board	0.69	0.64	0.65	0.62	0.67	0.65	0.70	0.75	7,739	97
Windsor-Essex Catholic District School Board	0.49	0.62	0.55	0.62	0.92	0.64	1.65	2.38	20,414	117
Niagara Catholic District School Board	0.50	0.72	0.71	0.66	0.58	0.63	1.69	1.55	21,429	73
Bruce-Grey Catholic District School Board	0.70	0.42	0.51	0.56	0.95	0.63	0.35	0.58	4,423	130
Kenora Catholic District School Board	0.16	0.42	0.16	0.72	1.53	0.60	0.17	0.44	1,419	308
Rainy River District School Board	0.65	0.57	0.38	0.45	0.70	0.55	0.29	0.40	2,707	148
Toronto Catholic District School Board	0.25	0.48	0.37	0.51	1.09	0.54	6.14	12.81	91,183	140
Waterloo Region District School Board	0.28	0.65	0.56	0.53	0.59	0.52	3.62	4.38	64,004	68
Upper Grand District School Board	0.36	0.54	0.54	0.55	0.54	0.51	1.99	2.27	34,877	65
Hamilton-Wentworth Catholic District School Board	0.34	0.78	0.49	0.48	0.43	0.50	1.72	1.55	29,463	53
Durham District School Board	0.18	0.43	0.36	0.74	0.72	0.49	3.86	6.03	70,201	86
Lakehead District School Board	0.00	0.36	0.42	0.90	0.54	0.44	0.57	0.70	8,807	79
District School Board Ontario North East	0.50	0.48	0.39	0.31	0.51	0.44	0.53	0.65	6,660	98
Greater Essex County District School Board	0.02	0.33	0.29	0.31	0.28	0.25	1.05	1.26	36,332	35
Conseil scolaire district catholique des Grandes Rivières	0.15	0.21	0.18	0.49	0.16	0.24	0.27	0.20	5,861	34
Kawartha Pine Ridge District School Board	0.09	0.11	0.29	0.31	0.06	0.17	0.67	0.24	32,323	8

Appendix 2: Audit Criteria

Prepared by the Office of the Auditor General of Ontario

1. IT governance and accountability structures should be in place to help school boards and schools plan for economical delivery of IT functions, in accordance with legislative, contractual and program requirements.
2. The delivery of IT services is timely and effective. Performance measures and targets should be established and monitored for IT services against actual results, to ensure the intended outcomes are achieved and corrective actions are taken on a timely basis when issues are identified.
3. Appropriate procedures, controls and processes are in place to prevent and detect security attacks, threats, weaknesses and vulnerabilities, and assess their impact on schools and school board security.
4. Confidential information is managed in accordance with privacy legislation and principles.
5. IT systems allow student information, and financial and human resource data to be reported accurately and on a timely basis.

Appendix 3: IT Survey Aggregate Results on Key Audit Criteria

Prepared by the Office of the Auditor General of Ontario

Key Audit Criteria	Yes	No	In Progress
An assessment has been performed to evaluate students' need for classroom technology	40	13	16
An approved IT asset management policy exists	44	10	15
An approved cybersecurity/information security policy exists	28	41	n/a
School boards perform cybersecurity risk assessments on a regular basis	31	38	n/a
School board provide formal IT security awareness and data privacy training to all staff who use technology at board level and in schools	18	51	n/a
School boards formally keep a record of cybersecurity incidents that occurred at the school board and in schools	25	44	n/a
Cyberbullying incidents are being recorded in an incident reporting system	38	31	n/a
An enterprise risk management function exists	2	37	30
Approved data classification policy or guidelines exist	25	44	n/a
School boards have an approved business continuity plan (BCP)	5	31	33
School boards have an approved disaster recovery (DR) plan	19	18	32
School boards have an approved data backup policy	35	19	15
School boards have an approved service level agreement (SLA) and/or key performance indicators (KPIs) for support and service delivery to schools	25	44	n/a
School boards frequently use VLE (virtual learning environment) in classrooms	51	18	n/a

Note: All results in this figure are out of 69. We surveyed all 72 school boards in Ontario; 69 school boards responded to the survey.

Technical Standards and Safety Authority

1.0 Summary

In 1997, the Government of Ontario established the Technical Standards and Safety Authority (TSSA) with a mandate to promote and enforce public safety in four specific sectors on its behalf. The TSSA is responsible for ensuring that devices such as elevators, amusement rides, boilers, power plants, and companies that store, transport and sell fuels such as gasoline, natural gas and propane operate safely. It is responsible as well for ensuring that upholstered and stuffed articles sold in Ontario, such as toys, mattresses and furniture, are made with new and clean filling materials, and that their labels correctly describe their contents. The TSSA is to promote and enforce public safety through its four safety programs:

1. Fuels Storage and Handling (Fuels);
2. Boilers and Pressure Vessels and Operating Engineers (Boilers and Pressure Vessels);
3. Upholstered and Stuffed Articles; and
4. Elevating Devices, Amusement Devices and Ski Lifts.

The TSSA is responsible for registering, licensing and inspecting the manufacturing, installation, maintenance and operation of the devices and companies it regulates. The TSSA also certifies technicians who work in the industries it regulates. It can shut down unsafe devices and prosecute companies

that do not comply with safety laws. The TSSA is self-funded through the fees that it charges to the organizations it regulates—it does not receive any government funding.

According to the memorandum of understanding between the Ministry of Government and Consumer Services (Ministry) and the TSSA, the Ministry is responsible for overseeing the TSSA. We found, however, that the Ministry has not ensured that the TSSA is actually accomplishing its mandate. For example, we found cases where the TSSA has focused on areas where it can recover its costs even though its activities have little effect on public safety, and we found other areas in which the TSSA does not generate revenue from licensing fees and where it has done little to enforce public safety, even though risks to public safety exist.

We also found that the TSSA's own current oversight processes are not fully effective in ensuring public safety. For example, the TSSA has not developed a clear, evidence-based decision-making framework for deciding when to implement periodic inspection programs, and could not explain why it does not periodically inspect some areas in the fuel sector, such as pipelines, compressed natural gas stations and propane distributors. The TSSA's computer system is outdated and contains inconsistent and incomplete information about the safety status of devices and businesses that it regulates. For example, the TSSA's licensing system does not communicate with the system that captures

inspection information; as a result, in 2018, the TSSA renewed the operating licences of over 300 elevators that at the same time were still shut down by the TSSA for being unsafe to operate.

The TSSA also does not have consistent inspection standards that all inspectors are required to follow. Its inspectors do not have checklists to help them complete and document their inspections. Also, some of the information that the TSSA reports to the public and the provincial government is inaccurate.

As a result of these operational issues, the TSSA has not fulfilled all of its responsibilities under the *Technical Standards and Safety Act, 2000* (Act).

Among our significant findings:

Fuels Sector

- **Despite risk of soil and water contamination and two oil pipeline leaks that occurred in 2013, the TSSA does not inspect pipelines.** The TSSA does not perform inspections of oil and natural gas pipelines, but instead relies on the pipeline operators to conduct their own inspections. Once every five years, it audits the pipeline operators' inspection records. Although two pipeline leaks in 2013 were caused by external corrosion that the pipeline operators failed to identify, the TSSA has not updated its practices for reviewing pipeline operators and still does not inspect pipelines. In comparison, we noted that the Alberta Energy Regulator conducts periodic inspections of Alberta's pipeline sites using a risk-based approach based on factors that include a pipeline operator's performance and compliance history, and sensitivity of the location (for example, proximity to bodies of water).
- **The TSSA does not inspect private fuel storage sites that pose a threat to source water intakes.** Since 2015, over 120 fuel spills on private fuel storage sites have been reported to the TSSA. But the TSSA has not started to inspect private fuel storage sites that pose a threat to source water intakes even though it committed to doing so in 2014, following our audit of the Source Water Protection Program. Source water is the water supply that municipalities, individuals and industries draw from to provide water for drinking and other essential purposes.
- **TSSA inspection practices for companies that install and maintain fuel-burning equipment leave many of their technicians' jobs uninspected.** Faulty installation and maintenance of fuel-burning equipment, such as furnaces and water heaters, are responsible for many reported carbon monoxide releases. Over the last eight years, about 2,500 carbon monoxide releases have been reported to the TSSA, causing 14 deaths and almost 350 injuries. Our review of TSSA data found that about 950, or 40%, were caused by improper installation and maintenance of fuel-burning equipment. However, the TSSA never inspects jobs completed by many technicians because the jobs it inspects are pre-selected by the companies that employ the technicians. We have also found that many inspections are not properly documented.
- **The TSSA is aware that some oil distributors are delivering oil into leaking tanks and tanks that pose a high risk of carbon monoxide releases but has done nothing to deal with this safety hazard.** Since October 2010, as part of a pilot inspection program and investigations of reported oil spills, the TSSA has inspected 18 of Ontario's 158 fuel oil distributors and found that four of them were delivering oil into 16 tanks that were leaking oil; some posed a high risk of carbon monoxide release due to improper ventilation. Another three distributors were delivering oil into 29 tanks that the TSSA found to be unsafe, but were not yet leaking oil. However, despite knowing for the past several years that fuel oil tanks present a serious safety hazard, the TSSA had done nothing to address this issue. According to the Ministry

of the Environment, Conservation and Parks, in the last five years there have been about 640 reported oil tank leaks resulting in an estimated release of 153,000 litres of fuel oil into nearby land and water.

- **The TSSA is not ensuring that abandoned fuel sites are cleaned up, increasing the risk of environmental contamination.** The TSSA is responsible for ensuring that owners of fuel storage sites remove the fuel handling equipment and storage tanks after they cease operations, but we found that, in cases where the owner has abandoned the site and cannot be located, it is not ensuring that these sites are cleaned up, because there is no one to recover the costs of the cleanup from. As a result, whatever fuel contamination there is at the site remains. Nothing will be done until contamination spreads outside the boundary of the private property. Once this happens, the Ministry of the Environment, Conservation and Parks becomes responsible for cleaning up the contamination. At the time of our audit, the TSSA had identified about 300 abandoned fuel storage sites with a total of 740 fuel tanks; most were old abandoned gas stations.

Boilers and Pressure Vessels Sector

- **For almost 20 years the TSSA has done little to enforce and promote the safety of approximately 65,000 operating boilers and pressure vessels.** Although the TSSA reviews the manufacturing designs of new boilers and pressure vessels before their production, and then inspects and certifies them before they are sold, for almost 20 years the TSSA has done little to enforce and promote the safety of approximately 65,000 installed and operating boilers and pressure vessels. The TSSA told us that these devices are being inspected by insurers, but it does not know how many devices operate in Ontario, where they are located, if insurers are actually inspecting them and their safety status.

Upholstered and Stuffed Articles Sector

- **The Upholstered and Stuffed Articles safety program has not been effective at enforcing public safety.** While TSSA inspectors inspect product labels that are required to provide an appropriate description of the product's contents, they seldom inspect the product's contents to ensure they match the label. In addition, when the TSSA finds a mislabelled article that it deems to be a risk to the public, it orders the inspected retailer to remove the article from sale—however, we found that the TSSA does not check whether the same mislabelled article is sold in other stores in Ontario or online. During our audit, we were able to purchase from other stores the same mislabelled articles that the TSSA ordered to be removed from sale at locations it inspected. Also, less than two years after the TSSA ordered inspected stores to immediately stop selling certain mislabelled articles, we were able to purchase one out of every two of these mislabelled articles from the same inspected stores. Due to errors in the TSSA's inspection scheduling system, it has never inspected about half of the registered businesses located in Ontario.

Elevating Devices

- **The TSSA has not been provided with strong enough enforcement powers to deal with large elevator maintenance companies.** A small number of these companies dominate Ontario's market and for years have been failing to maintain most of Ontario's operating elevators in accordance with safety laws. In 2018, just over 80% of elevators failed their TSSA inspection, mostly because maintenance and safety work required by law was not done on time. The TSSA has tried with little result to have these large elevator maintenance companies perform required maintenance and safety tests. It has repeatedly prosecuted the same large maintenance

company, resulting in guilty verdicts and fines over \$1 million, but in 2018, 93% of the inspected elevators maintained by this company in regions related to the prosecutions failed to pass their latest TSSA inspection. Five of these elevators are located in a Toronto hospital. Neglected maintenance over time can result in the elevators not levelling properly with the floor or can cause sudden upward or downward acceleration.

Agricultural Sector

- **Despite posing a safety risk to the public, some devices in the agricultural sector are exempt from the TSSA's oversight.** Ontario is the only province in Canada where boilers and pressure vessels used in agricultural operations such as greenhouses, mushroom farms, maple syrup farms and wineries are exempt from safety laws. Agricultural operations are also exempt from safety laws pertaining to elevating devices. In April 2018, the TSSA provided the Ministry with a report that recommended that the Ministry examine removing the agricultural exemption for boilers and pressure vessels, as it was concerned that the exemption “poses a safety risk to the public greater than the risk of other pressure equipment installations in Ontario.” Information provided to the TSSA by one large insurer revealed that from 2015 to mid-2017, six boilers exploded at agricultural sites exempt from safety laws.

Cross-Subsidization of Safety Programs

- **The TSSA continues to collect fees that exceed the cost of operating two of its four safety programs.** According to the memorandum of understanding between the Ministry and the TSSA, the fees that the TSSA collects should not exceed the cost of operating each safety program. Our analysis of the TSSA's financial information found that over the past five years, the Elevating Devices and the Upholstered and Stuffed Articles Safety Pro-

grams' fees were in surplus of almost \$30 million; we further found that the surplus was being used to cover the costs of the Fuels and the Boilers and Pressure Vessels Safety Programs. This cross-subsidizing of programs is inconsistent with the intent of the memorandum of understanding, which sets out appropriate guidelines for a fee-for-service agency.

TSSA 20/20

- **Early efforts to improve the TSSA's oversight processes were not effective; a new CEO will be responsible for making improvements.** In 2014, the TSSA recognized that its oversight processes and digital record-keeping system were outdated and could no longer support its mandate to promote and enforce public safety. In November of that year, the TSSA began an initiative called TSSA 20/20 to standardize and improve its registration, licensing and inspection processes, and its digital record-keeping. When it saw that the 20/20 initiative was not progressing as planned, in 2017 the TSSA's Board replaced the TSSA CEO with a new person who was hired in March 2018.

This report contains 19 recommendations, with 42 action items, to address our audit findings.

Overall Conclusion

Our audit concluded that the TSSA does not have the required oversight processes in place to be effective in promoting and enforcing public safety in the sectors it is responsible for regulating. The TSSA is not proactive in meeting its mandate and seldom takes the initiative to protect public safety in areas of the regulated sectors that it does not currently license and/or inspect, but where its oversight activities would help promote public safety.

The Ministry has not fulfilled its oversight responsibilities to ensure that the TSSA is actually accomplishing its mandate.

OVERALL RESPONSE FROM TSSA

The Technical Standards and Safety Authority (TSSA) appreciates the work done by the Office of the Auditor General of Ontario and will use the Auditor General's observations to help inform the transformation strategy it is developing.

The TSSA takes its responsibility for administering Ontario's public safety mandate extremely seriously, and has embarked on a major transformation strategy. In April 2018, the Board of the TSSA appointed a new President and CEO who has expertise in developing and implementing modern regulatory standards and practices. The organization is currently developing a new outcomes-based regulatory approach for effectively identifying risk, increasing compliance and promoting safety. The new approach will be built on:

- enhanced data collection and data analytics;
- evidence-based decision-making; and
- an uncompromising focus on harm reduction.

The organization is also re-engineering its business systems through its TSSA 20/20 project to improve its IT infrastructure and processes; support it in leveraging and reporting data in a consistently reliable manner; and enable greater customer service and transparency. The TSSA is also committed to strengthening its outreach and relationships with stakeholders, including government, the public and the entities it regulates, in order to better inform its decisions and build greater confidence in its regulatory approaches.

OVERALL RESPONSE FROM MINISTRY

The Ministry of Government and Consumer Services (Ministry) would like to thank the Auditor General and her staff for their work on the audit and recommendations. The Ministry welcomes the feedback on how the Technical Standards

and Safety Authority (TSSA) is performing and recommendations to strengthen the TSSA's operations and the Ministry's oversight, so Ontario can continue to have a strong record of public safety.

The Ministry recognizes the importance of the TSSA fulfilling its responsibilities under the Act in a manner that protects, enhances and improves public safety.

The Ministry takes its oversight of the TSSA's responsibilities seriously and is committed to examining areas where it can enhance its oversight processes to provide greater assurances that the TSSA is meeting its public safety mandate in the interests of the people of Ontario.

The Ministry agrees with the recommendations directed to the Ministry and will also work closely with the TSSA and the Ministry of the Environment, Conservation and Parks to address each of the other recommendations where the Auditor General has recommended that the TSSA work with the ministries.

For those recommendations directed to the TSSA, the Ministry will request that the TSSA provide an implementation plan that outlines the specific steps the TSSA plans to take to implement each recommendation and to ensure they are addressed in a timely and responsive manner. The Ministry will closely monitor and track the TSSA's implementation of each recommendation.

2.0 Background

2.1 Overview of the Technical Standards and Safety Authority and Safety Laws

In 1997, the Government of Ontario created the Technical Standards and Safety Authority (TSSA) with a mandate to administer and enforce public safety in certain areas on its behalf. The TSSA's

authority and mandate were further defined under the *Technical Standards and Safety Act, 2000* (Act).

The TSSA acts as both a regulator and an advocate of safety standards in Ontario, in that it is responsible for enforcing the Act and its regulations and promoting activities to continuously improve public safety. The Act requires the TSSA to regulate the following four sectors:

1. Fuels Storage and Handling (Fuels);
2. Boilers and Pressure Vessels and Operating Engineers (Boilers and Pressure Vessels);
3. Upholstered and Stuffed Articles; and
4. Elevating Devices, Amusement Devices and Ski Lifts.

Figure 1 lists the devices and types of companies or facilities that are required to be regulated, and the estimated numbers of the devices and facilities as of April 1, 2018.

Seventeen regulations under the Act specify safety rules that must be followed in each of the four sectors. In addition, the regulated devices, companies or facilities in each of the four sectors must adhere to specific industry-developed safety codes and standards that the TSSA has adopted under the Act. These industry safety codes and standards provide a large number of specific technical details on how a regulated device or facility should be built, installed and operated, and how a regulated company should be run. In our report we refer to the Act, its 17 regulations and the many applicable industry-specific safety codes and standards together as “safety laws.”

The TSSA charges fees to the organizations it regulates and does not receive any government funding.

The TSSA employs over 400 people, whose main responsibility is to ensure compliance with the safety laws. To accomplish this task, the TSSA is responsible for registering, licensing and inspecting the manufacturing, installation, maintenance and operation of the devices and companies it regulates. It also is responsible for licensing and inspecting facilities that store and handle fuels such as gasoline, natural gas and propane. The

TSSA also inspects upholstered and stuffed articles sold in Ontario to check that they are labelled correctly and are made from new, clean materials, and that their manufacturers are registered with the TSSA. The TSSA can shut down unsafe devices and prosecute companies that do not comply with safety laws.

Additionally, the TSSA certifies technicians who work in the industries it regulates. In most cases, only TSSA-certified mechanics and licensed companies can install, maintain and fix devices and facilities listed in **Figure 1**.

The Ministry of Government and Consumer Services (Ministry) is responsible under its memorandum of understanding with the TSSA for monitoring whether the TSSA is fulfilling its mandate. It can also recommend legislative and or regulatory changes to the Ontario Government.

The TSSA is overseen by a 13-member board of directors, of which seven are elected and six appointed by the Ministry. In **Appendix 1** we present the TSSA’s organizational structure as of October 2018. In addition, the TSSA has established an Industry Advisory Council for each of nine regulated devices or facilities; **Appendix 2** lists these councils and their membership. Each Industry Council consists of industry representatives whose main responsibilities are to:

- identify safety issues in their respective industries;
- provide guidance to the TSSA for their resolution; and
- provide input and advice regarding the TSSA’s service delivery.

The TSSA has also established a Consumers Advisory Council, which provides guidance on any matter relating to the TSSA that has an impact on the public or on consumers of products and/or devices regulated by the TSSA.

2.2 Licensing and Inspection

The Ministry is responsible for introducing new safety laws, including licensing requirements for

Figure 1: Devices and Facilities Regulated by the TSSA

Source of data: Technical Standards and Safety Authority (TSSA)

Safety Program	Regulated Devices/Facilities	Inventory as of April 2018
Elevating Devices, Amusement Devices and Ski Lifts	Elevating devices	59,654
	Ski lifts	256
	Amusement rides	2,468
Fuels Storage and Handling	Propane facilities ¹	6,825
	Propane distributors	Unknown ²
	Liquid and gaseous fuel facilities ^{3,4}	4,358
	Fuels installation and maintenance companies	9,100
	Fuel oil distributors ⁴	158
	Tanker trucks ⁴	4,000
	Private fuel storage sites ⁴	4,100
	Oil and natural gas pipelines (km)	111,300
	Boilers, Pressure Vessels and Operating Engineers	Boilers and pressure vessels
	Operating plants ⁶	3,280
Upholstered and Stuffed Articles	Registered companies ⁷	13,164

1. Includes propane filling plants, refill stations, and cylinder exchange locations.
2. The TSSA does not have an accurate listing of all propane distributors operating in Ontario (see Section 6.1.5).
3. Includes gas stations, bulk storage plants and compressed natural gas stations.
4. At the time of the audit, the TSSA did not have a formal inspection program in place to conduct periodic inspections of compressed natural gas stations, propane and fuel oil distributors, tanker trucks and private fuel storage sites.
5. Includes equipment that produces and distributes hot water, steam, compressed air and other compressed liquids. The TSSA does not have an accurate listing of all boilers and pressure vessels located in Ontario (see Section 9.0).
6. Includes refrigeration, steam, hot water, compressor and power plants.
7. Includes retailers, importers, distributors, suppliers and manufacturers.

devices and facilities. However, the Act provides the TSSA with broad inspection powers allowing it to inspect both licensed devices and facilities, and also those unlicensed devices and facilities that are subject to the Act. After a device or facility starts to operate, the TSSA is supposed to conduct periodic inspections to make sure that it is being properly maintained and is operating in compliance with applicable safety laws.

The frequency of the TSSA’s periodic inspections varies among different devices and facilities. For instance, elevator inspections are risk-based. Elevators are inspected from once every six months to once every five years; this frequency is based primarily on the results of the past three inspections. In contrast, some devices and facilities such as liquid fuel facilities are inspected on a fixed

cycle, once every three years. **Figure 2** lists the type of devices and companies/facilities that the TSSA inspects and their inspection frequency targets; **Figure 3** lists the number of actual periodic inspections that the TSSA has conducted over the past five years in each of the regulated sectors. A single inspection can identify a number of safety issues (non-compliances) and yield multiple inspection orders requiring compliance with applicable safety laws. Each order describes the safety problem and sets a deadline for achieving compliance. We discuss this further in **Section 2.4**.

2.3 Enforcement

Figure 4 lists the current enforcement actions that The TSSA can undertake for non-compliance with

Figure 2: Inspection Frequency Target by Safety Program Area

Source of data: Technical Standards and Safety Authority (TSSA)

	Safety Program Area	Inspection Frequency Target
Elevating Devices, Amusement Devices and Ski Lifts	Elevators and escalators	6 months to 5 years
	Amusement rides	Annually
	Ski lifts	6 months to 2 years
Fuels Storage and Handling	Propane facilities	6 months to 3 years
	Liquid fuels	Once every 3 years
	Fuels installation and maintenance companies ¹	Once every 3 years
	Pipeline operators ²	Once every 5 years
Boilers, Pressure Vessels and Operating Engineers	Boilers and pressure vessels	1 to 3 years
	Operating plants	6 months to 2 years
Upholstered and Stuffed Articles	Registered companies ³	1 to 3 years

1. The TSSA conducts inspections of companies that employ technicians who perform installation and maintenance work on fuel-burning appliances such as furnaces and water heaters (see Section 6.4.1).
2. The TSSA does not conduct inspections of pipelines; however, pipeline operators' records of inspections, pipeline's incident history, operation manuals and employee training records are reviewed once every five years by TSSA (see Section 6.3.1).
3. Includes retailers, importers, distributors, suppliers and manufacturers.

Figure 3: Actual Inspections Conducted by the TSSA

Source of data: Technical Standards and Safety Authority (TSSA)

Sector	2013/14	2014/15	2015/16	2016/17	2017/18
Elevators and Escalators	16,919	20,272	11,498 ¹	11,482	14,607
Amusement Devices and Ski Lifts	1,670	1,952	2,046	1,958	2,100
Fuels Storage and Handling	4,884	5,173	4,084	3,865	4,207
Boilers and Pressure Vessels	431	567	514	506	480
Operating Engineers	2,720	2,753	2,701	2,238	2,433
Upholstered and Stuffed Articles	2,083	2,527	3,062	2,201 ²	1,808

1. The decrease in the number of inspections from prior year is a result of the TSSA's adoption in 2015 of a risk-based inspections approach for elevators and escalators, which reduced the inspection frequency for low- and medium-risk devices.
2. The TSSA did not fill two vacant inspector positions that year, because the Ministry of Government and Consumer Services was in the process of reviewing the Upholstered and Stuffed Articles safety laws with the possibility of repealing some or all of the laws. As a result, the number of inspections conducted decreased the 2015/16 fiscal year.

safety laws, in their order of severity. The TSSA identifies the majority of non-compliance issues during inspections, although an investigation of a reported incident can also prompt an enforcement action. The owner of a device or company/facility regulated by the TSSA must report to the TSSA all safety incidents involving the device or company/facility that result (or could result) in adverse consequences to a person or property. Depending on the severity of the incident, the TSSA will

investigate to determine if the cause of the incident was non-compliance with applicable safety laws.

Figures 5 and 6 show the number of orders the TSSA issued to address non-compliance and the periodic inspection compliance rates by sector over the past five years.

On May 9, 2018, the Government approved changes to the *Technical Standards and Safety Act, 2000* that allow the TSSA to issue fines for non-compliance with safety laws. At the time of

Figure 4: Enforcement Actions the TSSA Is Authorized to Take

Source: Technical Standards and Safety Authority (TSSA)

Enforcement Action	
Issuance of safety orders	The TSSA issues inspection orders when non-compliance with safety laws is identified during an inspection. An inspection order is a directive that requires the owner/operator of the device or company/facility to complete specified work within a set number of days to become compliant with safety laws.
Shutdown	The TSSA can immediately shut down a device or facility if there is an immediate risk to public safety.
Licence suspension	The TSSA has the authority to revoke the licence of a device, facility, company or mechanic when it identifies non-compliance with safety requirements.
Prosecution	The TSSA has the ability to prosecute offences under the <i>Technical Standards and Safety Act, 2000</i> .

Figure 5: Issued Orders to Address Non-compliance

Source of data: Technical Standards and Safety Authority (TSSA)

Safety Program	2013/14	2014/15	2015/16	2016/17	2017/18
Elevators and Escalators	52,277	74,855	61,716	63,829	87,414
Amusement Devices and Ski Lifts	1,722	2,155	1,968	2,418	2,750
Fuels Storage and Handling	35,781	35,702	40,259	36,721	47,038
Boilers and Pressure Vessels ¹	20	11	7	7	7
Operating Engineers	3,964	4,600	3,322	2,702	3,269
Upholstered and Stuffed Articles	21,973	21,973	21,312	12,332 ²	13,740

1. The TSSA has not been fulfilling its legislative mandate since 2001. Most devices are not inspected by the TSSA. (See Section 9.0 for further discussion.)
2. The TSSA did not fill two vacant inspector positions because the Ministry of Government and Consumer Services was in the process of reviewing the regulation with the possibility of repealing it. As a result, the number of inspections conducted after fiscal year 2015/16 decreased.

our audit, the Ministry had not yet revised the regulations to allow the TSSA to implement this enforcement action.

2.4 Deadlines to Address Non-compliance with Safety Laws

The TSSA’s orders set deadlines for achieving compliance with safety laws according to the severity of the identified safety issue, or non-compliance. The TSSA classifies the risks associated with non-compliance as high, medium or low, based on the impact on public safety. For instance, safety problems pertaining to critical mechanical parts of an elevator would be classified as high risk, and must be addressed within seven days. However, if there is an immediate risk to public safety, the TSSA would immediately shut down the elevator until it is fixed.

Figure 7 lists the compliance deadlines in accordance with the severity of the risk that could result from non-compliance. The TSSA conducts follow-up inspection(s) until all the non-compliances noted during its inspection are corrected.

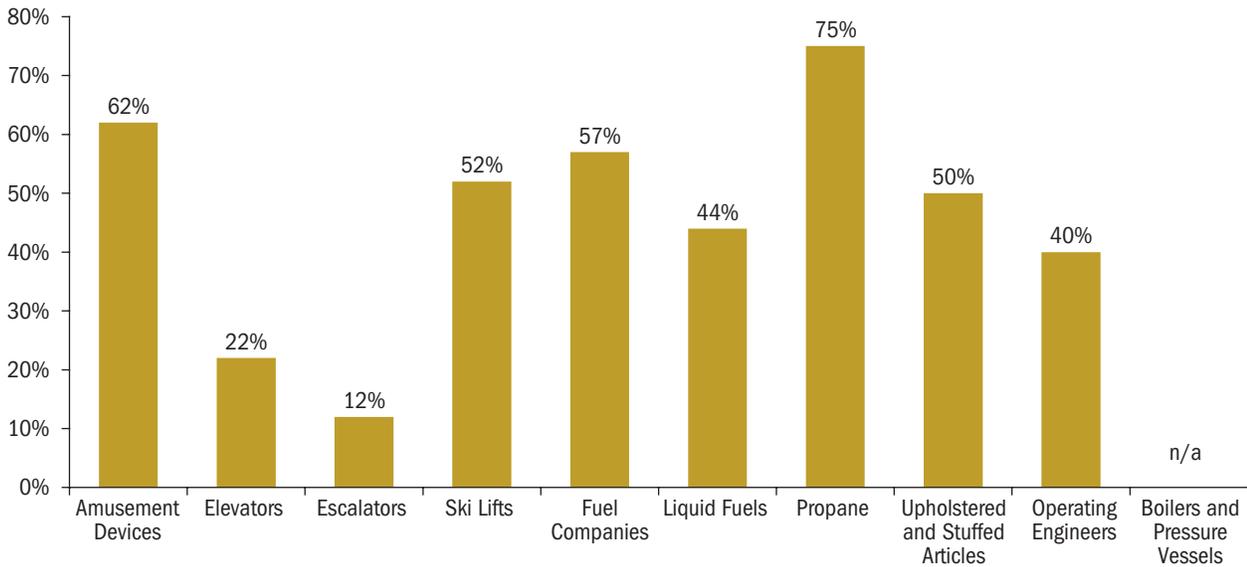
3.0 Audit Objective and Scope

The objective of our audit was to assess whether the Technical Standards and Safety Authority (TSSA) has effective processes and systems in place to:

- carry out its mandated safety activities, including registration, licensing, inspection, certification and investigation in accordance with the *Technical Standards and Safety Act, 2000* (Act), its 17 regulations and applicable

Figure 6: Inspection Compliance Rate (Average) by Regulated Sector, 2014–2018

Source of data: Technical Standards and Safety Authority (TSSA)



Note: The compliance rate is the number of inspections that did not identify any instance of non-compliance with safety laws divided by the total number of inspections; the compliance rate for the Boilers and Pressure Vessels sector is not available because the TSSA does not collect this information (see Section 9.0).

Figure 7: Maximum Number of Days Allowed to Comply with Safety Laws (Days)

Source of data: Source: Technical Standards and Safety Authority (TSSA)

Sector	High Risk	Medium Risk	Low Risk
Elevators and Escalators	7	30	90
Amusement Rides	Immediately	7	30
Ski Lifts	Immediately	15	30
Fuel Facilities	10	60	90
Boilers, Pressure Vessels and Operating Engineers	5	20	30
Upholstered and Stuffed Articles	Immediately remove from sale	30 Follow-up inspection	30 No follow-up inspection

industry-specific safety codes and standards established to protect the safety of Ontarians and the environment;

- ensure that its resources are sufficient, and deployed efficiently and effectively to carry out its mandated activities; and
- measure and publicly report on the effectiveness of the activities it provides to protect the safety of Ontarians.

In addition, we assessed whether the Ministry has oversight processes in place to ensure that the

TSSA effectively delivers on its mandated responsibilities to protect the safety of Ontarians.

Before starting our work, we identified the audit criteria we would use to address our audit objective. These criteria were established based on a review of applicable legislation, policies and procedures. Senior management at the TSSA and the Ministry of Government and Consumer Services reviewed and agreed with our objective and associated criteria as listed in **Appendix 3**.

Our audit examined the TSSA's four key safety programs: Fuels Storage and Handling (Fuels); Boilers and Pressure Vessels and Operating Engineers (Boilers and Pressure Vessels); Upholstered and Stuffed Articles; and Elevating Devices, Amusement Devices and Ski Lifts. We conducted our audit from January 2018 to August 2018, and obtained written representation from the TSSA and the Ministry of Government and Consumer Services that, effective November 8, 2018, they have provided us with all the information they were aware of that could significantly affect the findings or the conclusion of this report.

In conducting our work, we reviewed documents and interviewed staff at the TSSA, including senior management, supervisors and inspectors. We also conducted interviews with the Chief Safety Risk Officer, and all 10 of the TSSA's advisory councils. In addition, we engaged in discussions with key Ministry personnel who regularly interact with the TSSA. Lastly, to observe how the TSSA conducts its inspections, we accompanied its inspectors on a number of inspections in each of the safety program areas. In July and August 2018, with the TSSA's assistance, we conducted a number of unannounced inspections of amusement parks and street festivals. In June 2018, we visited a number of retail stores and attempted to purchase upholstered and stuffed products that the TSSA had ordered these stores to immediately pull from sale before that date.

As part of our review of the TSSA's Fuels program, we met with the Ministry of the Environment, Conservation and Parks to discuss that ministry's role in overseeing the fuels storage and handling sector. We also contacted the Ontario Energy Board to gain an understanding of its oversight of provincial pipelines. As part of our review of the Boilers and Pressure Vessels Safety Program, we consulted with major insurance companies in Ontario that are responsible for insuring these devices. During our work on the Elevating Devices Program, we spoke with representatives of four

large elevator maintenance firms operating in Ontario to gather their perspectives on the sector.

The documents we reviewed included current safety laws in place that guide the TSSA's safety programs, internal policies and procedures, minutes from advisory council meetings, briefing documents to the Ministry and inspection reports. We also collected and analyzed data from the TSSA's information system on past inspection results, and its inventory of licensed devices and facilities.

We conducted a jurisdictional scan to identify best practices in other provinces as well as in Canada federally.

We conducted our work and reported on the results of our examination in accordance with the applicable Canadian Standards on Assurance Engagements—Direct Engagements issued by the Auditing and Assurance Standards Board of the Chartered Professional Accountants of Canada. This included obtaining a reasonable level of assurance.

The Office of the Auditor General of Ontario applies the Canadian Standards of Quality Control and, as a result, maintains a comprehensive quality control system that includes documented policies and procedures with respect to compliance with rules of professional conduct, professional standards and applicable legal and regulatory requirements.

We have complied with the independence and other ethical requirements of the Code of Professional Conduct of the Canadian Professional Accountants of Ontario, which are founded on fundamental principles of integrity, objectivity, professional competence and due care, confidentiality and professional behaviour.

4.0 Detailed Audit Observations: Ministry Oversight

4.1 Ministry Does Not Regularly Review the TSSA's Inspection and Licensing Activities

We found that the Ministry of Government and Consumer Services (Ministry) has not been effectively overseeing the TSSA's performance and assessing whether the TSSA is accomplishing its mandate. For example, the Ministry does not regularly collect sufficient operational information to review the TSSA's licensing and inspection activities, so it does not fully know what the TSSA inspects, how many inspections the TSSA performs each year, and the quality of these inspections. So, for example, the Ministry was not aware that the TSSA was not periodically inspecting propane cylinder exchange locations until we brought this to its attention, as we discuss in **Section 6.1.6**.

The Ministry informed us that it reviews annual reports, including the Safety Report published each year by the TSSA, to assess the TSSA's performance; the Ministry also tables the TSSA's annual report in the Legislative Assembly. However, as we discuss in **Section 5.3**, we found that information contained in these reports is incomplete and some information is presented inaccurately. The Ministry does not verify that information published by the TSSA in its reports is accurate and complete. For example, the Ministry was not aware that the TSSA was not reporting a majority of the fuel incidents in its annual Safety Reports.

4.2 TSSA Performance Indicators and Targets Are Not Aimed at Driving Improvements in Public Safety

Periodic inspection pass rates are a key safety performance indicator that the TSSA uses to evaluate itself on its mandate to improve public safety. The TSSA's target for its periodic inspection pass rate is to be "equal to or better than the previous fiscal year." Being "equal to" the previous fiscal year provides no motivation for the TSSA to improve the periodic inspection pass rates in the sectors that it regulates. For example, in 2017 the TSSA reported that its Elevating Devices Safety Program had met its performance target because the inspection pass rate of 24% was equal to that of the previous fiscal year—despite the fact that the reported pass rate is very low and since 2013 has worsened by 8%.

4.3 Inadequate Ministry Oversight Highlights Weaknesses in the TSSA's Operating Model

Lack of meaningful policy direction beyond the Act and memorandum of understanding from the Ministry has left the TSSA to define much of its own mandate. In practice, the TSSA has defined its mandate by the fee-for-service model under which it operates. The fee-for-service model ideally should lead to an efficient agency that takes no government money and whose income is commensurate with the level of its activities in the public interest. That is, the fees the TSSA charges for its registration, licensing and inspection activities are meant to provide it with both the funding and the incentive to take a proactive approach to its public safety mandate. Instead, we have found cases where the TSSA focuses on areas where it can recover its costs even though its activities have little effect on public safety, and other areas in which the TSSA does not generate revenue from licensing fees and where it has done little to promote and enforce public safety, even though risks to public safety exist.

For example, as we discuss in **Section 5.6**, the Ministry allowed the TSSA to continue to collect surplus fee revenues from the Upholstered and Stuffed Articles Safety Program even though the way it enforces this program has little or no effect on public safety. Meanwhile, as we discuss in **Section 6.2**, the TSSA has not taken a proactive approach to its mandate with regard to fuel storage sites and the risks they pose. Without clear direction from the Ministry and effective oversight, the TSSA has avoided dealing with some of the more costly safety issues it is responsible for.

The Ministry also has not given the TSSA sufficient powers to enforce all of its safety orders. As a result, the TSSA has been unable to deal with the problem of worsening elevator safety, which we discuss in **Section 7.1**. The TSSA's repeated prosecutions of one delinquent elevator maintenance company have resulted in \$1 million in fines that have had little or no effect: in 2018, 93% of the inspected elevators maintained by this company in regions related to the prosecutions failed to pass their latest TSSA inspection. The recent amendments that the Ministry made to the *Technical Safety and Standards Act, 2000* are supposed to give the TSSA additional powers to issue fines, but details on the size of the fines have not yet been announced at the time of our audit.

RECOMMENDATION 1

To ensure that the TSSA is meeting its mandate to promote and enforce public safety in all regulated sectors under the *Technical Standards and Safety Act, 2000*, and its regulations and associated codes and standards, we recommend that the Ministry of Government and Consumer Services:

- establish performance indicators and targets for the TSSA that drive improvement in each of the regulated sectors;
- on a regular basis assess the TSSA's performance against these targets; and
- take corrective actions where necessary.

MINISTRY RESPONSE

The Ministry recognizes that effective oversight processes and measures are important tools to assess whether the TSSA is meeting its mandate under the Act and that there is an opportunity to improve its existing processes. The Ministry will work closely with the TSSA to review the memorandum with the goal of specifically responding to the findings by:

- establishing enhanced processes regarding the fees that the TSSA collects;
- establishing performance measurements and targets that drive improvements in each of the sectors that the TSSA regulates; and
- on a regular basis assessing the TSSA's performance against these targets.

5.0 Detailed Audit Observations: the TSSA's Performance of Its Mandate

5.1 Information Technology Deficiencies Impede the TSSA's Operations

5.1.1 The TSSA's Information Technology Is Outdated and Inefficient

We found that the TSSA's current computer system is outdated and that some of the information it contains is inaccurate. For instance, the system does not allow the TSSA to sort and analyze its inspection data to identify trends in non-compliance or the most frequent type of non-compliance in each regulated sector. The TSSA also cannot tell how long it takes to resolve non-compliance identified by its inspections. Inspection scheduling is done manually. The TSSA has not established data entry controls, so incorrect data is sometimes entered or data is entered into the wrong data fields; examples are incorrect or missing locations of

regulated devices and facilities, or type of incident (for example, “oil spill” entered as a facility name). Another problem is data duplication, as many of the same devices and facilities are input into the system multiple times.

In 2014, the TSSA recognized that its oversight processes and digital record-keeping system were outdated and could no longer support its mandate to promote and enforce public safety. In November of that year, the TSSA began an initiative called TSSA 20/20 to standardize and improve its registration, licensing and inspection processes, and its digital record-keeping. In 2017, when it saw that the 20/20 initiative was not progressing as planned, the TSSA’s board replaced the TSSA CEO with a new person, who was hired in March 2018.

5.1.2 The TSSA Unconditionally Renews Licences

We found that, with the exception of the propane sector, operating licence renewals for devices and companies that the TSSA regulates are not conditional on meeting any safety requirements. The TSSA automatically issues these licences when it receives payment for them. For example, the TSSA automatically issues the elevator operating licence that can usually be found posted inside the elevator cabin for a fee of \$120, 60 days before the old licence expires. It renews these licences even if the elevator is so unsafe that the TSSA has shut it down and it is still shut down at the time of renewal.

Our reconciliation of TSSA inspection and licensing records found that in 2018, the TSSA renewed the operating licences for just over 300 elevators that were still shut down by the TSSA as being unsafe to operate. The TSSA granted these renewals because the computer system it uses to process licence renewals is separate from the system it uses for inspections, and no one reconciles the information found in the two systems.

RECOMMENDATION 2

To further reduce the potential risks to public safety, we recommend that the TSSA:

- review and update its information technology systems;
- conduct a review of its renewal process for operating licences in the regulated sectors to determine if any licensed devices and companies should be required to meet specific conditions before their operating licences are renewed; and
- review all renewals of operating licences to ensure that licences of unsafe devices or companies or those that do not meet licensing conditions are not automatically renewed.

TSSA RESPONSE

The TSSA agrees with this recommendation. As a part of our 20/20 program, we are in the process of updating our information technology systems and processes; this includes reviewing and updating appropriate preconditions for issuing and renewing operating licences. The TSSA also will implement a review process to ensure that licences of unsafe devices, and of devices and companies that do not meet licensing conditions, are not automatically renewed.

5.2 The TSSA’s Chief Safety and Risk Officer’s Key Responsibilities Are Unclear

In an effort to increase the accountability of TSSA to government and enhance the transparency of the TSSA’s activities to the public, in 2010 the Ontario Government created a Chief Safety and Risk Officer (Safety Officer) position. The Safety Officer is to provide an independent review of the TSSA’s public safety activities and performance. The Safety Officer reports directly to the TSSA Board.

In February 2011, the TSSA hired its first Safety Officer. He left a year later and was replaced in July 2012 by the current Safety Officer.

We found that the Safety Officer contract limits the Safety Officer's work to a maximum of 60 days per year at a daily rate of \$1,800. In addition, the contract gives only a vague description of the Safety Officer's key responsibilities. The main responsibilities are outlined below, with our findings on how those responsibilities are being fulfilled:

- Review the adequacy and effectiveness of the TSSA's public safety risk management system, policies and procedures: There was no documentation to indicate that any review had been undertaken.
- Review, analyze and report on the TSSA's Annual Safety Performance Report: The Safety Officer's review did not verify the accuracy of information presented in the report. The Safety Officer was not aware that the report was missing information (about 26,000, or 78%, of all fuel incidents that occurred between 2008 and 2017 were not reported).
- Review any safety matters that the Ministry or the TSSA's Board may request: Since 2012, no requests have been made by the Ministry or the TSSA's Board.
- Appraise the TSSA and report on the adequacy and effectiveness of the organization's safety management framework to ensure compliance with safety laws: Not performed. Since 2001, the TSSA has not been fulfilling most of its responsibilities under the *Technical Standards and Safety Act, 2000* in regard to the safety of boilers and pressure vessels.

RECOMMENDATION 3

To help its Chief Safety and Risk Officer (Safety Officer) review and report on the TSSA's public safety activities and performance more effectively, we recommend that the TSSA, together

with the Ministry of Government and Consumer Services, more clearly and precisely define the Safety Officer's responsibilities and regularly evaluate the Safety Officer's performance against established performance criteria.

TSSA RESPONSE

In collaboration with the Ministry of Government and Consumer Services, the Board of the TSSA will clarify and define the Safety Officer's responsibilities. The TSSA will then regularly evaluate the Safety Officer's performance against established performance criteria.

5.3 The TSSA's Public Reporting on Safety Issues Is Incomplete and Inaccurate

Each year, the TSSA publishes its Safety Report containing key safety-related information on the sectors it regulates and its evaluation of its own performance. The Ministry and the Chief Safety and Risk Officer are supposed to use the Safety Report to monitor the state of safety of each regulated sector and to evaluate the TSSA's performance. Key information contained in the report includes:

- the number of safety incidents reported to the TSSA in each regulated sector;
- the TSSA's risk rating (low, medium or high) of regulated devices and facilities; and
- compliance rates on periodic inspections.

We reviewed the information contained in the latest (2017) Safety Report and found that it presents an inaccurate picture of the safety risks present in the sectors the TSSA regulates.

5.3.1 Fuel Incidents Are Underreported

The 2017 Safety Report says that between 2008 and 2017 there were 7,371 fuel-related safety incidents resulting in 47 fatalities and 627 injuries. However, when we reviewed the TSSA's safety incident database, we found about 26,000 additional fuel safety

incidents for this period and seven related injuries that were not included in the report. Approximately 22,000 of the 26,000 incidents were related to damage to underground natural gas pipelines from excavation work; natural gas pipeline incidents accounted for more than 60% of all reported fuel-related incidents. The report was also missing approximately 3,600 reported fuel leaks and liquid petroleum spills that contaminated the environment. The TSSA informed us that, going forward, it will include this information in the Safety Report.

5.3.2 The TSSA's Risk Rating of Regulated Devices and Facilities Is Based on Incomplete Information

The TSSA determines the risk (low, medium and high) of its regulated devices and facilities primarily based on results of its past three periodic inspections. The Safety Report says that about 90% of devices and facilities regulated by the TSSA are low risk. However, we found that devices and facilities that have had fewer than three periodic inspections are not included in this result—meaning that the reported information does not include the potential risk posed by about 13,700 (or 25% of all) elevators, 605 (or 27% of all) escalators, 126 (or 34% of all) ski lifts, 901 (or 21% of all) liquid fuel facilities and 75 (or 7% of all) propane facilities.

5.3.3 Inspection Pass Rates for Each Safety Program Are Either Inaccurate or Not Reported

The inspection pass rates presented in the Safety Report for each of the four safety programs are either inaccurate or not reported. For example, the TSSA reports that the inspection pass rate for boilers and pressure vessels is 98%, but does not mention that this pass rate relates to less than 2% of all boilers and pressure vessels estimated to be operating in Ontario. As we discuss in **Section 9.1**, the inspection pass rate for the remaining 98% of the boilers and pressure vessels is unknown,

because the TSSA has not been collecting this information from insurers. The inspection pass rate in 2017/18 for liquid fuels was 43% and for propane was 74%, but for performance-measuring purposes, the TSSA combines these rates and reports 54%, calling the combined rate “Licensed Sites.” The inspection pass rate from the Upholstered and Stuffed Articles Safety Program, which has been about 50% over the past five years, is not reported at all by the TSSA.

RECOMMENDATION 4

To help ensure the effectiveness and transparency of its operations, we recommend that, on a regular basis, the TSSA publicly report the following information, after reviewing it for completeness and accuracy:

- the number and type of inspections performed in each safety program area;
- the inspection compliance rate in each safety program area, including the inspection compliance rate for each elevator maintenance company that operates in Ontario;
- the most common non-compliance issues identified in each safety program area;
- safety incidents reported by each safety program area; and
- the number and result of re-inspections completed in each safety program area.

TSSA RESPONSE

The TSSA agrees with this recommendation and will begin to publicly report available information suggested by the Auditor General of Ontario. The TSSA also commits to continually review the relevance of the publicly reported information.

5.4 Inspectors Are Not Supervised Effectively and Do Not Use Inspection Checklists

The TSSA’s oversight of its inspectors includes a process to check if they are carrying out their inspections properly. Every inspector is accompanied each year on at least two inspections by his or her supervisor, who observes how the inspector conducts the inspections and awards a performance score. In the presence of a supervisor, inspectors are motivated to do well—and in fact, when we reviewed the inspection performance scores awarded in 2017, we found that nearly all inspectors had passed with almost perfect scores. A more effective oversight process for inspectors would be an after-the-fact re-inspection of their work. This would require TSSA inspectors to follow formal inspection standards to guide their work, and to complete inspection checklists against which the procedures they followed and the quality of their inspections could be evaluated.

Inspection checklists offer a systematic way of collecting information about what was inspected for later reference and evaluation. They also reduce the risk of missing something significant during an inspection. At a minimum, they provide evidence that an inspection was performed.

As part of our audit, we accompanied TSSA inspectors on a number of inspections in each of the safety program areas. We found that the inspectors were not using a checklist or any other document for guidance. For example, the TSSA elevator inspector did not collect information to show that every main mechanical part had been inspected and to record each part’s condition. The only key information documented in the inspection report related to non-compliance with safety laws that the inspector identified.

When we asked the TSSA why it has not adopted any form of inspection checklist, it told us that its inspectors are trained on how to conduct their inspections and that it has not considered that a checklist is necessary.

RECOMMENDATION 5

To improve public safety by ensuring that the TSSA’s periodic inspections are conducted with greater thoroughness and consistency, we recommend that the TSSA:

- implement checklists in all of its safety programs where practical;
- formalize its inspection standards, including those with respect to:
 - the type and amount of inspections that should be performed;
 - the number of samples that inspectors should select and inspect or test;
 - inspection pass and fail criteria; and
 - minimum record-keeping requirements; and
- implement an inspector oversight process that includes an after-the-fact review and/or re-inspection of completed inspections.

TSSA RESPONSE

The TSSA will adopt checklists wherever appropriate, and inspectors will be provided with comprehensive training on all standards and reporting documentation. The TSSA will also implement an inspector oversight process that will include the review of completed inspections.

5.5 No Continuing Education Requirement for Most TSSA-Certified Technicians and Mechanics

The TSSA examines and certifies most technicians who work in the sectors that it regulates. It also licenses the companies that these technicians work for. **Figure 8** lists the number of certificate holders in each regulated area. Individuals who successfully complete their exams and meet applicable experience requirements can apply to register with the TSSA and obtain a certificate, which is valid for a maximum of two years.

Figure 8: Regulated Trades and Number of Certificate Holders

Source of data: Technical Standards and Safety Authority (TSSA)

Regulated Trade	# of Certificate Holders*
Elevating device mechanic	3,767
Amusement device mechanic	652
Ski-lift mechanic	343
Operating engineer	11,811
Fuel technician	73,652
Boilers and pressure vessels inspector	143

* One person can hold more than one certificate. Active certifications as of January 2018.

A coroner's inquiry into the death of an elevator mechanic in 2005 recommended that the TSSA implement a continuing education requirement for elevator mechanics as a condition of recertification. In 2011, the TSSA adopted this recommendation for elevator mechanics, but has not adopted it for all the other mechanics/technicians who it certifies. During our audit, the TSSA informed us that it was in the process of implementing a continuing education requirement for ski-lift mechanics.

RECOMMENDATION 6

To reduce the risk to public safety and help ensure that licensed mechanics and technicians remain qualified, we recommend that the TSSA implement, where needed, a continuing education requirement as a condition of recertification.

TSSA RESPONSE

The TSSA recognizes that continuing education is an important tool to ensure that certificate holders stay current with new requirements, and it will adopt a continuing education requirement where appropriate.

5.6 The TSSA Continues to Collect Fees That Exceed the Cost of Operating Two of Its Four Safety Programs

According to the memorandum of understanding between the Ministry and the TSSA, the fees that the TSSA collects should not exceed the cost of operating each safety program, and any cross-subsidization should be reduced over time. We found, however, that this is not the case. Our analysis of the TSSA's financial information found that over the past five years, the Elevating Devices and the Upholstered and Stuffed Articles Safety Programs' fees were in surplus; we further found that the surplus was being used to cover the costs of the Fuels and the Boilers and Pressure Vessels Safety Programs. This cross-subsidizing of programs is inconsistent with the intent of the memorandum of understanding that requires the TSSA to attempt to match the fees collected in each program with the costs of administering that program.

Figure 9 shows the TSSA's revenue over its expenses by program area between the fiscal years 2012/13 and 2016/17. The fees collected from the Elevating Devices Program exceeded operating expenses by about \$18.5 million; fees collected from the Upholstered and Stuffed Articles Safety Program exceeded that program's operating expenses by about \$10 million. Over this same period, the Boilers and Pressure Vessels and the Fuels Programs posted a deficit of over \$12.7 million.

RECOMMENDATION 7

To ensure that fees charged reasonably reflect the cost of operating each specific safety program and that some safety programs are not being used to cover the costs of running other programs, we recommend that the TSSA conduct a review of its fee structure and publicly report the fee revenues collected from and costs of enforcement in each safety program area.

Figure 9: Revenue over Expenses by Safety Program Area, 2012/13–2016/17 (\$ 000)

Source of data: Technical Standards and Safety Authority (TSSA)

Safety Program	2012/13	2013/14	2014/15	2015/16	2016/17	Total
Elevating and Amusement Devices	831	4,227	6,102	4,587	2,750	18,497
Fuels Storage and Handling	(146)	(528)	(1,252)	(1,110)	(1,850)	(4,886)
Boilers, Pressure Vessels and Operating Engineers	(1,874)	(2,916)	(2,182)	(359)	(471)	(7,802)
Upholstered and Stuffed Articles	1,773	1,654	1,893	2,263	2,390	9,973
Total Excess/(Deficiency) of Revenue over Expenses	584	2,437	4,561	5,381	2,819	15,782

TSSA RESPONSE

The TSSA, in consultation with the Ministry of Government and Consumer Services, will conduct a review of its fee model to ensure that fees charged reasonably reflect the cost of operating each specific safety program. The TSSA will also begin to publicly report the fee revenues collected from and costs of enforcement in each safety program area.

In Ontario, there are about 6,800 locations where propane is stored or filled. This includes 947 propane refill stations that store propane in large tanks, and 131 bulk propane storage and filling plants similar to Sunrise. About 5,700 of these locations are gas stations and large retail stores where propane barbecue cylinders can be exchanged.

6.1.2 Safety Panel Recommends Risk and Safety Management Plans for TSSA Inspections

After the Sunrise explosion, in late August 2008, the Government appointed a panel of experts to recommend how propane could be handled more safely. In late 2008, the Propane Expert Panel recommended mandatory training of workers who handle propane, and that as a condition of having their facilities operating license annually renewed, large bulk propane storage and filling plants and refill centres submit to the TSSA the following:

- a Risk and Safety Management Plan (Risk and Safety Plan) prepared by an independent engineer (or by the facility operator, if the site capacity is below a specified volume) and approved by the local fire department;
- confirmation from the applicable municipality that the operation does not contravene any municipal by-laws;
- proof of insurance; and
- records of training for all employees handling propane.

6.0 Detailed Audit Observations: Fuels Storage and Handling Safety Program

6.1 Potential Safety Risks Poorly Managed in Propane and Liquid Fuels Sector

6.1.1 Sunrise Propane Plant Explosion

On August 10, 2008, a propane explosion occurred at a Sunrise Propane facility in Toronto. Propane is a flammable gas, stored pressurized in liquid form. Propane transfer poses a high risk of explosion if done incorrectly. The explosion was caused by a rupture in a hose used to perform a truck-to-truck transfer of propane, which is an illegal operation. Two people were killed as a result and about 12,000 had to be evacuated from the surrounding area.

The Risk and Safety Plan contains an analysis of hazards in the area surrounding the propane location, such as a dense population or the presence of schools or hospitals. It also contains a simulation of the potential damage to the area surrounding the propane location from a worst-case explosion, and estimates the number of people within this “hazard distance” as well as those within the maximum evacuation distance.

The panel indicated that the TSSA should incorporate information collected from the Risk and Safety Plan in its database to identify high-risk facilities and inspect them more frequently.

The panel also recommended that the TSSA develop a risk-based inspection approach for all locations that store propane, using information collected from the Risk and Safety Plans.

As part of our audit, we reviewed the TSSA’s response to the Propane Expert Panel’s recommendations.

6.1.3 TSSA Inspections Not Using Critical Information Reported to the TSSA

Since 2009, propane companies have been required to submit their Risk and Safety Plans to the TSSA as part of their annual licence renewal. The cost to prepare these plans for a larger facility by an independent professional engineer can range from an estimated \$15,000 to \$35,000 or more, depending on the size of the facility. The frequency of TSSA risk-based inspections of bulk propane storage and filling plants and refill centres ranges from six months to 36 months, depending on the risk score of the propane location. When we reviewed how the TSSA determines these risk scores, we found that the TSSA is not factoring in any of the information collected in the Risk and Safety Plans, contrary to the Propane Expert Panel’s recommendation. The Risk and Safety Plans contain information about the specific safety hazards associated with each propane location and the danger to surrounding communities.

We also found that not all of this critical information is even entered into the TSSA’s database. In 2015, seven years after the panel made its recommendation, the TSSA had gathered historical inspection data to implement a different risk-based inspection program where the risk of each propane location is established based on the results of the past three inspections. In our review of Risk and Safety Plans, we found that 162 propane locations rated by the TSSA as low risk all have propane tanks that are located less than 1 kilometre from high-risk institutions such as schools, day cares, hospitals, and nursing and retirement homes.

We asked the TSSA why since 2009 it has not been using information found in the Risk and Safety Plans to determine where the highest-risk propane facilities are located in Ontario and to inspect them more frequently. The TSSA told us that it had planned to use this information, but instead adopted the same inspection approach it uses for elevators.

RECOMMENDATION 8

To reduce the risk of potential incidents in the propane sector, we recommend that the TSSA adopt as soon as possible the Propane Expert Panel’s recommendation for its risk-based inspection program and use all relevant information found in the Risk and Safety Management Plans to establish a risk score used to determine propane facility inspection selection methodology.

TSSA RESPONSE

The TSSA agrees with this recommendation and will start to utilize in its risk-based periodic inspection program the information it collects in the Risk and Safety Management Plans.

Figure 10: Fuels Sector Regulated by TSSA

Source: Technical Standards and Safety Authority (TSSA)

Area ¹	Description	Licensed by TSSA	Periodically Inspected
Propane			
Bulk storage, filling plants	Storage locations where propane is stored in large storage tanks for transportation and distribution by tanker trucks	✓	✓
Refill stations	Locations where customers' propane cylinders or vehicle tanks are filled with propane	✓	✓
Cylinder exchange locations	Locations where propane cylinders are exchanged/sold; filled cylinders are often stored in cages for resale to the public at gas stations or other retailers	✓	No
Distributors	Transporters of propane from bulk storage or filling plants to customers (homeowners who use it for heating) or refill stations	No	No
Off-site storage locations	Sites outside of their licensed sites where large propane bulk storage and filling plants sometime store propane	No	No
Liquid and Gaseous Fuels			
Bulk storage plants	Storage locations where gasoline, or any petroleum product, is stored in large storage tanks for transportation and distribution	✓	✓
Gas stations	Locations where gasoline is sold and distributed to the fuel tanks of motor vehicles or portable containers	✓	✓
Fuel oil distributors	Transporters of fuel oil in tanker trucks from bulk storage plants to customers (homeowners who use it for heating) or gas stations	✓	No
Tanker trucks	Motor vehicles that carry liquid fuels such as gasoline or diesel	✓	No
Compressed natural gas stations	Locations that sell natural gas in a compressed form; commonly used by fleet vehicles	✓	No
Oil and natural gas pipelines ²	Pipelines used for the transmission and distribution of oil and gas throughout the province	✓	No
Private fuel storage sites ³	Private locations that store liquid fuels and are not open to the public; e.g., police stations, couriers, farms, car rental companies	No	No

1. All licensed locations/equipment are inspected by the TSSA when first put into service, as part of initial licensing.

2. Oil and natural gas pipelines are discussed in Section 6.3.1.

3. Private fuel storage sites are discussed in Section 6.2.1.

6.1.4 Decisions to Implement Licensing and/or Inspection Programs Are Not Always Based on Evidence or in the Public Interest

The *Technical Standards and Safety Act, 2000* (Act) provides the TSSA with broad inspection powers to inspect any fuel facilities and equipment that it deems necessary. The TSSA therefore has the ability to establish periodic inspection programs to ensure that the fuels sector in Ontario follows safety laws. Similarly, the TSSA can request the Ministry to introduce new licensing requirements.

Figure 10 shows facilities and equipment that are currently licensed and periodically inspected by the TSSA in the fuels sector.

When deciding what type of safety oversight to introduce and enforce, it is important to balance public safety with the costs of regulatory compliance, as the TSSA collects fees from those it licenses and inspects. Therefore, decisions to license and inspect need to be based on accurate information on potential safety risks and their potential impact on the public. The TSSA, as the day-to-day enforcer of safety laws, is in the best position to gather

information about potential safety risks present in the sectors that it regulates and then to use this information to support evidence-based decisions on how best to deal with the potential hazards.

When we reviewed the TSSA's licensing and inspection programs in the fuels sector, we found that the TSSA's requests to the Ministry for licensing and its decisions to implement inspection programs are not always based on accurate information about potential safety risks present.

We found that the TSSA has not developed a clear, evidence-based decision-making framework for deciding when to implement a periodic inspection program for the businesses that it licenses. In the same way, we found that the TSSA has not inspected any of the unlicensed businesses that must comply with safety laws to discover if they present a safety hazard to the public that would justify requiring them to be licensed and/or periodically inspected. The TSSA informed us that, in making its decisions, it considers past inspection results, incident history and inherent risks to assess the need for licensing and periodic inspection programs. However, as we explain in the sections that follow, we found that this has not always been the case.

6.1.5 The TSSA Not Monitoring Offsite Propane Storage Locations or Propane Distributors

Propane facilities are required to disclose to the TSSA in their Risk and Safety Plans if they are storing propane outside of their licensed sites. At the time of our audit, there were at least 11 active offsite propane storage sites in Ontario. The TSSA is required to ensure that these sites are storing propane safely and in compliance with safety laws. We found that the TSSA does not monitor the offsite storage locations, so compliance with applicable safety laws at these sites is not known.

We also found that the TSSA is not monitoring propane distributors to see if they present a safety hazard that would merit licensing and/or

an inspection program, even though in 2013, the TSSA asked the Ministry to introduce licensing for propane distributors. The TSSA could monitor and inspect propane distributors on its own authority, potentially contributing to public safety. The Ministry told us that the TSSA has not provided evidence that distributors present a potential safety risk that would merit licensing.

6.1.6 The TSSA Does Not Periodically Inspect Tanker Trucks, Compressed Natural Gas Stations and Propane Cylinder Exchange Locations

The TSSA could not provide us with any evidence or analysis to demonstrate and support its rationale for not regularly conducting inspections of certain other fuel facilities and equipment. We observed the following:

- The TSSA currently does not periodically inspect tanker trucks used to transport propane, gasoline, diesel and other liquid fuels. Tanker trucks are inspected only once at their initial licensing before they are put on the road. According to TSSA records, the fleet of tanker trucks licensed in Ontario is aging; at the time of our audit, 2,750, or about 70%, of about 4,000 licensed trucks had been put into service more than five years earlier. However, the TSSA has not gathered any information to determine if the older tanker trucks present a safety hazard that may merit additional licensing conditions for older trucks or a periodic inspection program.
- All compressed natural gas stations in Ontario are required to be licensed by the TSSA. At the time of our audit, the TSSA had licensed 240 active stations. However, we found that the TSSA has not inspected 163, or about 70%, of these operating stations in the last five years.
- The TSSA's inspection records indicate that it has not inspected 4,774, or about 85%, of locations where propane cylinders are

exchanged in the last five years. The Ministry told us that it believed that the TSSA is periodically inspecting these locations.

RECOMMENDATION 9

To help ensure that the TSSA's rationales for regulatory oversight are clearly based on evidence and its decisions balance public safety with the costs of regulatory compliance, we recommend that the TSSA establish a clear decision-making framework for when it is justifiable to:

- request the Ministry of Government and Consumer Services to license businesses operating in a specific sector;
- implement an ongoing risk-based periodic inspection program;
- reduce the frequency of inspections or eliminate inspections; and
- use other oversight methods, such as licensing conditions or voluntary registration.

TSSA RESPONSE

The TSSA will work toward developing a clear decision-making framework, which will utilize enhanced data collection and analytics to inform clear and consistent regulatory decisions. This new framework will include guidance on:

- making requests to the Ministry of Government and Consumer Services to license businesses operating in a specific sector;
- implementing an ongoing risk-based periodic inspection program;
- reducing the frequency of, and/or eliminating, inspections; and
- using oversight methods, such as licensing conditions or voluntary registration.

This new approach will also enable the TSSA to focus its efforts on the areas that need it the most.

6.1.7 The TSSA Is Aware That Some Oil Distributors Are Delivering Oil into Leaking Tanks but Has Done Nothing to Reduce This Safety Hazard

Fuel oil is used to heat homes as an alternative to natural gas. Spills or leaks from a fuel oil storage tank can result in fire or environmental contamination to land and nearby groundwater supply, posing serious health risks. To prevent these safety incidents, fuel oil distributors are not permitted to deliver fuel oil into tanks that are in poor condition and unsafe. In addition, fuel oil distributors are required to inspect the tanks to which they deliver fuel oil once every 10 years, and must retain their inspection records. As part of the inspection, among other things, the fuel oil distributors:

- check the oil tank for visible signs of rust or corrosion and for leaks or spills around the pipes that carry the oil from the tank into the home; and
- check if the tank is vented properly, to ensure there is no risk of carbon monoxide releases.

The TSSA is required to inspect fuel oil distributors to ensure they are inspecting fuel oil tanks and delivering fuel oil only into safe tanks. However, we found that the TSSA does not conduct periodic inspections of fuel oil distributors and does not collect any information from them to ensure they are inspecting the fuel tanks. At the time of our audit, 158 licensed fuel oil distributors were operating in Ontario. According to data obtained from the Ministry of the Environment, Conservation and Parks on reported leaks from fuel oil tanks in the last five years, about 640 leaks have resulted in an estimated release of 153,000 litres of fuel oil into nearby land and water.

In October 2010, the TSSA initiated a pilot inspection program to check if fuel oil distributors are inspecting the fuel tanks. As part of this pilot, by the end of 2011, the TSSA completed six inspections. Since then, the TSSA has also inspected 12 fuel oil distributors as part of investigating reported oil spills. We requested the TSSA to provide us with

all 18 inspection reports. The TSSA was not able to locate four of the reports and provided us with 14. Our review of the 14 inspection reports found that:

- Four oil distributors were delivering oil into 16 tanks that the TSSA found were very unsafe and required immediate attention. The tanks were leaking oil and some posed a high risk of carbon monoxide releases due to improper ventilation. Another three distributors were delivering oil into 29 tanks that the TSSA found to be unsafe, but were not yet leaking oil.
- Two distributors could not provide the TSSA with any inspection records. The inspection records of another five distributors were incomplete or illegible.

We asked the TSSA why, despite knowing for the past several years that fuel oil tanks present a serious safety hazard, it had done nothing to deal with this hazard. For instance, the TSSA could have started to collect inspection records from the oil distributors or could have inspected additional distributors. The TSSA told us it was planning to deal with this safety hazard but that other priorities had taken precedence.

RECOMMENDATION 10

To reduce the risk of fuel oil contamination from fuel oil tanks and hazardous carbon monoxide releases from fuel-burning equipment, we recommend that the TSSA as soon as possible:

- require fuel oil distributors to submit inspection reports of oil tanks they service to the TSSA as part of their annual licensing conditions; and
- together with the Ministry of Government and Consumer Services (Ministry), develop an action plan outlining the specific steps the Ministry and the TSSA plan to take with oil distributors and tank owners to improve the safety of oil tanks.

TSSA RESPONSE

The TSSA will review its existing oversight processes for fuel oil tanks, and based on the outcome of this review, will determine appropriate annual licensing condition requirements for fuel oil distributors. The TSSA will also develop and advance the specifics of an action plan with the Ministry of Government and Consumer Services to improve the safety of oil tanks.

6.2 Contamination from Fuel Facilities Allowed to Continue

6.2.1 The TSSA Was Asked to Inspect Private Fuel Storage Sites as Part of Source Water Protection Plans

In our 2014 audit of the Source Water Protection Program at the Ministry of the Environment, Conservation and Parks, we reported that fuel spills can cause significant contamination of source water, and that the cost of dealing with contaminated source water is on average 30 to 40 times more than preventing contamination in the first place. At the time of our 2014 audit, source water protection plans had identified over 4,700 threats to water intakes in various regions relating to the storage and handling of fuel.

In response to these threats, some source water protection plans proposed that the TSSA increase inspections of fuel storage tanks owned by businesses for their private use and located in areas close to water intakes. Businesses that operate vehicle fleets, such as trucking companies and car rental agencies, as well as operators of heavy machinery such as farmers, sometimes store large quantities of fuel in tanks on their private property for their own use.

6.2.2 The TSSA Never Started to Inspect Private Fuel Storage Sites Despite over 120 Reported Fuel Spills Since 2015

Before 2001, owners of underground fuel tanks were required to declare their tanks with the Ministry; however, in June 2001 the Government ended this requirement. TSSA records indicate that in 2001, there were about 4,100 private fuel storage sites with underground fuel tanks. Since the removal of the declaration requirement, the location of existing and newly installed tanks is no longer available.

In our 2014 audit, we reported that initially the TSSA did not agree to increase its inspections of fuel storage locations and asked that its name be removed from source water protection plans. It has the authority to do these inspections.

The Ministry of the Environment and the TSSA spent a significant amount of time in mediation and discussions on this issue. In November 2014, about the same time our 2014 audit of the Source Water Protection Program was to become public, the TSSA agreed to inspect private fuel storage locations that were identified as threats to the drinking water supply as part of the source water protection plan.

As part of our current audit, we investigated whether the TSSA had started to inspect private fuel storage sites, as it agreed to in November 2014. We found that in early 2015, the TSSA had a plan to start inspecting these sites, but it never actually conducted any inspections as planned. The TSSA said that it is difficult to locate these sites, as they are not required to be licensed.

Even though the TSSA does not periodically inspect private fuel storage sites, it investigates reported fuel incidents involving private fuel storage and can issue orders for any non-compliance with safety laws. In our review of the TSSA's incident data, we found that since 2015 there have been 123 reported fuel incidents involving private fuel storage sites. In 2017, the TSSA did an analysis of information gathered from its investigations of fuel spills during its inspections of fuel storage on

private properties and found that about 85% of the investigated sites were not in full compliance with applicable fuel storage safety laws.

RECOMMENDATION 11

To reduce the risk of contamination of source water, we recommend that the TSSA:

- work together with pertinent implementing bodies for source water protection plans and the Ministry of the Environment, Conservation and Parks on developing a plan to identify the location of private fuel storage sites that pose a significant threat to source water; and
- where further action is needed, establish a risk-based periodic inspection program for private fuel storage sites that pose a significant threat to source water.

TSSA RESPONSE

The TSSA agrees with this recommendation. The TSSA will work with the Ministry of the Environment, Conservation and Parks and pertinent source water implementing bodies to develop a plan to identify private fuel storage sites that pose a significant threat to source water intakes and will establish a risk-based periodic inspection program for private fuel storage sites that pose a significant threat to source water.

6.2.3 The TSSA Is Not Ensuring That Abandoned Fuel Sites Are Cleaned Up, Increasing the Risk of Environmental Contamination

Safety laws require owners of fuel storage sites to remove the fuel handling equipment, including the storage tanks, and clean up any fuel remaining on the site after they cease operations. Sites that are not restored properly can pose a risk of contamination to the surrounding area. Sometimes the owner of a fuel storage site has closed down

and abandoned the business without removing the tank or cleaning up the site. In these situations, when the TSSA cannot locate the owner, it has no recourse. The TSSA operates on a cost recovery basis, so it has no extra funds available to cover the cost of the cleanup or to safely remove tanks with any remaining fuel.

We met with the Ministry of the Environment, Conservation and Parks (Ministry of the Environment), which informed us that it becomes involved only when the contamination from a site spreads outside the boundaries of the site. Until then, the abandoned site is the TSSA's responsibility. However, we found that the TSSA attempts to locate the owner of an abandoned site for approximately 18 to 24 months. If it cannot, nothing will be done until the contamination spreads beyond the site and the Ministry of the Environment takes notice. At the time of our audit, the TSSA's records showed that there were about 300 abandoned fuel storage sites with a total of 740 fuel tanks, primarily old abandoned gas stations.

The Ministry of the Environment informed us that there has been an attempt to update the current memorandum of understanding, signed in 1997, with the TSSA to clarify and strengthen the wording describing its and the TSSA's responsibilities for abandoned fuel sites. We noted that negotiations between the TSSA and the Ministry of the Environment have been going on for over six years, with some progress made; however, no changes have yet been made to the memorandum and the problem of abandoned fuel sites remains unresolved.

RECOMMENDATION 12

To reduce the risk of contamination spreading on and beyond abandoned fuel sites, we recommend that the TSSA:

- update its memorandum of understanding with the Ministry of the Environment, Conservation and Parks and work together to develop and implement a centralized data-

base inventory of all abandoned fuel sites and a risk prioritization model to identify high-risk sites; and

- work together with the Ministry of Government and Consumer Services and the Ministry of the Environment, Conservation and Parks to develop a long-term funding strategy to remediate abandoned fuel sites.

TSSA RESPONSE

The TSSA is working to complete its updated and finalized memorandum of understanding with the Ministry of the Environment, Conservation and Parks. The TSSA is fully committed to providing on an annual basis to the Ministry of the Environment, Conservation and Parks a list of all fuel sites classified as abandoned for the previous year. The TSSA will work with the Ministry of Government and Consumer Services and the Ministry of the Environment, Conservation and Parks to further assess the issue of abandoned fuel sites and to explore funding options to address their remediation.

6.3 No Inspection of Oil and Natural Gas Pipelines

Pipelines are used to transport natural gas, gasoline, diesel, fuel oil and other fuels underground over long distances in both remote and populated areas. Companies that operate pipelines that start and end in Ontario are required to be licensed by the TSSA. Pipelines that are shorter than 20 kilometres and carry fuel other than gas are exempt from TSSA licensing requirements. However, these pipeline operators must still adhere to applicable codes and standards. At the time of our audit, 21 licensed pipeline operators were operating approximately 111,300 kilometres of pipelines under the TSSA's jurisdiction. **Appendix 4** lists these licensed pipeline operators.

6.3.1 The TSSA Audits Pipeline Operators but Does Not Inspect Their Pipelines

Safety laws require the TSSA to license pipeline operators, but do not prescribe how, and at what frequency, the TSSA should inspect their pipelines. The TSSA itself does not perform inspections of pipelines but instead relies on the pipeline operators to conduct their own inspections. Once every five years, the TSSA audits the pipeline operators' records of inspections and records of their pipelines' incident history, operation manuals and employee training requirements. A TSSA audit of a pipeline operator will include a review of these documents to ensure that they comply with the national standards published by the Canadian Standards Association that all pipeline operators in Canada must adhere to.

There have been two major pipeline leaks in Ontario since the TSSA's inception in 1997. In September 2013, a rupture occurred in Sarnia, releasing about 60,000 litres of diesel fuel into the environment. Some of the spilled fuel reached the St. Clair River. The rupture was caused by excessive external corrosion that the pipeline operator failed to identify. Earlier that year, in June 2013, another pipeline incident took place in Sarnia. This spill involved an unlicensed pipeline that was 1 kilometre long and was used to transfer crude oil between a refinery and a storage terminal. The pipeline failure was due to earlier damage caused to the external coating, which eventually resulted in corrosion from exposure to wet soil.

Despite the two pipeline leaks, the TSSA has not updated or changed its practices for inspecting pipeline operators or expanded its inspection program to include unregulated pipeline operators (those that operate pipelines that carry fuel other than gas and are less than 20 kilometres in length). The TSSA does not use a risk-based approach to determine how frequently a licensed pipeline operator should be audited and has not done any analysis to determine if it should inspect some pipelines. We found that despite major differences such

as the size, location, type and age of their pipelines, all pipeline operators are audited by the TSSA on the same frequency, once every five years. The TSSA was not able to provide us with any rationale for using a five-year audit interval. In comparison, the Alberta Energy Regulator conducts periodic inspections of that province's pipeline sites using a risk-based approach. The inspection frequency takes into account a number of factors, including the pipeline operator's performance and compliance history, sensitivity of the area where operations take place (for example, proximity to bodies of water), frequency of environmental incidents in the area, complexity of the operation, and risk if an incident happens.

RECOMMENDATION 13

To reduce the risk of pipeline safety incidents, we recommend that the TSSA:

- review its current oversight practice for pipeline operators against best practices from other jurisdictions; and
- move toward a risk-based oversight approach based on each pipeline operator's specific safety risks.

TSSA RESPONSE

The TSSA agrees with this recommendation. The TSSA will review its current oversight practices for pipeline operators and look to adopt a best-practice methodology for pipelines as well as moving toward a risk-based oversight approach.

6.4 Fuel-Burning Appliances: Improper Installation and Maintenance

6.4.1 Inspection of Companies That Install Fuel-Burning Equipment Inadequate Despite Risk of Carbon Monoxide Releases

Over the last eight years, about 2,500 carbon monoxide (CO) releases have been reported to the TSSA. These incidents have led to 14 people losing their lives and almost 350 sustaining injuries because of CO poisoning. From our review of TSSA investigations of reported CO incidents, about 950, or 40%, were caused by improper installation and maintenance of fuel-burning equipment such as furnaces, water heaters and stoves.

Only TSSA-licensed companies and certified technicians are allowed to install and maintain most types of fuel-burning equipment, including furnaces. Once every three years, the TSSA inspects these companies to determine if the work performed by their technicians complies with applicable safety laws. The TSSA's records indicate that over the past five years, on average, 43% of installation and maintenance jobs failed the inspection. However, due to poor inspection practices and record keeping, it is possible that this inspection failure rate could be higher.

We selected a sample of 100 TSSA inspections. Fourteen of the companies that the TSSA wanted to inspect declared that they had not performed any work in the last three years and asked the TSSA

inspector to cancel their registration; as a result, these inspections were not done. Seventeen of the inspections were marked in the TSSA's database as "passed," but the TSSA could not provide us with any evidence that an inspection had been conducted. (Figure 11 summarizes the results we compiled on these 100 inspections.) In our remaining sample of 69 inspections, we found that:

- The TSSA never inspects jobs completed by many of the certified technicians because the jobs it inspects are pre-selected by the companies that employ the technicians. These companies provide the TSSA with a list of only a few pre-selected jobs done in the past three years, from which the TSSA then selects the jobs that it inspects. About 30 companies provided lists of fewer than 10 pre-selected jobs, including eight companies that provided lists with only three or four jobs.
- Twenty-nine companies did not provide a list of pre-selected jobs—we found evidence that an inspection had been completed, but no evidence of how the inspected job was selected. The TSSA inspector did not document the rationale for selecting these jobs for inspection.

RECOMMENDATION 14

To reduce the risks of carbon monoxide releases due to poor fuel-burning equipment installation and maintenance, we recommend that the TSSA:

Figure 11: Results of Our Office's Sample Testing of TSSA's Inspections of Companies that Install and Maintain Fuel-Burning Appliances

Prepared by Office of the Auditor General of Ontario

	Availability of TSSA Inspection Records (# of Companies)		Total
	Available	Not Available	
Inspection report	69	31*	100
Company's technician list	44	25	69
Company's job list	40	29	69

* Includes 14 companies that declared no work was performed in the last three years, and asked to cancel their registration with the TSSA when an inspector visited the company. These companies were not inspected by the TSSA. For the remaining 17 companies, the TSSA could not locate inspection documents (inspection reports, technician list, job list) that we requested.

- as part of its annual licensing conditions require fuel-burning installation and maintenance companies to submit to the TSSA a list of all employed technicians;
- develop and implement a robust centralized information system that tracks the number of technicians working for each company; and
- select a number of technicians from each company for inspection, ensuring that over time all technicians are inspected.

TSSA RESPONSE

The TSSA agrees with this recommendation and will consider appropriate preconditions for licensing and renewal. The TSSA is currently in the process of revising its approach to third-party contractor oversight. Included in this revision are improved record-keeping and a new approach to performing inspection reviews, which will ensure that over time all technicians are inspected.

7.0 Detailed Audit Observations: Elevating Devices Safety Program

In Ontario, there are over 59,500 elevating devices, and about 70% of those are passenger elevating devices. To ensure that elevating devices operate safely, the TSSA reviews the engineering design before a device is built and inspects the device before it is put into use. After that, the TSSA periodically inspects the device to ensure its compliance with safety laws.

Our review of the Elevating Devices program found that the TSSA has been conducting inspections of elevating devices to ensure that they are built and installed in accordance with safety laws. However, we found that the TSSA lacks strong enough enforcement powers to deal with the large

elevator maintenance companies that for years have not maintained most of Ontario's operating elevators in accordance with safety laws.

7.1 Most Ontario Elevators and Escalators Are Not in Compliance with Safety Laws: Situation Is Getting Worse

During an inspection, the TSSA checks if the condition and operation of major mechanical elements of an elevator or escalator are in compliance with all applicable safety laws. The TSSA also checks if all necessary maintenance work and safety tests have been completed on time.

As of April 1, 2014, safety laws require that every elevator and escalator in Ontario must have a formal Maintenance Schedule (Schedule). The Schedule lists when and what minimum maintenance work and safety tests of critical mechanical elements must be performed to ensure the device continues to operate safely.

A device will not pass its TSSA periodic inspection if it is not in compliance with all applicable safety laws. If an inspector finds that the device poses an immediate risk to public safety, the inspector can order an immediate shutdown of the device. As of August 31, 2018, 528 elevators and escalators were under TSSA shutdown orders for this reason.

Our review of TSSA inspection records from the past five years (May 2013 to April 2018) showed that the percentage of elevators and escalators failing their inspection has increased by 7%, from 75% to 82%. Over this same time, the average number of non-compliances with specific safety laws identified during an inspection has almost doubled, from four to seven per inspection. The main cause of the high inspection failure rate is outstanding maintenance work and safety tests mandated by the Schedule. This outstanding work does not pose an immediate risk to public safety (if there was such risk, the TSSA would immediately order the elevator shut down); however, neglected maintenance over time

can result in the device malfunctioning or breaking down more frequently. For example, an elevator may stop levelling properly with the building floor, as shown in **Figure 12**. The elevator's motor might malfunction, causing the elevator cabin to accelerate upwards or drop suddenly, or to stop between floors. The elevator's doors might jam, trapping the passengers or closing on a person entering the elevator or on a person's limb. Any of these events can cause injuries to passengers.

7.1.1 Injuries Caused by Unsafe Elevators Increasing

From May 2013 to April 2018, there were 487 reported safety incidents involving elevators that the TSSA determined had been caused by the elevator not operating in compliance with applicable safety laws. These incidents resulted in three deaths, and eight permanent and 137

Figure 12: Elevator Car Not Levelling with the Floor

Source: Technical Standards and Safety Authority (TSSA)



non-permanent injuries. Safety incidents caused by elevators not operating in compliance with applicable safety laws have more than tripled in five years, from 37 in 2013/14 to 137 in 2017/18. In 2017/18, 40 people were injured in such incidents.

The most frequent cause of these injuries is the elevator cabin not levelling properly with the floor. This is a significant safety issue, especially for the elderly and people using walkers and wheelchairs. For example, an elderly woman using a walker fell into an elevator in London, Ontario, that stopped about 20 centimetres below the floor level. The woman broke her nose and sustained other injuries that required medical attention. Two other people sustained serious injuries when they fell out of their wheelchairs while entering elevators that were not levelled properly. One of these incidents happened at a mall in Cobourg, and the other at a retirement home in Stayner.

Other injuries were caused by sudden upward acceleration or the sudden drop of the elevator cabin. For example, one person was injured when an elevator located in St. Catharines suddenly accelerated upward, crashing into the building's ceiling. Another five people were injured, with one requiring hospitalization, when the elevator they were riding located in Toronto suddenly dropped a few metres and then abruptly stopped between floors.

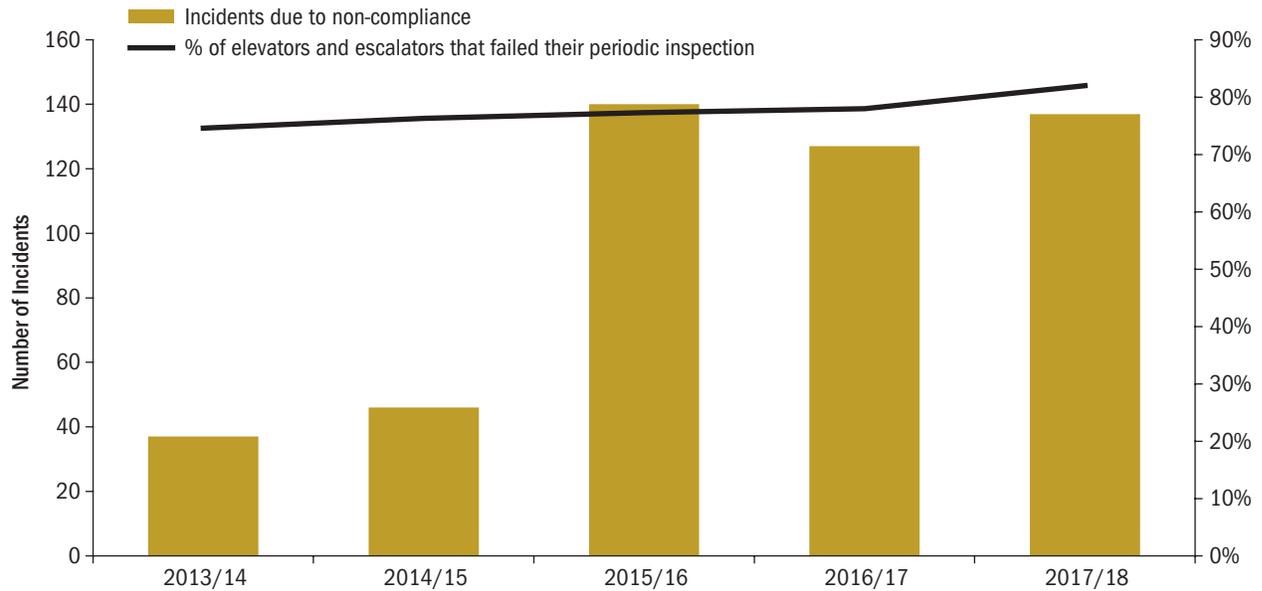
Figure 13 shows reported safety incidents caused by unsafe elevators that have occurred over the past five years and the percentage of elevators and escalators that failed their periodic inspections.

7.1.2 The TSSA Study Finds Maintenance Companies Primary Cause of Worsening Elevator Safety

Only TSSA-certified mechanics can perform elevator or escalator maintenance work and address safety problems identified by the TSSA. These mechanics are employed by elevator maintenance companies, which are responsible for following the elevator's legally mandated Maintenance Schedule.

Figure 13: Elevator and Escalator Safety Incidents

Source of data: Technical Standards and Safety Authority (TSSA)



In many cases, the maintenance company is the same company that installs the device.

In Ontario, four large companies (Kone, Otis, Schindler and ThyssenKrupp) are responsible for maintaining just over half of all the elevators and escalators. **Figure 14** lists the companies that operate in Ontario and the percentage of devices each company is responsible for maintaining.

To address problems identified during a periodic inspection, the TSSA issues orders to comply with safety laws directly to the owners, not to the maintenance companies. It is then up to the owner to make arrangements with the maintenance company to address the problems. The TSSA then conducts one or more follow-up inspections to verify if all safety problems have been addressed and the elevating device is fully compliant with all applicable safety laws.

In an attempt to compel owners to more promptly make their elevating devices comply with applicable safety laws, in May 2013, TSSA started to charge them extra fees for each subsequent follow-up inspection. However, recognizing that its strategy was not working, in April 2016, the TSSA stopped this practice and decided to study the issue.

Figure 14: List of Major Elevator Maintenance Companies

Source of data: Technical Standards and Safety Authority (TSSA)

Elevator Company	Approximate % of Elevators Maintained in Ontario*
ThyssenKrupp	25.0
Otis	11.0
Kone	11.0
Schindler	7.5
Delta	6.0
Other	39.5
Total	100.0

* Based on the TSSA's inspection records as of August 31, 2018. The TSSA updates its records at the time of inspection. As a majority of elevators are inspected every five years, information about the number of elevators maintained by each specific maintenance company may not be up to date.

Even though the TSSA had collected about \$13 million in extra inspection fees under this strategy from May 2013 to the end of April 2016, compliance with safety laws actually worsened over that time, dropping from 31% to 23%.

In May 2017, the TSSA conducted a study to find out why charging owners the extra follow-up

inspection fees did not improve compliance. The study found that the maintenance companies are the primary cause of poor compliance. To win market share, these companies offer services at reduced rates, which in turn creates incentives for them to minimize time and effort dedicated to maintaining or fixing elevators. The study also found that some owners find it cost-prohibitive to litigate large maintenance companies that do not perform required maintenance and safety tests on time, and that it is not easy to switch to a different maintenance company due to ironclad contracts, many of which require the use of proprietary technology.

We discussed this issue with representatives of the maintenance companies. They informed us that sometimes the owners are responsible for poor compliance. For instance, the Maintenance Schedule set by the TSSA in April 2014 substantially increased the maintenance work required, and it requires more rigorous safety tests to be performed on regular basis. However, elevating device owners are often not willing to pay for this additional work and sometimes they do not grant access to the technicians to complete the required work because of payment disputes. The maintenance companies also informed us that fully qualified elevator mechanics who possess the needed skills to perform the more complex safety tests are in short supply in Ontario.

7.1.3 The TSSA Has Limited Ability to Compel Maintenance Companies to Do Elevator Safety Work on Time

We asked the TSSA why it does not issue orders directly to the maintenance companies. The TSSA informed us that current legislation makes issuing orders directly to maintenance companies difficult, as it requires the TSSA to perform a full investigation for any identified safety problem and to determine if the owner or the maintenance company is responsible. Such investigations take time and require significant resources. Accordingly, the TSSA issues orders directly to the owners, who are ultim-

ately responsible and liable for the safe operation of the elevating devices.

The TSSA also informed us that it is not practical to revoke the operating licence of any large maintenance company, even if this company has a history of not doing required safety work on time. It explained that revoking the licence would prevent the company from doing any work on any of its other elevators. Shutting down elevators to enforce compliance is also not practical. Unless there is an immediate risk to public safety, it only affects the building's tenants and ends up benefiting the maintenance companies, as they often charge owners a higher rate for performing emergency repairs to bring the elevators back into service.

7.1.4 The TSSA Prosecuted a Large Maintenance Company Four Times for Repeatedly Not Doing Required Elevator Safety Work on Time

Serious or repeated non-compliance with safety laws may cause the TSSA to undertake an investigation that may lead to prosecution of an owner or a maintenance company. Over the past 10 years, the TSSA has prosecuted four owners and four maintenance companies for violating safety laws. Most of the prosecutions stem from investigations of specific incidents involving serious injury.

In our review of past prosecutions, we noted that on four occasions, the TSSA has investigated and prosecuted the same large maintenance company for repeatedly failing to maintain elevators in safe operating condition. The maintenance company was found guilty and fined over \$1 million for various non-compliances, including failing to complete required maintenance work and safety tests.

In one case in 2009, at an Etobicoke condominium, a passenger was seriously injured when an elevator dropped with its doors open as a result of badly worn mechanical components and poor maintenance.

In another case in 2015 in Scarborough, a passenger sustained an injury jumping from an

elevator that continued to move with its doors open. The maintenance company put the unsafe elevator back into service before the cause of the problem was identified or fixed.

This maintenance company was also prosecuted for repeatedly failing to do required safety tests on time. These prosecutions stemmed from its failures to conduct timely tests at one property in Mississauga in 2015, and on two elevators at a building in Etobicoke between November 2012 and December 2015. Some of the required tests were overdue by as long as 20 months.

We reviewed the TSSA’s inspection records for May 2017 to April 2018 and found that its prosecutions have not deterred the large maintenance company from not performing required maintenance work and safety tests on time. In the Toronto region, almost 91% of elevators that this company maintains failed their TSSA inspection, mostly due to outstanding maintenance work and safety tests. Compliance in the Mississauga region is even worse, as almost 95% of elevators serviced by this company failed their latest inspection, mostly for the same reasons. This is about 10–15% higher than the provincial average failure rate of about 80%.

7.1.5 Elevators with Highest Number of Safety Problems Are Serviced by the Prosecuted Large Maintenance Company

In our review of the TSSA’s inspection reports between 2016 and 2017, we found that of the 10 elevators that failed to comply with the highest number of safety laws, eight are serviced by this same company. TSSA inspections identified that each of these eight elevators failed to comply with 55 individual safety laws, on average, whereas the provincial average for all other elevators was seven.

Our review of TSSA inspection reports found that five of the eight elevators are located in one of Toronto’s hospitals. Serious non-compliance issues found with these elevators include overdue maintenance work to prevent brake malfunction, and wear and tear on cables and other components that

protect against over-speed and uncontrolled movements. The inspections also found that some critical annual tests were not completed, such as checking the doors’ closing force, the elevator cabin’s stopping accuracy, emergency backup power and the elevator cabin’s emergency phone.

We also found that, on average, it took about five TSSA follow-up inspections and over seven months before the maintenance company completed the required work. However, with two of these elevators, the TSSA had to do more than 12 follow-up inspections over a span of 25 months before the maintenance company finally had the elevators operating in full compliance with all applicable safety laws.

RECOMMENDATION 15

To improve compliance with safety laws in the Elevating Devices sector, we recommend that the TSSA, together with the Ministry of Government and Consumer Services (Ministry), develop an action plan outlining specific steps the Ministry and TSSA plan to take with elevator owners and maintenance companies to resolve current safety issues and bring the safety law compliance rate to an acceptable level.

TSSA RESPONSE

The TSSA will develop an action plan and work closely with the Ministry of Government and Consumer Services, in an attempt to resolve elevator safety issues and bring the safety law compliance rate to an acceptable level.

7.2 The TSSA Does Not Know if Uninspected Amusement Rides Are Being Used

Operators of amusement parks must register all of their amusement rides with the TSSA. However, only the rides that are going to be operated must be inspected by the TSSA before they are put into use. Each year, amusement park operators inform the

TSSA of the rides they plan to use so that the TSSA can inspect only those rides and issue an operating permit. As of August 31, 2018, there were 4,025 registered amusement rides in Ontario, and 2,142 of them had been inspected by the TSSA.

We found that the TSSA does not have a program in place to conduct random inspections of amusement parks to find out if any uninspected amusement devices are being operated. We found that in New Jersey, the agency responsible for inspecting amusement rides, the Carnival and Amusement Ride Safety Unit of the Department of Community Affairs, conducts random inspections to ensure that park operators operate only inspected devices.

As part of our audit, between July and August 2018, we co-ordinated with the TSSA to conduct random inspections of four amusement park locations to find if operators are using any devices without a TSSA operating permit. As part of these inspections, we also looked for any unsafe amusement devices that had a TSSA operating permit. At one of the largest street festivals in Ontario, we found two unsafe amusement rides with a TSSA operating permit in use. One of the rides had a damaged electrical plug. Another ride had a seat with a broken seat belt and a hole on the floor with a sharp edge. The TSSA inspector who was with us instructed the operator to immediately fix the damaged electric plug, and asked the operator to attach an out-of-order sign to the seat with the broken seat belt. We investigated why the TSSA had issued operating permits to these rides and found that the TSSA had previously inspected these two rides and identified the same safety problems that we found; however, the TSSA inspector who did the initial inspection never followed up, as required, to check if the safety problems had been fixed before issuing operating permits. During the four amusement park inspections, we did not find any devices operating without a TSSA operating permit.

RECOMMENDATION 16

To improve the safety of amusement park rides, we recommend that the TSSA:

- implement an oversight process to ensure that operating permits are issued only to rides that have been inspected and found to be safe after any safety issues are remedied; and
- establish an inspection process to ensure that only rides with valid operating permits are in use.

TSSA RESPONSE

The TSSA commits to reviewing its inspection processes for the safety of amusement park rides and to taking the appropriate steps to ensure that operating permits are issued only to rides that have been inspected, where critical safety issues have been addressed and where the ride itself is safe to operate. The TSSA will also implement a periodic inspection process for amusement devices while they are in operation. This will include permit validation processes.

8.0 Detailed Audit Observations: Upholstered and Stuffed Articles Safety Program

Our review of the TSSA's inspection and enforcement practices in the Upholstered and Stuffed Articles program made us question how effective this safety program is in protecting public safety.

All manufacturers, renovators and home hobbyists that produce upholstered and stuffed articles to be sold in Ontario must register with the TSSA to obtain a licence. At the time of our audit there were about 13,200 registrants. Upon registration, new registrants who are located in Ontario (over 90% of registrants are located outside Ontario) undergo

an initial inspection, after which the TSSA performs periodic inspections to check if the products available for sale comply with safety laws.

Ontario’s safety laws require that filling materials of upholstered and stuffed products listed in **Figure 15** must be new and clean. Labels on these products must also be of a specific size and printed in the proper font, and must correctly describe the filling material inside the product. Their manufacturers must be registered with the TSSA.

When the TSSA finds a product that is not in compliance with applicable safety laws, it orders the retailer to ask the manufacturer either to correct the problem (usually size, font and/or location of the label) within a specified time, or, if the article is unclean or mislabelled, to immediately remove it from sale. **Figure 16** describes the common types of non-compliances that the TSSA finds.

8.1 No Written Standards or Guidelines to Assist Inspectors

As part of our audit, we accompanied the TSSA on four inspections, including one of a major retail chain and one of a large online retailer. During these inspections, we observed that there are no written standards or internal policies on how many articles an inspector should open to examine the filling materials, or that explain the extent of further testing to perform. These decisions are left to the inspectors’ discretion. When we analyzed the TSSA’s inspection records, we found that from May 2014 to April 2018, the TSSA conducted almost 11,000 inspections, but during only 300 inspections was an article opened and its filling examined. The TSSA told us that the standard procedure is to touch and smell the article to determine if something might be wrong with the filling material—a method that can be relied on to find only grossly unclean or inappropriate filling material.

Figure 15: Categories of Upholstered and Stuffed Products Covered by Ontario’s Safety Laws

Source of data: Technical Standards and Safety Authority (TSSA)

Product Categories
Mattresses
Furniture
Bedding items
Toys
Luggage
Seasonal ornaments
Insulated outerwear
Handbags
Down-filled apparel
Pet items
Sporting goods
Home furnishing products

8.1.1 Inspectors Do Not Have Necessary Tools to Test Filling Material for Cleanliness

The TSSA has lab equipment to analyze the down filling used in winter jackets and bedding, although no one at the TSSA is trained in its use. The only person who knew how to use the lab equipment was a member of senior management who left the TSSA in February 2018. When we noted that some inspectors are not provided with UV lights that could help with the detection of any unclean filling inside inspected articles, the TSSA told us that all inspectors except for new hires are provided with UV lights; however, the UV lights that the more senior inspectors have are outdated and not very effective.

8.1.2 The TSSA Does Not Inspect More Than Half the Registrants Located in Ontario

From our analysis of the approximately 110,000 instances of non-compliance with specific safety laws that TSSA inspectors have identified over the past five years, we found that less than 2% (2,025) pertained to unclean filling material. The most frequently identified non-compliance (about 35%)

Figure 16: Common Non-compliance Issues Found in Upholstered and Stuffed Articles by the TSSA's Inspections of Upholstered and Stuffed Articles

Source of data: Technical Standards and Safety Authority (TSSA)

Common Non-compliance Issue	Safety Risk	TSSA Order
Label format incorrect	Low	Correct within 30 days
No/expired registration with the TSSA		No follow-up inspection
Wrong country of origin	Medium	Correct within 30 days
Label hidden/not securely affixed		Follow-up inspection
Unclean/contaminated filling material	High	Immediately remove from sale*
No label/mislabeled		Follow-up inspection

* Depending on the severity of the issue, after the product is immediately removed from sale, the inspector may order that either the label is to be corrected or else the product is to be destroyed immediately.

is lack of or expired registration with the TSSA, for which the TSSA charges manufacturers an annual fee of \$400.

Upon registration with the TSSA, each new registrant (at no additional fee) is supposed to undergo an initial inspection. We reviewed the TSSA's records to confirm that the TSSA has been conducting these inspections and found that it has not inspected about 50% of the registrants located in Ontario. The TSSA told us that the inspections had been missed due to problems with its computerized inspection scheduling system. We also found that the TSSA does not periodically inspect online retailers that have facilities in Ontario for compliance with safety laws as part of its inspection program, despite having the authority to do so.

8.2 The TSSA Is Not Effective in Stopping Retailers from Selling Mislabeled Products

With the exception of issuing orders to comply with safety laws, the TSSA has used no other method of enforcement against companies covered by this safety program. We found that the TSSA's orders are often ineffective: inspected retailers do not always comply with them. As part of our audit, we selected a sample of 10 articles that the TSSA ordered to be immediately removed from sale in the last two years. In June 2018, we attempted to

purchase these articles from the same inspected retailer that had been ordered to stop selling the mislabeled articles. We were able to purchase five of the 10 mislabeled articles in our sample. Photographs of the five articles that we were able to purchase and a description of how each article did not comply with the safety laws can be found in **Appendix 5**.

8.2.1 Mislabeled Products When Found Not Removed from All Stores in Ontario

When the TSSA finds a mislabeled article, it orders the inspected retailer to stop selling the article until the labelling problem is fixed. We observed that the TSSA's orders to immediately stop selling mislabeled articles apply to the inspected retailer alone. The TSSA makes no attempt to check whether the mislabeled articles are sold in any other stores in Ontario, meaning that it does not order other retailers that sell the same article to fix the problem or remove the article from sale. As part of our audit, we found that we could purchase from other stores and online the same mislabeled articles that the TSSA ordered to be removed from sale at locations it inspected.

RECOMMENDATION 17

To significantly improve the effectiveness of its upholstered and stuffed products safety program, we recommend that the TSSA:

- develop and implement an action plan to improve this program so that its inspection and enforcement resources are used effectively and most efficiently to protect public safety; and
- ensure that inspectors have the required training and equipment.

TSSA RESPONSE

The TSSA agrees with this recommendation. The TSSA is committed to developing and implementing an action plan to improve the effectiveness and efficiency of the Upholstered and Stuffed Articles program in order to better protect public safety. This action plan will include provisions on training and equipment for inspectors to improve inspection and enforcement activity.

9.0 Detailed Audit Observations: Boilers and Pressure Vessels Safety Program

All boilers and pressure vessels operated in Ontario, with the exception of low-pressure and low-heat boilers such as those typically used in homes, are to be inspected and certified by the TSSA before being put into use, and then inspected periodically after installation when in use.

Boilers and pressure vessels are used to distribute and store compressed gases and liquids. They vary in size and in the temperature and pressure at which they operate. Used for heating, refrigeration and power generation, they can be found in office buildings, hospitals, hockey arenas, industrial

plants, farms and other locations. Although rare, an explosion of a boiler or a pressure vessel can cause significant damage to the immediate area. For example, the estimated energy released from the explosion of a 110-litre hot-water tank would send a mid-sized car about 45 metres into the air.

According to safety laws, no person may legally operate or use a regulated boiler or pressure vessel in Ontario without a valid Certificate of Inspection issued by the TSSA. The certificate must be reissued each time the device is periodically inspected. The law allows insured boilers, which make up the vast majority of the boilers and pressure vessels, to be periodically inspected by insurance companies. Then the insurance company is required to report the inspection results to the TSSA within 21 days, so that the TSSA can review the results and issue the Certificate of Inspection.

9.1 The TSSA Does Not Know the State of Safety of Almost All Boilers and Pressure Vessels Located in Ontario

The TSSA is responsible for ensuring that boilers and pressure vessels manufactured in Ontario comply with safety laws. We found that the TSSA has been reviewing the design of new boilers and pressure vessels prior to their production, and once these devices have been manufactured, the TSSA has been inspecting and certifying them before their sale or installation.

However, we found that since 2001, the TSSA has not been fulfilling most of its responsibilities under the Act when it comes to the safe operation of boilers and pressure vessels. The TSSA does not know how many boilers and pressure vessels operate in Ontario, where they are located, and whether they are maintained and inspected. The TSSA has not been collecting required information from insurance companies and has not been issuing the Certificates of Inspection for insured operating devices, which means that the vast majority of boilers and pressure vessels in Ontario are operating

outside the law, and also means that the overall safety status of this sector is not known. According to the TSSA's estimate, 65,000 boilers and pressure vessels are operating in Ontario. However, in our review of TSSA records, we found that the TSSA has information and inspection records for only about 850 of these—less than 2% of the total. The lack of substantive information limits the TSSA's ability to accurately determine the state of safety of boilers and pressure vessels in Ontario and make risk-based safety decisions in this sector.

The Ministry informed us that the TSSA could not rely on insurer records to obtain owner contact information to issue the Certificates of Inspection. However, the TSSA could not explain to us why it did not use its broad inspection powers to act earlier to implement an inspection program, and why it took the Ministry so many years to recommend that the Government update the safety laws to clarify the insurers' responsibilities regarding inspections, record keeping and transfer of inspection records to the TSSA, which the Government did in July 2018.

RECOMMENDATION 18

To start fulfilling its responsibilities under the *Technical Standards and Safety Act, 2000* with regard to the safe operation of boilers and pressure vessels, we recommend that the TSSA:

- establish inspection standards for boilers and pressure vessels and ensure that insurance companies are following these standards when conducting their inspections;
- use the information collected from insurers to develop and implement a robust centralized system that tracks the number of boilers and pressure vessels that operate in Ontario, their location and their safety status; and
- start collecting required information from insurance companies, review this information, and issue Certificates of Inspection for insured boilers and pressure vessels.

TSSA RESPONSE

The TSSA agrees with this recommendation. Following the amendments made to the Boilers and Pressure Vessels regulation that came into effect on July 1, 2018, the TSSA began to collect and review required information from insurance companies, and is now issuing Certificates of Inspection for insured boilers and pressure vessels. The TSSA will also ensure that insurance companies are following inspection standards established by the North American certification body (National Board) when they are conducting inspections of boilers and pressure vessels.

9.2 Boilers and Pressure Vessels Used for Agricultural Purposes Exempt from Safety Laws: TSSA Is Concerned for Public Safety

Ontario is the only province in Canada where boilers and pressure vessels used in agricultural operations such as greenhouses, mushroom farms, maple syrup farms and wineries are exempt from safety laws. An estimated 600 to 700 agricultural operations are exempt from safety laws, even though their boilers are typically larger than home water heaters and can operate at much higher temperatures and pressures. Information provided to the TSSA by one large insurer revealed that from 2015 to mid-2017, six boilers exploded at agricultural sites exempt from safety laws.

In April 2005, the TSSA recommended removing the exemption for newly installed boilers and pressure vessels, and introducing a transition safety program for existing equipment. The Ministry did not adopt these recommendations, however.

In May 2015, growing safety concerns expressed by insurers prompted the TSSA, together with its advisory council, to again review the need for the exemption. After completing its review, in April 2018, the TSSA provided the Ministry with a report from its advisory council that recommended that

the Ministry examine removing the exemption, as it was concerned that the exemption “poses a safety risk to the public greater than the risk of other pressure equipment installations in Ontario.”

The public expects boilers and pressure vessels to be safe everywhere, whether they are located in a mall or a winery. The exemption increases the risk to public safety in places such as wineries that offer tours and greenhouses where people shop for plants. In addition, employees who work at these locations are also subject to the risk of a boiler explosion that could be reduced through safety oversight.

We found as well that agricultural operations are also exempt from safety laws pertaining to elevating devices. Thus, elevators that are installed in or adjacent to a barn, are exempt from safety laws.

The Ministry recently went through a process of updating the boilers and pressure vessels safety laws, which provided an opportunity to recommend that the Government remove the agricultural exemptions. When we asked the Ministry why it

did not make such a recommendation, it told us that this exemption has existed since 1951 and that it will assess the recent information about the six boiler explosions between 2015 and mid-2017 to inform its policy development.

RECOMMENDATION 19

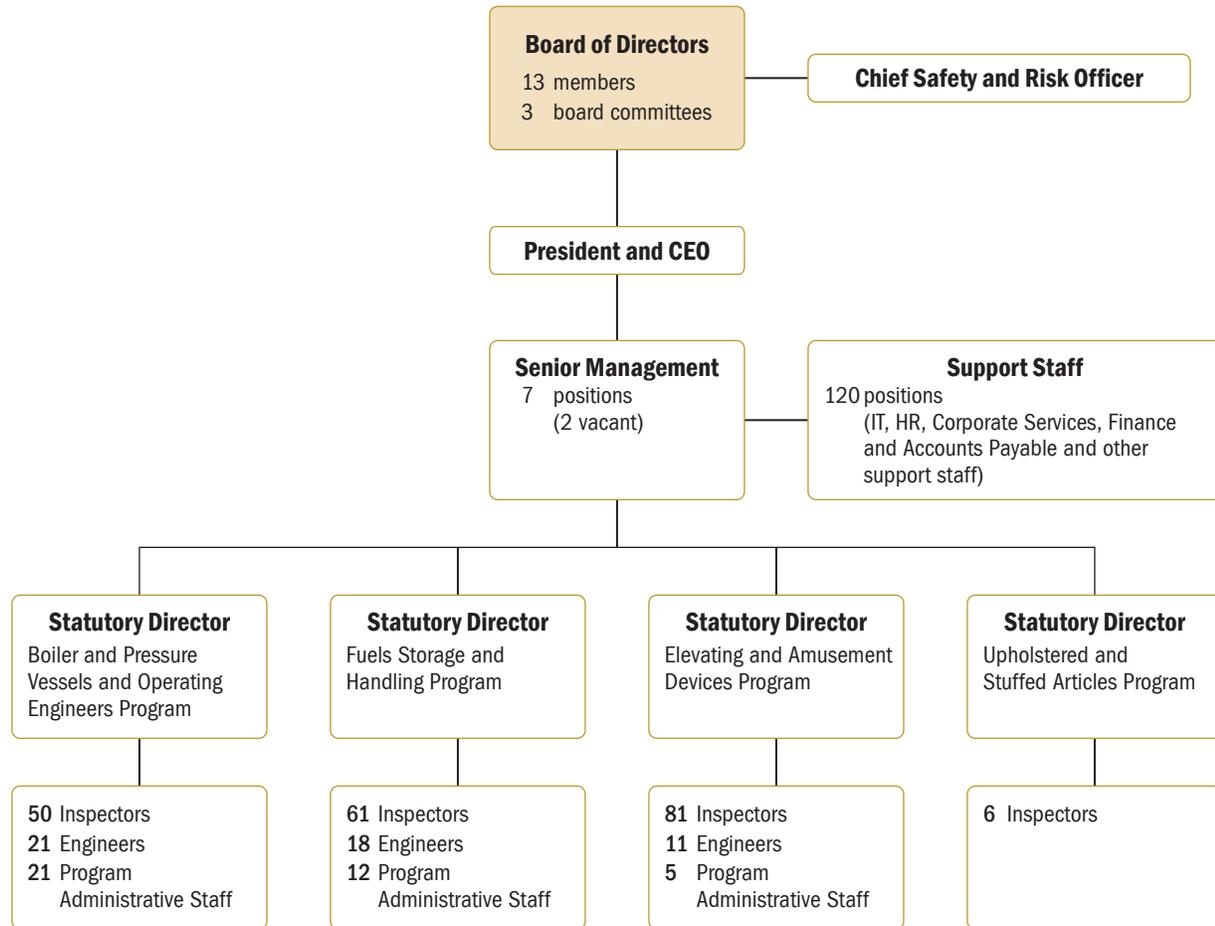
To reduce the risk to public safety in the agricultural sector, we recommend that the Ministry of Government and Consumer Services assess the current exemption of agricultural operations from safety laws pertaining to boilers and pressure vessels and elevating devices.

MINISTRY RESPONSE

The Ministry will work with the TSSA, relevant stakeholders and ministries to review the existing agricultural exemption under the boilers and pressure vessels and elevating devices regulations and will consider the revision to the existing policy.

Appendix 1: The TSSA's Organizational Structure as of October 2018

Prepared by the Office of the Auditor General of Ontario



Appendix 2: The TSSA's Advisory Councils as of October 2018

Source of data: Technical Standards and Safety Authority (TSSA)

Council	# of Members	Member Representatives*
Program Area: Boiler and Pressure Vessels and Operating Engineers Program		
Boilers and Pressure Vessels Advisory Council	12	<ul style="list-style-type: none"> Ontario Power Generation Canadian Boiler Society The Boiler Inspection and Insurance Company of Canada Ontario Petrochemical Inspectors Association Suncor Energy
Operating Engineers Advisory Council	7	<ul style="list-style-type: none"> International Union of Operating Engineers, Local 772 Ontario Power Generation Toronto District School Board J.D.Sweid Foods
Program Area: Fuels Storage and Handling Program		
Propane Advisory Council	9	<ul style="list-style-type: none"> Sleegers Engineering Canadian Propane Association Huronia/MED E-OX Ltd. Canadian Tire Petroleum Network Development Heartland Farm Mutual
Liquid Fuels Advisory Council	11	<ul style="list-style-type: none"> Canadian Tire Nature and Outdoor Tourism in Ontario Canadian Independent Petroleum Marketers Association Canadian Oil Heat Association Trimac Transportation
Natural Gas Advisory Council	12	<ul style="list-style-type: none"> Enbridge Gas Distribution Union Gas Limited A.O. Smith Enterprises Ltd. Heating, Refrigeration and Air Conditioning Institute of Canada
Program Area: Elevating and Amusement Devices Program		
Elevating Devices Advisory Council	14	<ul style="list-style-type: none"> ThyssenKrupp Schindler Kone Otis Canada International Union of Elevator Constructors Building Owners & Manufacturers Association Toronto Transit Commission
Amusement Devices Advisory Council	16	<ul style="list-style-type: none"> Ontario Association of Agricultural Societies Canada's Wonderland Camp Quality Canada Sypher & Associates Field Engineering Ltd.
Ski Lifts Advisory Council	9	<ul style="list-style-type: none"> Canadian Ski Patrol – Ontario Division Ontario Snow Resorts Association Blue Mountain Resort Inc.
Program Area: Upholstered and Stuffed Articles Program		
Upholstered and Stuffed Articles Advisory Council	5	<ul style="list-style-type: none"> Mattel Canada Feather Industries Canada Hartz Canada Inc.
All Program Areas		
Consumers Advisory Council	5	<ul style="list-style-type: none"> Representative from each of the following advisory councils: Elevating Devices, Amusement Devices, Liquid Fuels, Natural Gas, and Upholstered and Stuffed Articles.

* For presentation purposes, only large to mid-size companies/organizations have been shown to illustrate the industry representation on each council. A full listing of current members on each advisory council can be found on the TSSA's website.

Appendix 3: Audit Criteria

Prepared by the Office of the Auditor General of Ontario

Technical Standards and Safety Authority

1. Effective and efficient registration and licensing activities are in place to ensure that regulated devices, facilities and businesses comply with safety regulations and policy requirements.
2. Effective and timely inspection processes are in place for regulated devices, facilities and businesses to ensure that they comply with safety requirements.
3. Effective processes and systems are in place to ensure that incidents involving regulated devices and facilities are accurately recorded and investigated, and that corrective action is taken on a timely basis to prevent future incidents.
4. Effective certification processes are in place to ensure that individuals are qualified to carry out their work in their respective fields.
5. Human and financial resources are sufficient and used efficiently and effectively to fulfill mandated responsibilities.
6. Accurate, timely and complete information is regularly collected to allow management to assess the performance of safety activities and to make informed decisions.
7. Meaningful performance indicators and targets for protecting the safety of Ontarians are established, monitored and compared against actual results to ensure that intended safety outcomes are achieved. Results are publicly reported and corrective action is taken on a timely basis.

Ministry of Government and Consumer Services (Ministry)

The Ministry has effective processes in place to update regulations to address concerns that may arise, including safety concerns, and to monitor and assess the Technical Standards and Safety Authority's performance in fulfilling its mandated activities to protect the safety of Ontarians.

Appendix 4: Pipeline Operators Regulated by the TSSA

Source of data: Technical Standards and Safety Authority (TSSA)

Pipeline Operator	Pipeline Type	Product Transported	Pipeline Length (km)	Date of Last TSSA Audit ¹
Air Products Canada Ltd.	Transmission	Fuel gas, hydrogen	8.8	Sept. 2015
Bayview Explorations Ltd.	Distribution	Natural gas	15	No last audit date
Enbridge Gas Distribution	Distribution	Natural gas	38,000	Sept. 2017
Enbridge Gas Storage	Transmission	Natural gas	115	Oct. 2013
EPCOR (previously Natural Resource Gas Limited [NRG])	Distribution	Natural gas	n/a	May 2016
EPCOR (previously Natural Resource Gas Limited [NRG])	Transmission	Natural gas	28.5	May 2016
Fisherville Gas Ltd. (Chatham Resources)	Distribution	Natural gas	10	July 2014
Glensrd Ltd.	Distribution	Natural gas	10	July 2014
Glenfed Gas Wells Ltd.	Distribution	Natural gas	10	Nov. 2014
Greenfield South Power Corporation (GSPC)	Distribution	Natural gas	n/a	Licensed in Aug. 2016
Imperial Oil Ltd.–Sarnia Products Pipeline	Transmission	Diesel, jet fuel and fuel oil	580	Dec. 2010
Kingston Utilities	Distribution	Natural gas	250	Jun. 2014
Kitchener Utilities	Distribution	Natural gas	1,000	Nov. 2015
Northern Cross Energy Ltd.	Distribution	Natural gas	50	Aug. 2014
Six Nations Natural Gas Limited Partnership	Distribution	Natural gas	180	Aug. 2012
Sun-Canadian Pipe Line Co. Ltd. ²	Transmission	Gasoline, diesel, jet fuel and fuel oil	644	May 2011
Superior View Gas Inc.	Distribution	Natural gas	18	No last audit date ³
Union Gas Ltd.	Transmission	Natural gas	2,970	Nov. 2017
Union Gas Ltd.	Distribution	Natural gas	• 40,191 (distribution lines)	Nov. 2017
Market Hub Partners Canada L.P. (part of Union Gas)	Distribution	Natural gas	• 27,245 (service lines)	Audited as Part of Union Gas
Sarnia Airport Storage Pool Ltd. Partnership (part of Union Gas)	Distribution	Natural gas		Audited as Part of Union Gas

1. Once every five years, the TSSA audits pipeline operators' records of inspections and records of the pipeline's incident history, operation manuals and employee training requirements.

2. This pipeline operator was involved in a major pipeline incident in 2013, further discussed in Section 6.3.1.

3. This pipeline operator was audited at the time of granting its licence. The TSSA has not audited this operator in recent years because the number of customers is relatively low and the pipeline is in a rural area, which reduces risk. However, the TSSA plans to audit this operator later this year.

Appendix 5: Mislabeled Upholstered and Stuffed Articles That We Purchased During Our Audit

Prepared by the Office of the Auditor General of Ontario, photo credit: Mariana Green



1 Children's toy: Product contains polyethylene foam, which was not declared on the label.

2 and 4 Pet toys: Products contain a plastic film, which can pose a choking hazard. The plastic film was not declared on the label.

3 Baby bib: Product contains polyethylene foam, which was not declared on the label.

5 Baby toy: Product contains a plastic film, which can pose a choking hazard. The plastic film was not declared on the label.

Use of Consultants and Senior Advisors in Government

1.0 Summary

The Ontario Public Service requires external services and advice from time to time when its own staff are unavailable or lack the required skills or expertise. It usually fills these needs by using consultants and advisors. As a general rule:

- *consultants* provide expertise and strategic advice to government for use in decision-making; and
- *advisors* provide high-level advice to the Premier or a minister.

Using consultants can be costly, as they are generally paid more than full-time staff. In 2016, the Treasury Board Secretariat compared the cost of information technology (IT) consultants to similar full-time staff, and determined that an IT consultant costs \$40,000 a year more, or about 30% more, than similar full-time staff, after factoring in employee benefits. A similar comparison by the U.K. National Audit Office in 2016, not specific to IT consultants, found that consultants doing operational work were paid around twice as much annually as similar full-time staff. However, consultants can be cost-effective when they are engaged for short periods, to perform specialized services, or for their expertise, instead of having to hire new permanent full-time staff.

Overall spending on consultants by ministries has dropped more than 15% over the past 10 years,

from \$434 million in the 2008/09 fiscal year to \$360 million in 2017/18, with fluctuations over those 10 years.

About 80% of the 2017/18 spending was for IT consultants, and the rest for consultants in management, communications, policy, technology, and research and development.

The Province does not track its spending on advisory services, but we estimated it at about \$4 million a year.

We audited the procurement of goods and services, including consulting services, in a 2016 report titled “Supply Chain Ontario and Procurement Practices,” and noted an over-reliance by the government on IT consultants. Since the audit, both the Treasury Board Secretariat and Supply Chain Ontario made improvements and hired additional full-time staff with a goal of reducing the reliance on IT consultants. We also noted since the 2016 audit that expenditures for consulting services have decreased by 10%.

Although there has been improvement, there is still an over-reliance on IT consultants. We also noted that ministries at times used consultants for ongoing or operational work that could have been undertaken more cost-effectively by full-time permanent or term employees.

The Ontario Public Service Procurement Directive (Procurement Directive) outlines the requirements for ministries to follow for the procurement and management of consulting services. It

stipulates that consultants are not to be used when internal government resources are available, and that ministries must manage consultants to ensure that deliverables are completed on time and within budget. From our review, we generally found that ministries were procuring and managing consultants in accordance with the procurement directive, with a few exceptions noted.

The following are some of our significant observations:

- **Consultants perform ongoing or operational work that government staff could be doing, and at a higher cost.** Ministries used consultants for regular operational and ongoing work such as project management, instead of for short terms (less than a year or two), specialized services or expertise, for which the costly consultants are best suited. For example, an individual consultant was hired to provide analysis and development for the e-Careers software application. The initial contract from February 2014 to March 2015 was for \$210,000, but was extended three times to March 2018 at a total cost of over \$900,000. Based on the average cost of permanent IT staff, this work could have cost about 40% less if undertaken by permanent full-time staff.
- **Contracts amended for more work without competitive procurement.** Twenty-two percent of the contracts we reviewed that were competitively procured had amendments greater than \$10,000 without an option in the contract to allow for the amendment or where the amended amount exceeded the amount approved for the contract. Most amendments were between \$100,000 and \$500,000, with two as high as \$1.5 million. The additional services included in these amendments were not competitively procured. For example, a consultant was hired through a competitive procurement at a cost of about \$120,000 to review work processes within a division. The contract was later amended to include substantially more work at an additional cost of \$360,000, quadrupling the value of the original contract to \$480,000.
- **Contract deliverables and invoices often lack details to determine if value for money was received.** We found in our review of consulting contracts that most did not have specific costs attached to the various deliverables in the contract. Lack of detail on the expected deliverables can make it difficult to determine if they were received before making payment, and if they provided value for money. We also noted that the majority of invoices submitted for contracts that we reviewed provided little documented detail on the work performed. As a result, the invoices were paid with little detail or evidence about what was received.
- **Post-assignment evaluations of consultants not completed.** Post-assignment evaluations help assess the quality of work and value for money received. They are also useful to assess the suitability of a consultant for future work, and to avoid repeated issues. We found that post-assignment evaluations were not completed for the majority of contracts we reviewed, and there was no evidence that past performance of consultants was considered before contracting them for new work.
- **Management information on the use of consultants not reliable or timely.** The Province may be missing out on potential savings because it lacks the reliable and timely information needed to perform analysis and make strategic decisions on the overall use of consultants. We noted errors in the self-reported information collected by Supply Chain Ontario on consulting contracts entered into by ministries, such as contracts being counted twice and amended contracts being reported as new. In addition, the information was not available on a timely basis, and was not reviewed for strategic analysis purposes.

- **Processes to appoint advisors need strengthening.** We noted that 25% of the advisors we reviewed did not complete a conflict-of-interest disclosure, and some business cases to support the appointment of advisors did not include assurance that the advisor was providing their best comparable rate for their services.

In June 2018, the Ontario government introduced a freeze on discretionary spending, including time-limited services contracts for consultants. Around the same time, the government also froze hiring, except for essential positions in, for example, jails, policing, firefighting and front-line services.

Ministries were also told to increase scrutiny of all expenditures, specifically those that were frozen. They were also advised that they will have to report on the implementation of the expenditure and hiring freezes.

Overall Conclusion

The Province and its ministries generally have processes in place for the use of consulting and advisory services to ensure they are acquired and managed in accordance with the Ontario Public Service Directive and the Agencies and Appointments Procurement Directive. We noted a few exceptions, such as that cost estimates and the need for consulting services were not always supported in business cases for the engagement of consultants.

In addition, we noted that some improvements are needed to ensure consulting and advisory services are used with due regard for economy and delivered efficiently. This is because the Province does not assess the overall cost-effectiveness of its use of consultants, and ministries often rely on costly consultants rather than considering the hiring of full-time or term employees.

This report contains 10 recommendations, with 17 action items, to address our audit findings.

OVERALL RESPONSE

The Treasury Board Secretariat (Secretariat) and the Ministry of Government and Consumer Services (Ministry) would like to thank the Auditor General and her staff for the engagement on consulting and advisory services. We welcome the insights and appreciate the recommendations in the report.

The Secretariat and Ministry are committed to improving our practices and to enhancing transparency and accountability.

Actions will be taken by the Ministry and Secretariat, in collaboration with ministries and provincial agencies, that focus on improving the efficiency, effectiveness, value and oversight of consulting and advisory services. Work is already under way to address the government commitment to centralizing government purchasing. As part of the work, the rules and controls for procurement will be reviewed and modernized. The observations and recommendations in this audit will be instrumental as we consider the actions required to fulfill the government commitment.

We look forward to a continued constructive relationship with the Auditor General and her staff as we move forward with fully implementing the recommendations in this report.

2.0 Background

2.1 General Overview

The Province requires external services and advice from time to time when its own staff are either unavailable or lack the required skills or expertise. It usually meets this need by engaging consultants and appointing advisors.

Ontario ministries spent approximately \$360 million on consulting services in the 2017/18 fiscal year, down from \$434 million in 2008/09,

with some fluctuations over the past 10 years, as shown in **Figure 1**.

The government does not track its expenditures on advisory services, but we estimated the amount to be approximately \$4 million per year, as shown in **Section 2.3**.

2.2 Overview of Consulting Services

About 80% of the consulting services acquired by the government in the past year were for information technology (IT), and the remainder for communications, technical, management, policy, and

research and development. Details on the types of consulting services acquired are shown in **Figure 2**, and the percentage of the total that each represents over the past five years is given in **Figure 3**.

The Ontario Public Service Procurement Directive (Procurement Directive) outlines the requirements that ministries must follow to acquire and manage consulting services. It describes consulting services as the “delivery of expertise and strategic advice that is presented for consideration and decision-making.”

The Procurement Directive stipulates that consultants are not to be used when internal government resources are available, and that ministries

Figure 1: Consulting Expenditures at Ministries, 2008/09–2017/18 (\$ million)

Source of data: Supply Chain Ontario



Figure 2: Types of Consulting Services

Source of data: Ontario Public Service Procurement Directive

Type of Consulting Service	Description
Management	Provides analysis of existing operational problems and develops plans for improvement.
Information Technology	Helps assess different technology strategies and align them with a business or process strategy.
Technical	Provides expertise on actuarial science, appraisals, community planning, health sciences, interior design, real estate and social sciences.
Research and Development	Conducts research to increase knowledge or information on a particular subject.
Policy	Provides services to help develop policy options, analysis and evaluation.
Communications	Provides strategies and/or advice for conveying information through various channels, including the media.

must manage consultants to ensure that deliverables are completed on time and within budget (see **Figure 4**).

Although consulting services can be costly, they can also be cost-effective in certain circumstances—for example, when there is a short-term need, or for specialized services or expertise. In these cases, the

required skills and expertise can be contracted for the required duration.

2.2.1 Roles, Responsibilities and Processes for Acquiring and Managing Consulting Services

In the Ontario government, the process to acquire and manage consulting services is generally undertaken by each program area or branch in a ministry. However, other government areas also play a role. The key parties are:

- **Treasury Board/Management Board of Cabinet**—approves procurements in accordance with the Procurement Directive, such as competitive contracts for \$20 million or more, and non-competitive contracts for \$1 million or more.
- **Treasury Board Secretariat**—maintains and updates the Procurement Directive, and helps ministries obtain IT assistance through its IT Source branch from internal staff or, if none is available, by helping procure consultants through the government-wide

Figure 3: Consulting Expenditures by Type Over Five Years, 2013/14–2017/18

Source of data: Supply Chain Ontario

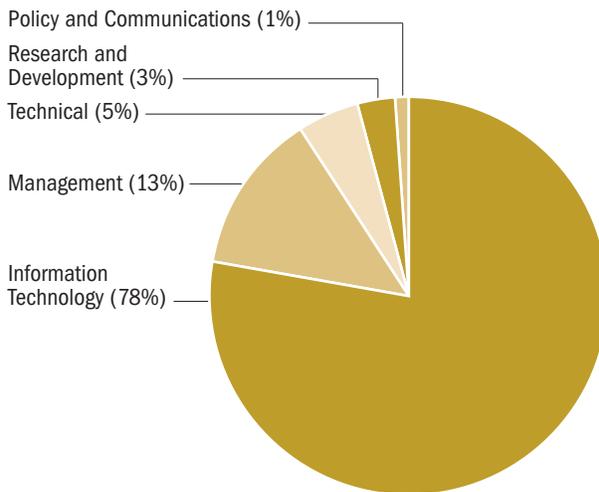


Figure 4: Selected Procurement Directive Requirements

Source of data: Ontario Public Service Procurement Directive

Category	Procurement Directive Requirements
Planning and Justification	<ul style="list-style-type: none"> • External consulting services must not be used when existing internal Ontario Public Service resources are available.
Agreements	<ul style="list-style-type: none"> • The responsibilities of both the ministry and the consultant (i.e., objectives, scope, staff responsibilities) must be formally defined in a signed written agreement before services begin. • Consulting assignments must have start and end dates. • A transfer of knowledge must occur from consultant to staff to avoid a continuous reliance on consultants (when applicable).
Performance and Oversight	<ul style="list-style-type: none"> • Consultants must not perform management responsibilities (i.e., hire and supervise staff and/or other consultants). • Ministries must manage consultants to ensure that deliverables are completed on time and within budget. • Supplier performance must be managed and documented, and any performance issues must be addressed. • All payments must be made according to the terms of the agreement. • Approvals must be obtained for any changes to the dollar-value or terms of the original agreement.
Reporting and Compliance	<ul style="list-style-type: none"> • Ministries must report consulting-services information annually, as requested by the Ministry of Government and Consumer Services.

preferred-supplier program, which includes a list of pre-approved suppliers.

- **Supply Chain Ontario (a division of the Ministry of Government and Consumer Services)**—sets up, manages and renews arrangements with suppliers for the preferred-supplier program, which involves maintaining lists of pre-approved suppliers that ministries can use to hire consultants, provides guidance to ministries on the procurement process, develops guides and tools to aid ministries with effective procurement strategies and compliance with the Procurement Directive, and collects annual self-reported information from ministries on new consulting agreements.

As seen in **Figure 5**, there are several steps in the process of acquiring and managing consulting services. The main ones are planning and justification, procurement and selection, management and performance, receipt of deliverables, post-assignment evaluation and payment.

2.2.2 Expenditures and Suppliers of Consulting Services

Expenditures for consulting services amounted to approximately \$360 million in 2017/18 for ministries of the Ontario government.

Details on these expenditures by ministry for the past five years are shown in **Figure 6**. Information about the top 25 suppliers of consulting services over the last three years is shown in **Appendix 1**.

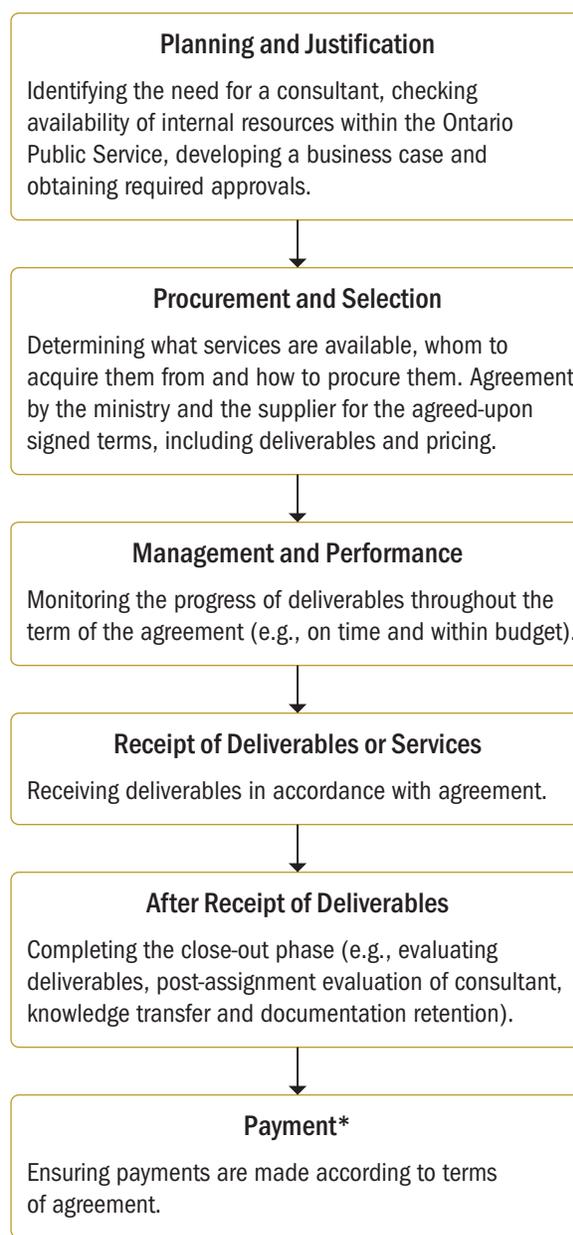
2.2.3 Procurement Methods and Average Contract Amounts

The Procurement Directive outlines the methods that ministries must follow to acquire services. In general, consulting services are to be competitively procured, either by invitation or an open-competitive process. When not competitively procured, a higher level of approval is required.

Our review of Supply Chain Ontario's information from ministries on new consulting contracts entered into over the past three years noted that most were competitively procured, either in the open market, by invitation, or by using the preferred-supplier program. Few were not

Figure 5: Process for Acquiring and Managing Consulting Services

Prepared by the Office of the Auditor General of Ontario based on the Ontario Public Service Procurement Directive



* Payment can occur throughout the duration of the contract.

Figure 6: Consulting Expenditures for Ministries, 2013/14–2017/18 (\$ million)

Source of data: Supply Chain Ontario

Ministry	2013/14	2014/15	2015/16	2016/17	2017/18	5-Year Total
Treasury Board Secretariat*	–	–	208.8	206.4	190.3	605.5
Ministry of Government and Consumer Services*	172.8	208.5	10.2	9.9	10.4	411.8
Ministry of Transportation	35.6	27.8	59.7	40.1	35.6	198.8
Ministry of Health and Long-Term Care	15.0	19.2	37.9	36.9	32.5	141.5
Ministry of Finance	22.4	21.8	25.0	16.9	18.8	104.9
Ministry of Children, Community and Social Services	6.1	8.0	13.8	20.9	20.3	69.1
Ministry of the Attorney General	7.1	6.8	5.5	9.4	4.9	33.7
Cabinet Office	0.1	5.1	3.7	1.2	1.5	11.6
Subtotal of Ministries Audited	259.1	297.2	364.6	341.7	314.3	1,576.9
Other Ministries	60.9	39.8	37.3	35.7	45.7	219.4
Total	320.0	337.0	401.9	377.4	360.0	1,796.3
% of Total Expenditures for Ministries Audited	81	88	91	91	87	88

* IT Source moved to Treasury Board Secretariat from Ministry of Government and Consumer Services in 2015/16.

Figure 7: Method Used to Procure New Consulting Contracts, 2014/15–2016/17 (\$ million)

Source of data: Supply Chain Ontario

Procurement Method	2014/15	2015/16	2016/17	Total	% of Total
Competitive-Preferred-Supplier Program	232.7	269.5	236.0	738.2	75
Competitive-Open Market/By Invitation	75.7	46.6	94.4	216.7	22
Non-competitive	12.8	8.7	11.2	32.7	3
Total	321.2	324.8	341.6	987.6	100

competitively procured. Details about the procurement methods used are shown in **Figure 7**.

We also noted that about 75% of consulting contracts were for less than \$200,000, as shown in **Figure 8**.

2.3 Overview of Advisory Services

Advisory services are provided by individual special advisors and groups of advisors. These advisors have a mandate to provide expert advice or make recommendations on a specific subject to the Premier or a minister, and are appointed for a period of up to three years.

Examples of recent special advisors and groups of advisors are:

- Advisor on Education Policy and Strategy (special advisor);
- Climate Change Action Group (group of advisors); and
- Mental Health and Addictions Leadership Advisory Council (group of advisors).

The Ontario government does not track expenditures for advisory services. Based on available information, we estimated total fees for these services were \$20 million for the five fiscal years between 2012/13 and 2016/17. During this time, the government appointed about 40 special advisors and 30 groups of advisors, all of whom were paid. Additional advisors and groups of advisors were appointed without remuneration, or received only reimbursement for expenses.

Figure 8: New Consulting Contracts by Value, 2015/16–2016/17

Source of data: Supply Chain Ontario

Contract Value (\$)	2015/16			2016/17		
	Total of Contracts (\$ million)	# of Contracts	% of # of Contracts	Total of Contracts (\$ million)	# of Contracts	% of # of Contracts
0–99,999	42.6	827	44	37.7	683	42
100,000–199,999	89.4	598	31	84.5	563	34
200,000–299,999	76.2	323	17	69.4	292	18
300,000–399,999	26.3	77	4	18.2	54	3
400,000–499,999	20.5	46	2	10.7	24	1
500,000 or more	69.8	42	2	121.1	37	2
Total	324.8	1,913	100	341.6	1,653	100

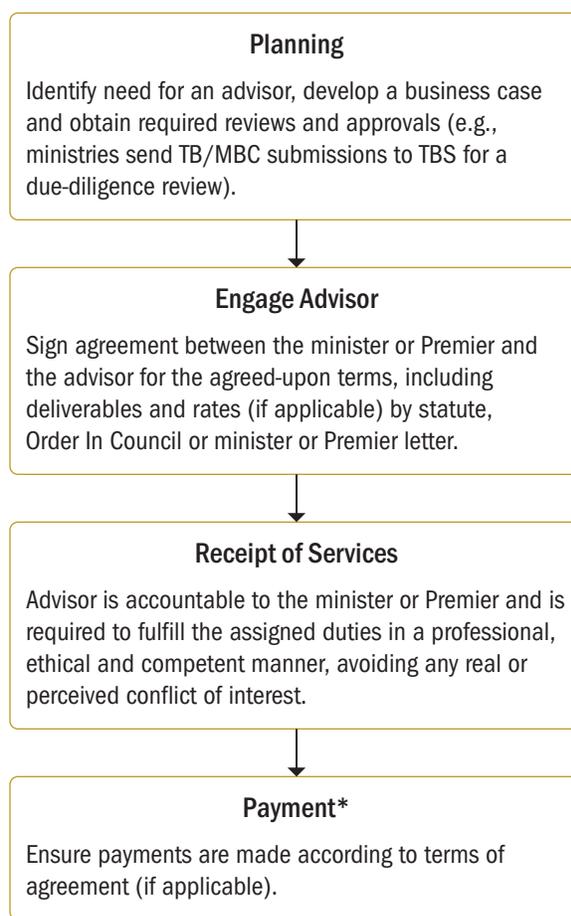
2.3.1 Agencies and Appointments Directive and Other Requirements

The Agencies and Appointments Directive (Appointments Directive) of the Treasury Board Secretariat (Secretariat), which came into effect in 2015 (replacing the Government Appointees Directive), outlines requirements that ministries must follow to acquire advisory services. **Figure 9** outlines the specific steps in the process for acquiring and overseeing these services. Consultation with the Secretariat is mandatory for all appointments of special advisors and groups of advisors, as well as for related remuneration.

One of the key principles of the Appointments Directive is that remuneration for advisors need not necessarily be at market rates. The 2015 Guide to Establishing Short-Term Advisory Bodies and Special Advisor Positions (Guide) says advisors are expected to charge less than their market rate when working for the Province. In fact, it is not necessary for advisors to receive any remuneration, and ministries are told to ask whether advisors will accept the role without compensation. The Guide also indicates that external advisors are to be used only when existing internal government resources are not available.

Figure 9: Process for Acquiring and Overseeing Advisory Services

Prepared by the Office of the Auditor General of Ontario based on the Agencies and Appointments Directive



* Payment can occur throughout the duration of the contract.

2.3.2 Roles and Responsibilities for Advisory Services

The Premier and each minister are responsible for planning and managing their use of advisory services in compliance with the Appointments Directive. However, two other government areas also have a role in this process:

- **Treasury Board/Management Board of Cabinet**—provides approval for the establishment of the position for special advisors and groups of advisors in accordance with the Appointments Directive.
- **Treasury Board Secretariat**—maintains and updates the Appointments Directive, provides guidance and tools to help ministries prepare submissions for advisory services, provides advice about advisory services, and reviews ministries' submissions before they go to the Treasury Board/Management Board of Cabinet.

3.0 Audit Objective and Scope

Our audit objective was to assess whether ministries have effective systems in place for the use of consultants and advisors to ensure efficient service delivery, with due regard for economy and in compliance with policies.

Before starting our work, we identified the audit criteria we would use to address our audit objective (see **Appendix 2**). These criteria were established based on a review of applicable legislation, directives, policies and procedures, internal and external studies, and best practices. Senior management at each ministry we visited reviewed and agreed with the suitability of our objectives and related criteria.

We conducted the audit between January and September 2018, and obtained written representation from management at each ministry that, effective November 9, 2018, it had provided us with all the information it was aware of that could

significantly affect the findings or the conclusion of this report.

We conducted our work primarily at the Treasury Board Secretariat and the Ministry of Government and Consumer Services. We also conducted work at the following ministries:

- Ministry of the Attorney General;
- Ministry of Children, Community and Social Services;
- Ministry of Finance;
- Ministry of Health and Long-Term Care;
- Ministry of Transportation; and
- Cabinet Office.

These eight ministries were the biggest users of consulting services, incurring almost 90% of the total consulting expenditures from 2013/14 to 2017/18, as shown in **Figure 6**.

Our audit focused on the top 25 suppliers of consulting services based on new contracts signed between 2014/15 and 2016/17. As seen in **Appendix 1**, the value of these contracts was \$538 million.

At the eight ministries where we conducted our work, we selected a sample of over 85 contracts totalling \$137 million, or 25% of the value of the contracts that the ministries had entered into with the top 25 suppliers of consulting services. Our sample included many of the large suppliers of consulting services to the Province.

In conducting our audit work, we reviewed applicable legislation, regulations, and ministry policies, and we interviewed staff at the various ministries we visited. For our sample of consulting contracts, we looked at the planning, justification, procurement, management, payments and post-assignment evaluations for the consulting services provided.

With respect to advisory services, our audit focused on the government's appointment of individual special advisors and groups of advisors. We reviewed a sample of the appointments of individual advisors and group members between 2012/13 and 2016/17 for the justification, selection process, remuneration and deliverables received.

We also undertook a survey of 54 provincial agencies and corporations to collect information on expenditures for consulting and professional services—that is, services provided by licensed professionals, such as physicians, engineers, architects, lawyers and accountants, for regular work in their licensed capacity.

In addition, we met with the National Association of Canadian Consulting Businesses and the Association of Professional Canadian Consultants to gain an understanding of their perspectives on providing consulting services to and interacting with the Ontario government.

We also reviewed reports on audits completed by the Ontario Internal Audit Division and legislative audit offices in other provinces, at the federal level and in other countries, along with reports on best practices.

We conducted our work and reported on the results of our examination in accordance with the applicable Canadian Standards on Assurance Engagements—Direct Engagements issued by the Auditing and Assurance Standards Board of the Chartered Professional Accountants of Canada. This included obtaining a reasonable level of assurance.

The Office of the Auditor General of Ontario applies the Canadian Standards of Quality Control and, as a result, maintains a comprehensive quality-control system that includes documented policies and procedures with respect to compliance with rules of professional conduct, professional standards and applicable legal and regulatory requirements.

We have complied with the independence and other ethical requirements of the Code of Professional Conduct of the Canadian Professional Accountants of Ontario, which are founded on fundamental principles of integrity, objectivity, professional competence and due care, confidentiality and professional behaviour.

4.0 Detailed Audit Observations

4.1 Consultants Have Been Used for Ongoing and Operational Work That Could Likely Be Done for Less by Full-Time or Term Staff

In some areas, ministries use consultants for operational and ongoing work—the kind of work that could be done by full-time or term staff. The use of consultants for this type of work is not in line with the intent of the Procurement Directive, which describes consulting services as the delivery of expertise and strategic advice for consideration and decision-making.

Consultants are generally costlier than full-time staff. A comparison of the cost of information technology (IT) consultants to that of similar full-time staff was done in 2016 by the Treasury Board Secretariat. It determined that IT consultants cost \$40,000 more a year, or about 30% more, than similar full-time staff, after benefits are factored in. A similar comparison in an audit report by the U.K. National Audit Office in 2016 that was not specific to IT consultants found that consultants undertaking operational work were being paid around twice as much annually as similar full-time staff.

We also noted that some ministries do not have central oversight practices in place regarding the use of consulting services, instead leaving it up to each individual branch and program area within the ministry to determine its use of consultants. At the time of our audit, there was also little provincial oversight of the extent of ministries' use of consultants to assess whether such use is cost-effective in comparison to the hiring of full-time or term staff. This information would be useful for provincial strategic and staffing resource decision-making.

4.1.1 Consultants Perform Operational and Ongoing Work at a Higher Cost than Full-Time Staff

Our review of the ministries' use of consultants found that ministries often used consultants for regular operational or ongoing work such as project management.

These consultants generally worked in the same way as employees, with specific hours of work included in their contracts and with their timesheets showing consistent, full-time hours every week. They also often worked onsite at the ministry.

Some of the consulting services contracts were ongoing for two to three years with per diem rates generally ranging from \$1,000 to \$2,000. We also found instances where some consultants were brought back several times in similar roles. For example:

- The Government Services Integration Cluster procured an individual consultant to provide analysis and development for the e-Careers application. The initial contract from February 2014 to March 2015 was for \$210,000. The consultant was then awarded three additional contracts, each similar in length to the initial one, which extended the assignment to March 2018. The total cost of this assignment was over \$900,000. Based on the average cost of IT staff, this work could have cost about 40% less if undertaken by full-time staff.
- The Ministry of Health and Long-Term Care procured a consultant to support health-care providers in the Community Care sectors to complete their quarterly report submissions to the Ministry, as well as to support the development and implementation of operational tools, processes, procedures and sound business practices. This consultant was awarded four contracts that were competitively procured using the preferred-supplier program, totalling \$1 million from October 2013 to December 2017.
- The Treasury Board Secretariat has since 2008 procured a consultant to conduct quality assurance and user acceptance testing at a current rate of \$181,250 per year, with total contracts amounting to almost \$1.7 million to date. No cost-benefit analysis was conducted to compare the cost of a consultant to that of hiring a full-time employee.
- Consultants were non-competitively procured by the Treasury Board Secretariat to provide assurance on the Province's proposed changes to its accounting policy and the fiscal impact. The lead consultant was hired at a per diem rate of \$3,500 and two others were hired at rates of \$2,700 and \$3,100. In total, the three consultants were paid about \$340,000 from March 2015 to December 2016 for sporadic work during that period. The lead individual was then hired permanently in a different capacity, but with some similar functions, at a salary equivalent to a per diem of approximately \$1,200.
- Another consultant was non-competitively procured by Cabinet Office for a project-management role to assist the Premier's Advisory Council on Government Assets in July 2014. The per diem rate in this contract was \$4,000. The contract was extended three times at the same per diem rate, at a total cost of about \$750,000 over 20 months. This contract was one of 10 similar non-competitive contracts totalling almost \$7 million that Cabinet Office entered into with consultants between July 2014 and December 2016 to determine what government assets could be sold. The reason provided for procuring these contracts non-competitively was their confidential and urgent nature, which is an allowable exception in the Procurement Directive. This consultant was also overseeing other consultants, which is not in compliance with the Procurement Directive.

We also noted instances where ministries used consultants extensively, and at significant cost, in

cases where they did not have sufficient staff available to complete long-term initiatives. For example:

- The new Financial Management and Business Modernization Branch, created within the Treasury Board Secretariat in 2013/14 to develop and implement improvements to business practices (such as, planning, budgeting and forecasting) for the Ontario Public Service, had no permanent resources to fulfill its mandate. As a result, it hired consultants and temporary staff. Between 2013/14 and 2018/19, the new office contracted 113 consultants under various contracts and terms for a total of \$11 million. We reviewed the contracts and determined that the average length was nine months at an average monthly cost of \$30,000 for each consultant. In addition, we noted that the per diem paid to the consultants varied from \$1,150 to \$2,800. While the business cases noted that senior manager or director level expertise was required for the assignments we reviewed, the rates paid to the consultants were much higher than what is normally paid for these levels in the Ontario Public Service.
- The Ministry of Health and Long-Term Care has continuously used consultants in various operational roles to support the Community Care Information Management program since it took responsibility for the program in 2011. The program's mandate is to support the community-care sectors by providing support for IT systems that offer secure electronic patient health-assessments and tools for business and financial needs. At the time the Ministry took responsibility for the program, 320 consultants worked in the program on contract. The Ministry has reduced its use of these consultants, down to around 60, partly because some parts of the program were completed, some internal processes were streamlined, and 24 new permanent staff were hired to replace consultants. Since 2011, the Ministry has spent approximately \$58 million on consult-

ing contracts for work related to the program (not including the contracts in place when the Ministry took over the program) using the Province's preferred-supplier program. The contracts we reviewed ranged in length from seven to 22 months, with an average of \$21,000 a month paid to each consultant.

It may at times be beneficial for business and knowledge continuity purposes to continue hiring the same consultant. However, in situations where consultants are used for long-term or ongoing needs, the Procurement Directive requires ministries to substantiate the decision to use external consultants rather than hire new permanent staff. We found no detailed documentation or analysis in this regard for any of these examples.

4.1.2 Over-reliance on IT Consultants Needs to Be Further Addressed

The government's IT-consulting expenditures accounted for about 80% of the total consulting expenditures incurred in the last five years. IT consultants used for task-based purposes, similar to government employees, accounted for about 60% of all new consulting contracts between 2014/15 and 2016/17. As noted in **Section 4.1**, an IT consultant costs \$40,000 or 30% a year more than a permanent IT employee.

In general, a ministry requiring IT assistance notifies the IT Source branch of the Treasury Board Secretariat (Secretariat), which determines if it can provide the needed expertise from internal resources. If it cannot, the Secretariat arranges on behalf of the ministry to engage an external consultant from the preferred-supplier program (described in **Section 2.2.1**).

A review conducted by the Secretariat based on 2013/14 and 2014/15 information provided by ministries found that almost 20% of all IT consultants for those two years performed ongoing, operational-type activities that could have been done by employees. Our 2016 audit report on Supply Chain Ontario and Procurement Practices noted the short-

age of government IT employees that resulted in a dependence on external consultants.

Based on this information, the Secretariat determined that 197 additional full-time staff were needed. It received two approvals, in August 2016 and July 2017, to hire them, something that our 2016 audit report said could save \$10 million a year. As of August 2018, the Secretariat told us that it had hired 129 full-time staff and had approval to proceed with the remaining 68 people.

Although the hiring so far is a positive step, our concern is that since almost 35% of the new jobs have yet to be filled, there is still a significant reliance on external IT consultants for operational work at an additional cost of almost \$3.5 million a year. Also, we noted that the ratio of work performed by external IT consultants to meet ministries' requests for assistance for task-based work is similar now to what it was during our 2016 audit—about 90%, meaning that only 10% of assistance requests from ministries were filled by full-time staff (up slightly from 7% in 2016). The actual number of requests filled by full-time staff went up from 116 to 163 over that period. Given that the Secretariat last reviewed the situation using information from 2013/14 and 2014/15, it should perform a further review or analysis on the operational use of IT consultants to see if additional full-time staff are needed and to identify any other cost-savings opportunities.

We noted another example of over-reliance on IT consultants in a government branch, called the .NET Service Delivery Centre, which is part of the Ministry of Transportation. In 2012, the branch was given responsibility across the entire government for .NET services, which are Microsoft products used to create computer and web applications. Since 2012, the branch has engaged a number of consultants through four contracts with suppliers totalling about \$100 million. The current contract, valued at \$70 million, ends in December 2019. It also used additional consultants from the IT task-based preferred-supplier program, as needed

over the years to further supplement its staff and consultants.

The number of consultants needed for these contracts was not identified as the contracts were not for specific projects; instead, funds were to be used as projects were identified. The business cases to support these contracts stated that the services were needed to meet the fluctuating demand for .NET programs, as there was a need to quickly expand or contract available resource capacity and skills. They also stated that the consultants would be used to supplement services provided by branch staff on development, maintenance, transition and other support services on an as-needed basis.

The branch has grown from 26 full-time staff in 2012 to 59 full-time staff in 2018, plus consultants. At times, the branch employed more consultants than it had staff—up to 90 consultants working in addition to the branch staff.

There was no analysis included or support provided with any of the business cases that compared the cost of consultants to full-time or term staff, and no review has been undertaken to date to determine whether the use of these consultants is cost-effective.

It was difficult for us to determine the cost of the individual consultants because the pricing for the work was based on fixed costs for some types of work and per diem costs for others. We reviewed the per diem costs and compared them to the amounts paid to staff with similar positions in the branch after factoring in benefits, and noted that the per diem rates for the consultants were more than twice as much as equivalent rates for full-time staff.

RECOMMENDATION 1

To promote value for money and compliance with the Ontario Public Service Procurement Directive, we recommend that the Treasury Board Secretariat, in collaboration with the Ministry of Government and Consumer Services, reinforce the requirement of the Directive

on ministries to clearly demonstrate prior to contracting consultants for long-term or ongoing needs that a consulting contracting option is more cost-effective than recruiting permanent full-time or term staff.

RESPONSE FROM SECRETARIAT AND MINISTRY

The Treasury Board Secretariat and the Ministry of Government and Consumer Services will work together to strengthen and reinforce the current direction in the Ontario Public Service Procurement Directive to substantiate and clearly demonstrate the need for a consultant prior to procuring a consultant. Actions will include improved outreach and education.

In addition, enhancements will be made to the multi-year planning process requiring ministries to review potential future consulting services needs and ensure the most effective and efficient resourcing strategy is selected to deliver on objectives and results.

RECOMMENDATION 2

To more cost-effectively meet the operational information technology needs of ministries, we recommend that the Treasury Board Secretariat, in collaboration with the Ministry of Government and Consumer Services, further review its use of IT consultants.

RESPONSE FROM SECRETARIAT AND MINISTRY

The Treasury Board Secretariat and the Ministry of Government and Consumer Services will continue the recruitment of staff to fill converted positions, and further review the use of IT consultants and provide recommendations for further fee-for-service conversions to support operational IT work.

4.1.3 Limited Information and Analysis by Supply Chain Ontario on the Province's Overall Use of Consultants to Identify Cost Savings

Apart from the cost comparison and review of operational work undertaken by IT consultants—conducted by the Secretariat and described in **Sections 4.1** and **4.1.2**—the Secretariat, Supply Chain Ontario and the ministries have not undertaken a further review of the use of consultants on either a ministry-wide or contract-by-contract basis to assess benefits, costs, risks and overall trends (for example, ministries' over-reliance on consultants or gaps in internal staffing). Although, in September 2018, the Secretariat began monitoring the use of IT task-based consultants on a monthly basis across ministries to determine which contracts could be undertaken by full-time staff, if they were available.

Undertaking such assessments would provide the Province with insight for strategic purposes and decision-making to understand why consultants are being used and where cost savings could be found.

Based on information provided by Supply Chain Ontario, which collects annual self-reported data from ministries on new consulting contracts and obtains information on expenditures, and from our review of consulting contracts, we identified areas where Supply Chain Ontario might want to investigate further. For example:

- Ten suppliers accounted for almost 40% of all new contracts entered into between 2014/15 and 2016/17 (at the time of our audit, Supply Chain Ontario had not gathered information from ministries on contracts entered into in 2017/18). More than 300 suppliers received the remaining contracts during that time. As such, it appears that ministries tend to rely on a small number of suppliers for a significant portion of their consulting-services needs.
- Certain ministries were consistently the biggest users of consultants year after year (see **Figure 6**). These ministries cited insufficient staff as one of the main reasons for engaging

consultants. About 20% of the contracts we reviewed between 2014/15 and 2016/17 at these ministries were for ongoing project-management services whose terms ranged from six months to three years. Per diems for these positions generally ranged from \$1,000 to \$1,500, which equated to contract amounts ranging from \$179,000 to \$769,000.

In addition to our observations on the use of consultants not always being cost-effective based on the contracts we reviewed, there may be opportunities for the Province to identify cost savings by reviewing ministries' overall use of consultants for further work that could be done by full-time staff.

Although Supply Chain Ontario collects information on the ministries' use of consultants as required by the Procurement Directive, the Directive does not define what information is to be collected, how the information is to be used, or who it must be reported to. Instead, this is left to Supply Chain Ontario to decide.

Supply Chain Ontario told us that it uses the information to look for trends to determine what additional training and tools it needs to develop for ministries on their use of consultants—not to determine if consultants are used cost-effectively. For example, Supply Chain Ontario identified that there was an increase in non-competitive procurements and then held a training session on this subject for ministries.

Available Management Information Not Accurate or Timely

Supply Chain Ontario does not perform reviews or validation checks on the self-reported information it receives from ministries regarding their use of consultants that it includes in its annual report. When we reviewed this information, we found errors, such as new contracts being double-counted in multiple fiscal years and amended contracts being reported as new contracts.

After we informed Supply Chain Ontario of the errors we noted, it reviewed the information

provided by ministries for the 2015/16 and 2016/17 fiscal years, and made corrections in contract values originally self-reported by ministries totalling \$57 million and \$95 million, respectively, to the value of new contracts reported. We also noted similar errors totalling \$24 million in 2014/15 relating to new contracts, but Supply Chain Ontario did not revisit the data for that year.

We also found that annual reports are not prepared on a timely basis to facilitate overall decision-making. As mentioned above, the Procurement Directive requires the Ministry of Government and Consumer Services (of which Supply Chain Ontario is a part) to complete an annual report on the ministries' use of consulting services. However, it does not specify what information is to be included in the report or whom it should be shared with. Nonetheless, when we requested this information in February 2018, the annual reports for 2015/16 and 2016/17 had not yet been prepared.

Furthermore, information on ministries' use of consultants is not publicly available. There was a plan to include information such as the types of consulting services and new contract information under the Open Government Initiative, which makes some government information available to the public. However, a decision was made in July 2017 to specifically exclude information on the government's use of consultants from this initiative.

IT System That Could Track Consulting Contracts Not Being Fully Used

The Province does not use a standardized approach to track consulting contracts and associated expenditures (which could help prevent overspending by establishing limits on spending) or to collect information relating to the use of consultants.

The Integrated Financial Information System (IFIS), an IT system used by the Province to record ministries' financial transactions and provide data for reporting and analytical purposes, has capabilities for tracking and managing basic contract information.

However, we noted that the system is not used consistently across the ministries or program areas for this purpose, making it difficult to obtain detailed information on the expenditures for each consulting contract. For instance, IFIS can track payments related to applicable contracts by matching the payment to the original purchase order if it has been entered into the system. However, despite requirements for ministries to enter purchase orders or the approved contract amount in IFIS for consulting contracts over \$25,000, the ministries we audited did not do this consistently, or at all.

Some ministries use separate tracking systems, such as Excel spreadsheets or Access databases, to track the actual spending on consultants against approved amounts and future spending projection details relating to consulting contracts. However, this information is not uploaded to IFIS and is not accessible to Supply Chain Ontario.

If information on new contracts was consistently entered into IFIS by all ministries, government-wide information would be readily available on demand. Instead, the information is gathered manually from ministries on an annual basis by Supply Chain Ontario, and is prone to errors, as noted earlier.

Including limits on spending in IFIS based on approved contract amounts would also help prevent any payments from being made over the approved contract amount.

RECOMMENDATION 3

We recommend that the Treasury Board Secretariat require ministries to use the Integrated Financial Information System to record all consulting contracts, including the approved amounts, to better manage consulting contracts and their associated expenditures, and to allow for improved, timely and accurate reporting of consulting expenditures and new consulting contracts for use by the Ministry of Government and Consumer Services and others for decision-making purposes.

SECRETARIAT RESPONSE

The Treasury Board Secretariat (Secretariat) will work collaboratively with the Ministry of Government and Consumer Services (Ministry) to strengthen and reinforce compliance with existing policy direction to use the Integrated Financial Information System (IFIS) to record all consulting contract purchase and payment information. In addition, the Secretariat and the Ministry will work with ministries to ensure that IFIS is being used.

RECOMMENDATION 4

To ensure that consultants are being used only to provide value-added service in compliance with the Ontario Public Service Procurement Directive, we recommend that the Ministry of Government and Consumer Services:

- perform regular analysis of the information on ministries' use of consultants to identify and inform ministries and the Treasury Board Secretariat on areas for improvements and cost savings; and
- report publicly on the ministries' use of consulting services.

MINISTRY RESPONSE

The Ministry of Government and Consumer Services (Ministry) will enhance the analysis of information on the use of consultants in order to provide insights to ministries and the Treasury Board Secretariat on areas for improvement and cost savings. In addition, the Ministry will report publicly on all ministry consulting services contracts.

4.1.4 More Ministry Oversight and Planning Needed for the Effective Use of Consultants

We found the levels of oversight by ministries on the use of consultants varied, mainly because identifying needs and managing consultants is generally

a decentralized process undertaken by individual branches and program areas within a ministry.

Our review of the processes followed at the ministries found that half of them required secondary reviews of consulting contracts by another branch to ensure, for example, that the proper procurement methods were being used and that all required approvals were sought. However, the other half did not require secondary reviews.

A best practice was noted in a 2016 report from the U.K. National Audit Office whereby a central government body has to approve any consulting contract lasting longer than nine months and costing more than about \$33,000 (£20,000). The departments in the U.K. government said this requirement has encouraged them to assess their proposals more rigorously, including providing reasons for hiring consultants rather than full-time staff.

We also noted a good practice in place at the Ministry of the Attorney General. It requires its branches and program areas to conduct a semi-annual self-assessment to assess the use and value-added of hiring consultants.

Ministries Not Conducting Annual or Strategic Workforce Planning to Reduce Over-reliance on Consultants

An annual workforce-planning process would allow ministries to consider staffing needs based on forthcoming or longer-term priorities and available resources within the ministries to help reduce reliance on consultants. The Procurement Directive does not specifically require ministries to undertake such planning on an annual basis to support decision-making with respect to the procurement of consultants, and none of the ministries that we reviewed did this.

The 2016 audit report from the U.K. National Audit Office on the use of consultants noted the importance of undertaking strategic workforce planning in managing cost-pressures. The report noted that such planning assesses an organization's

current staff resources and skills, predicts its future needs, and plans how to meet these needs cost-effectively. It also noted that failure to undertake this process leads to short-term decision-making on using consultants.

RECOMMENDATION 5

To ensure that consultants are hired only when needed, and in a cost-effective manner, we recommend the Treasury Board Secretariat, in collaboration with the Ministry of Government and Consumer Services:

- develop and implement an effective process for centralized oversight of the ministries' use of consultants, including a quality-assurance process, within each ministry; and
- require ministries to undertake an annual workforce-planning process to consider ministry-wide staffing needs based on forthcoming and longer-term priorities and available resources.

RESPONSE FROM SECRETARIAT AND MINISTRY

The Treasury Board Secretariat (Secretariat) and the Ministry of Government and Consumer Services (Ministry) will strengthen direction and guidance to ministries when they are considering procuring consultants. Actions will include working with ministries to develop a process for centralized oversight.

In addition, enhancements will be made to the multi-year planning process requiring ministries to review potential future consulting services needs and ensure the most effective and efficient resourcing strategy is selected to deliver on forthcoming and longer-term priorities.

The Secretariat and the Ministry will develop guidance materials, including outreach and education, to support the new requirements and the Ministry will establish a quality assurance program.

4.2 Improvements Are Needed to Ensure Value for Money Is Received When Using Consultants

We examined a sample of consulting contracts at various ministries and looked at the processes in place for acquiring and using consultants, including justification, procurement, monitoring, payment and evaluation of consulting services.

We noted that while ministries generally documented the actions taken on their use of consultants, the documentation often lacked detail to support the reasons for taking certain actions and the rationale for decisions made. In addition, ministries did not always demonstrate that they received value for money, and details justifying the need for and cost of the services were not always evident.

4.2.1 Lack of Support Available to Justify the Cost Estimates and Need for Consultants

For the most part, we noted that approvals of business cases for consulting assignments were obtained in accordance with the Ontario Public Service Procurement Directive (Procurement Directive) and the Ministries' delegation of financial authority. However, there was little evidence to support the cost estimates in business cases used to obtain approval for consulting services. These estimates ultimately determine the maximum amount to be paid for a contract, so it is important that they be reliable and supportable.

About 90% of the business-case estimates we reviewed were based on an estimated rate that a consultant might charge, and the estimated time to complete the project. However, there was no support to show how these estimates were determined. The Procurement Directive provides little guidance on how to establish cost estimates, and includes no maximum rates that can be charged for the types of consulting services provided. We noted that per diem rates generally ranged from \$1,000 to \$2,000, with some as high as \$3,500 and \$4,000.

Ministries noted that these estimates were based mostly on past experience, but did not demonstrate how. In our review of a sample of consulting contracts, we noted that half contained differences between the business case and the final contract amount that ranged from 20% to 113%. The following are examples of these differences:

- A branch within the Ministry of Health and Long-Term Care estimated the cost of engaging experts with experience in laboratory systems and genetic services for 1.5 years at \$500,000. However, no submissions were received from suppliers within this estimate, and the ministry had to amend the business case and seek additional approvals to match the \$670,000 quote from one supplier.
- The Ministry of Community and Social Services (now Ministry of Children, Community and Social Services) estimated the cost of consulting services relating to post-implementation operational support for its Social Assistance Management System to be approximately \$1.4 million. The final contract amount was \$795,000.
- The same ministry estimated the cost of data-migration services relating to the Children's Aid Societies to be \$21.7 million. However, the actual contract amount was \$25.5 million.

Scan for Internal Resources Not Supported or Diligently Done

Most business cases to support the need for consultants did not demonstrate whether internal staff resources were available within the contracting ministry before procuring consultants. Instead, there was just a general statement that no internal staff were available. As a result, there was no support or analysis provided to show that qualified internal staff were seriously considered before consultants were hired.

Ministry staff told us that the scan of internal resources was generally done informally, through

meetings, for example, or in discussions based on relationships with others rather than something more concrete, such as a job posting to solicit internal candidates.

The Procurement Directive states that a ministry cannot engage a consultant before considering its available internal resources. However, it does not provide guidance on how to do this, or the extent of review required.

Proper evaluation and review of available resources could reduce the need for consultants if internal staff are able to undertake the work instead. In addition, documenting and collecting information on skill shortages and the lack of internal staff could help management identify recurring areas where training or hiring staff with the required skills would be more cost-effective in the long term than engaging consultants.

RECOMMENDATION 6

To help ministries improve their processes for estimating the cost of consulting services and engaging consultants only when qualified internal resources are not available, we recommend that the Treasury Board Secretariat, in collaboration with the Ministry of Government and Consumer Services, reinforce the requirements of the Procurement Directive and provide additional guidance on:

- establishing cost estimates for consulting services, including maximum rates that can be charged for the types of consulting services provided;
- documenting the rationale for arriving at the estimates; and
- the extent of the review ministries should undertake to solicit available internal resources prior to engaging external consultants.

RESPONSE FROM SECRETARIAT AND MINISTRY

The Treasury Board Secretariat (Secretariat) and the Ministry of Government and Consumer

Services (Ministry) will strengthen direction and guidance to ministries for estimating the cost of consulting services and documenting their rationale for arriving at the estimate, and to help ensure that they are engaging consultants only when qualified internal resources are not available.

The Secretariat and the Ministry will develop guidance materials, including outreach and education, to reinforce existing requirements.

4.2.2 Contract Changes and Lack of Standardized Evaluation Criteria Can Affect Integrity of Competitive Procurement Process

Contract Amendments Result in Unfair Advantage to Suppliers

The Procurement Directive says that extensions made to existing contracts beyond what is included in the initial procurement constitute non-competitive procurements.

Such amendments may result in ministries obtaining additional deliverables at costs that could be higher than necessary because the new deliverables were not procured competitively. This could also give existing suppliers an unfair advantage.

In our review, 22% of the contracts that were competitively procured had an amendment greater than \$10,000 without an option in the contract to allow for the amendment or where the amended amount exceeded the amount approved for the contract. Most were between \$100,000 and \$500,000, with a couple as high as \$1.5 million. The additional services included in these amendments were not competitively procured. For example:

- A consultant was hired through a competitive procurement at a cost of about \$120,000 to review work processes within a division of the Ministry of the Attorney General. The contract was later amended to include substantially more work within the original term of the contract at an additional cost of \$360,000, quadrupling the value of the original contract to \$480,000.

- One of the contracts at the .NET Service Delivery Centre within the Ministry of Transportation (see **Section 4.1.2**) for \$18.5 million, covering the period from April 2015 to April 2017, was subsequently increased to \$19.9 million for the same work. This is just under the threshold amount of \$20 million at which contracts must be approved by the Treasury Board/Management Board of Cabinet. The approved funds for this contract were exhausted six months early and the branch then entered into another contract for \$70 million for another three years. The new contract was competitively procured.
- A team of consultants was procured by the Ministry of Transportation at a cost of approximately \$585,000 to review business support functions across the Ministry based on consultations, and make recommendations for improvements. The contract value was amended to \$870,000 and the contract term was extended by six months to allow for additional consultations to be held and analysis of the results.

Lack of Standardized Evaluation Criteria Can Affect the Competitive Process

There are no standardized evaluation criteria that ministries must use when procuring consultants. As a result, at the ministries that we reviewed, we saw variations in the evaluation criteria used for price, interviews and past experience. A lack of standardized evaluation criteria can allow ministries to tailor the criteria to a preferred consultant.

Of specific concern were variations we noted in the interview component. While in general, in the sample of contracts that we reviewed, this made up less than 30% of the total evaluation score, instances were noted where interviews were given 40% or 50% of the score, and up to 70% for IT consultants. The interview component provides opportunities for judgment and subjectivity, which can lead to biases in the scoring process.

RECOMMENDATION 7

To promote the fair procurement of consulting services, we recommend that the Treasury Board Secretariat, in collaboration with the Ministry of Government and Consumer Services:

- reinforce the requirements of the Procurement Directive and provide additional guidance on when contracts with amendments to the original terms should be re-tendered; and
- develop standardized criteria for ministries to use in evaluating consultants.

RESPONSE FROM SECRETARIAT AND MINISTRY

The Treasury Board Secretariat (Secretariat) and the Ministry of Government and Consumer Services (Ministry) will strengthen the guidance on contract amendments, including when contracts should be re-tendered, and will work with ministries to develop standardized criteria for evaluating consultants' proposals. The Secretariat and the Ministry will develop guidance materials, including outreach and education, to support new requirements.

4.2.3 Contract Deliverables and Invoices Lack Detail to Determine if Value for Money Is Received

We found in our review that most consulting contracts did not include costs associated with the specific deliverables in the contract. Lack of detail on these costs makes it difficult to determine if deliverables have been received before payment is made, and whether value for money was received.

We also noted that the majority of invoices submitted for contracts that we reviewed provided little detail on the work performed, making it difficult to link amounts billed back to the deliverables in the contract. As a result, the invoices

were paid with little detail or evidence about what was received.

An example of this was noted in a December 2016 contract for \$1.2 million over 14 months for a team of consultants to help the Ministry of Health and Long-Term Care assess its readiness for an operational transition of the Community Care Access Centres to the Local Health Integration Networks. The amount of the contract was paid in equal monthly amounts. However, the invoices were unclear on the work performed, which made it difficult to determine what the invoice was for and if payment was made after specific deliverables were received.

The contract value also included approximately \$60,000 for travel expenses and a requirement that travel expenses would be reimbursed only if incurred and shown separately on invoices. None of the invoices contained any travel expenses, but the full amount of the contract, including the travel expense amount of \$60,000, was paid.

We also noted a few instances where a ministry paid for work before receiving the deliverables. For example, the Ministry of Children, Community and Social Services (previously known as the Ministry of Community and Social Services) entered into a consulting contract for a one-year term at \$470,000 to provide IT maintenance and support for the Family Responsibility Office's case management system, starting March 28, 2016. The contract was paid in full on March 24, 2016, four days before the start date of the contract and seven days before the end of the fiscal year. The Ministry told us that the contract was similar to an annual software maintenance and support contract, where the suppliers expect payment in advance.

A best practice was noted at branches of various ministries, where, although the invoices reviewed contained few details, they had a deliverable acceptance form that was reviewed and completed for each deliverable. Most of these forms were signed by the contract manager. This practice provides some assurance that the person reviewing

and approving the invoice understood what the invoice was for and what deliverable was received.

4.2.4 Management of Consultants Varies

The Procurement Directive requires that supplier performance be managed and documented, and that any performance issues be addressed. However, it provides no details on what is considered an appropriate action or an appropriate level of management.

Ministries had a variety of practices in place for contract management that included using different methods to different extents. If contract management is not done properly, it can result in the contract taking longer than planned or costing more, the government not receiving the intended deliverable, or finding out too late when something goes wrong.

We saw some positive examples of contract management in the contracts at the ministries we reviewed, including periodic status reports by the consultant, and use of Excel spreadsheets to track deliverables and invoices.

In other contracts that we reviewed, we noted a lack of documentation on the actions taken, but we did confirm that some contact was made between the consultant and ministry staff at least once a month, although there was no indication of what was discussed in the majority of these interactions.

We also found that contract management varied depending on the type of service provided by the consultant. For example, those with similar roles as an employee often did not have any formal meetings or reports because contract management was performed through daily interactions with the individual.

Supply Chain Ontario provides ministries with some tools and templates for contract management. Examples include a contract-management checklist and a guide that includes best practices, such as identifying the roles and responsibilities of persons involved with the contract, and having weekly performance meetings to allow the supplier to provide

early warning of problems and to discuss solutions. However, the use of these tools is optional.

An internal review conducted by the Ontario Internal Audit Division recommended in 2013 that Supply Chain Ontario establish a standard contract/supplier management framework to provide corporate guidance on contract management. The framework would set out minimum standards, for example, on monitoring and enforcing contract provisions, and dispute resolution. However, the framework was still not in place at the time of our audit.

We noted a best practice in place with the federal government for contract management. It stipulates that contracts are to contain appropriate mechanisms, such as regular meetings with consultants, regular examinations of the work to ensure it is in line with the contract, and appointment of an internal project manager to monitor a consultant's work.

Ministries Generally Ensured Knowledge Transfer at the End of Consulting Assignments

Where applicable, the Procurement Directive requires a transfer of knowledge from the consultant to staff at the end of a contract to reduce future reliance on consultants.

Our review of contracts indicated that, where required, most knowledge transfers at the end of consulting assignments were done appropriately, either through a written report or in a meeting with the consultant.

4.2.5 Post-assignment Evaluations Not Completed

Post-assignment evaluations help assess the quality of work and value for money received, and are useful to assess the suitability for future work of a consultant and to avoid repeated issues.

We found that post-assignment evaluations were not completed for the majority of contracts we reviewed, and there was no evidence that past

performance of consultants was considered when contracting them for new work.

Post-assignment evaluations were reviewed in our 2016 Supply Chain Ontario and Procurement Practices audit report. Following that audit, a standardized scorecard was introduced on a pilot basis in the Information and Information Technology Clusters in the province to evaluate and document IT suppliers' performance fairly and consistently. The Ministry of Government and Consumer Services and the Treasury Board Secretariat plan to roll out the scorecard to all ministries in October 2019.

RECOMMENDATION 8

To promote value for money when ministries use consulting services, we recommend that the Treasury Board Secretariat, in collaboration with the Ministry of Government and Consumer Services:

- amend the Ontario Public Service Procurement Directive to include standards requiring that costs be associated with each deliverable in consulting agreements; and
- reinforce the requirements of the Procurement Directive and provide additional guidance on what is considered an appropriate action or an appropriate level of management of supplier performance.

RESPONSE FROM SECRETARIAT AND MINISTRY

The Treasury Board Secretariat (Secretariat), with the Ministry of Government and Consumer Services (Ministry), will strengthen the direction and guidance on how costing should be reflected in consulting contracts, including direction that each deliverable will have an associated cost. The Secretariat and the Ministry will leverage best practices in place in ministries and promote their use enterprise-wide. The Ministry will also establish guidance to ministries on supplier performance and contract management.

4.3 Crown Agencies and Corporations Make Heavy Use of Consulting Services

4.3.1 No Overall Review of Use of External Consulting Services

Crown agencies and Crown-controlled corporations (agencies and corporations) spent over \$665 million on consulting services from 2015/16 to 2017/18. These totals are from self-reported information on actual expenditures for consulting services we gathered in our survey of 54 agencies and corporations because these expenditures are not tracked and reviewed by the Province. Details on the expenditures reported to us, and the entities surveyed, are shown in **Appendix 3**. There has been an overall decrease in consulting expenditures, from \$243 million in 2015/16 to \$184 million in 2017/18.

Since funding for these organizations may come in whole or in part from the Province, there may be opportunities for the Province to find cost savings or areas for improvement. For example:

- The use by agencies and corporations of consulting services followed a pattern similar to that of the ministries in that most contracts were for IT consultants. We know from our audit of the ministries that there is an over-reliance on IT consultants, and opportunities for cost savings. A similar opportunity may exist at these entities.
- We found that in the 2017/18 fiscal year, five entities accounted for 65% of the total reported spending on consulting services as shown in **Appendix 3**. A review of the reasons for these high rates of use would help determine if these services are being used cost-effectively.
- Similar to ministries, agencies and corporations are also required to follow the Ontario Public Service Procurement Directive.

RECOMMENDATION 9

To promote the cost-effective use of consulting services across the Ontario Public Service, we recommend that the Ministry of Government and Consumer Services in conjunction with ministries gather information on the use of consultants across provincial Crown agencies and Crown-controlled corporations to identify areas for cost savings and improvements.

MINISTRY RESPONSE

Through the work under way to address the government commitment to centralizing government purchasing, the Ministry of Government and Consumer Services (Ministry) will work with ministries to adopt best procurement practices and enhance procurement controls and oversight across the Ontario Public Sector. The Ministry will collect data on the use of consultants for all provincial agencies and will release it publicly.

4.4 Process for the Appointment of Advisors Could Be Strengthened

The requirements for special advisors and advisory groups (advisors) are outlined in the Agencies and Appointments Directive (Appointments Directive), which came into effect in 2015 (replacing the Government Appointees Directive). Additional guidance is provided in the Treasury Board Secretariat's 2015 Guide to Establishing Short-Term Advisory Bodies and Special Advisor Positions.

Under the Appointments Directive, the government may create short-term advisory groups and/or appoint special advisors to provide advice or make recommendations to a minister or the Premier. These appointments are made through an Order in Council or a minister's order and cannot exceed three years in length. The Treasury Board/Management Board of Cabinet (TB/MBC) must first provide approval to establish the positions of

such advisors. The sections in the Appointments Directive pertaining to advisors were last updated in 2015 to require that business cases provide additional support for the remuneration to be paid to appointees.

We reviewed a sample of special advisors and advisory groups appointed and noted the following:

- Not all requirements in the Appointments Directive for business cases that are submitted to TB/MBC for approval were met. Specifically:
 - Some business cases submitted did not contain comparative research on remuneration focusing on a public-sector comparable.
 - For appointments with per diems over \$398, the Appointments Directive also requires that verification of the comparable rate (for example, signed contracts, paid invoices, or similar documents) be submitted as part of the business case. As well, assurance is required from the advisor that the government will receive the appointee's best comparable rate. None of the appointments that we reviewed with per diems over \$398 complied with these requirements.
- Approximately 25% of advisors did not complete and submit conflict-of-interest forms. The form requires the advisor to “disclose any obligation, commitment, relationship or interest that could conflict or may be perceived to conflict with his or her duties to or interests of the agency, board or commission to which the applicant is seeking appointment.” However, it does not ask advisors to disclose relationships, contracts or interests they may have relating to other government organizations. In this regard, we noted that advisors appointed by the federal government are required to abide by the federal Conflict of Interest Act, 2006, which requires greater disclosure of past activities, including, for example, activities related to employment, management of businesses, consulting con-

tracts, or partnerships in the two years prior to the appointment.

We also noted that the Appointments Directive does not stipulate a “cooling-off” period before an advisor can take a position with the entity that they previously advised, or any related entities. A cooling-off period is important to ensure that the work undertaken by an advisor is objective and any subsequent work or business obtained is independent of the advisor's role. It is also important to avoid any real or perceived conflict of interest. In our testing, we noted examples of advisors taking on positions with the same ministry to which they provided advisory services during their appointments or shortly after their appointments ended. Specifically:

- A paid member of an advisory panel appointed by the Treasury Board Secretariat in November 2016 entered into an agreement to provide actuarial consulting services to the Secretariat on February 3, 2017. A note in the contract stated that it was to commence upon completion of the work for the panel. However, the panel did not issue its report until February 13, 2017, which is after the date the agreement came into effect.
- A special advisor to the Ministry of Government and Consumer Services, whose appointment ended in March 2014, entered into a three-month contract for work with the same ministry in January 2014, two months prior to the appointment ending.

RECOMMENDATION 10

To promote value for money and objectivity in the appointment of special advisors and advisory groups, we recommend that the Treasury Board Secretariat:

- strengthen the Agencies and Appointments Directive for conflict-of-interest requirements so that the declarations include activities with any government organization, and require a cooling-off period between the

time an advisor's contract expires and the time they can take a position with the entity they had previously advised, or any related entities; and

- ensure that the business cases to be submitted to the Treasury Board/Management Board of Cabinet for approval meet the requirements of the Agencies and Appointments Directive.

SECRETARIAT RESPONSE

The process and requirements for the establishment and appointment to advisory services positions is set out in the Agencies and Appointments Directive and supporting guidance documents. As part of a commitment to continuous improvement, the Treasury Board Secretariat (Secretariat) will review the directive and the conflict-of-interest direction for new appointments.

As part of this review, the Secretariat will consider the observations and recommendations in this audit as well as other evidence and best practices from other jurisdictions. The Secretariat will also continue working with and supporting ministries in meeting the requirements of the Agencies and Appointments Directive.

4.5 Use of Professional Services by Provincial Ministries and Agencies

Professional services are those provided by licensed professionals, such as physicians, dentists, nurses, pharmacists, veterinarians, engineers, land surveyors, architects, accountants, lawyers and notaries, for regular work in their licensed capacity.

Although some of the professionals above could provide either professional services or consulting services, the difference in the type of expense classified as either consulting services or professional services is based on the specific service provided: professional services are those provided by, for example, a lawyer performing regular legal work that they are licensed to do. The same lawyer would be considered a consultant if they provided expertise and strategic advice to inform decision-making.

Expenditures for professional services by government ministries for the last three fiscal years (2015/16, 2016/17 and 2017/18), totalled approximately \$960 million.

We surveyed 54 Crown agencies and Crown-controlled corporations (agencies and corporations) to determine the extent of their spending on professional services for the same three fiscal years (the Province does not currently compile this information). The information provided to us indicated that the 54 agencies and corporations spent approximately \$1.38 billion on professional services during this three-year period. Details on the professional services expenditures for the three years between 2015/16 and 2017/18 reported to us, and on the entities surveyed, are shown in **Appendix 3**.

Although we did not review the use of professional services by ministries and agencies in this audit, the recommendations in this report on consulting services may equally apply to professional services, and we suggest that they also be reviewed by the Province to identify any potential cost savings and to confirm whether value for money has been achieved.

Appendix 1: Top 25 Consulting-Services Suppliers Based on New Contracts, 2014/15–2016/17

Source of data: Supply Chain Ontario

Supplier	Contract Value (\$ million)				Total # of	
	2014/15	2015/16	2016/17	Total	Contracts	Type of Service
1. Hitachi Consulting Corp.	–	20.0	70.2	90.2	3	IT
2. Procom Consultants Group Ltd.	23.1	19.6	21.2	63.9	374	IT and Management
3. Deloitte	9.4	18.9	18.0	46.3	136	Management
4. SRA Staffing Solutions Ltd.	9.2	10.3	15.9	35.4	226	IT and Management
5. TEKsystems Canada Inc.	9.7	11.9	11.9	33.5	241	IT and Management
6. Infosys Public Services Inc.	26.7	0.5	–	27.2	2	IT
7. Modis Canada Inc.	9.1	6.7	3.9	19.7	104	IT and Management
8. Randstad Interim Inc. (including Randstad Technologies)	6.4	4.2	8.5	19.1	130	IT
9. Pricewaterhousecoopers LLP	10.2	7.0	1.4	18.6	53	Management
10. Swansea Computer Specialists Corp.	5.0	5.0	7.2	17.2	115	IT
11. IBI Group	13.1	3.7	0.3	17.1	8	Technical
12. IBM Canada Ltd.	2.8	0.8	12.4	16.0	17	IT
13. Yoush Inc. (O/A Careermatch)	5.4	5.4	4.8	15.6	100	IT
14. KPMG LLP	5.3	3.9	4.4	13.6	43	Management
15. ITCAD Tech Inc.	2.6	4.3	4.4	11.3	74	IT
16. Bevertec CST Inc.	3.4	4.6	2.8	10.8	70	IT
17. Digitembrace Inc.	4.8	4.3	1.7	10.8	70	IT
18. RGS Consulting Services Inc.	3.1	4.8	2.3	10.2	57	IT
19. Lintex Computer Group Inc.	3.0	3.4	3.7	10.1	56	IT
20. Computronix (Canada) Ltd.	–	9.3	–	9.3	2	IT
21. Manageflow Consulting Inc.	2.1	3.6	3.3	9.0	52	IT
22. iVedha Inc.	2.3	4.4	2.2	8.9	50	IT
23. Verbena Consulting	2.7	3.5	2.5	8.7	48	IT
24. 01 Millennium Consulting Inc.	2.9	2.7	2.2	7.8	56	IT
25. GSI International Consulting Group	3.0	3.2	1.3	7.5	38	IT and Management
Total of Top 25 Suppliers	165.3	166.0	206.5	537.8	2,125	
Other Suppliers	155.9	158.8	135.1	449.8	3,220	
Total of All Suppliers	321.2	324.8	341.6	987.6	5,345	

Note: Information on new consulting contracts for 2017/18 fiscal year unavailable at time of audit.

IT: Information Technology

Appendix 2: Audit Criteria

Prepared by the Office of the Auditor General of Ontario

1. A ministry's planning for use of consulting services justifies the need for such services and clearly establishes the terms of reference for an assignment, including its objectives, scope, deliverables, timing and cost. All applicable approvals have also been obtained.
2. A ministry has a written agreement that formally defines the responsibilities of both parties in the consulting assignment. The agreement should be consistent with the original terms of reference for the assignment and include all key requirements, such as the scope of the project, key deliverables, timing and remuneration. All applicable approvals are obtained prior to changing the terms and conditions of the original agreement.
3. The work of consultants at a ministry is properly managed to ensure satisfactory completion of the assignment on time, within budget, and in receipt of the expected deliverables. When appropriate, a transfer of knowledge is made between the consultant and ministry staff to avoid continuous reliance on the consultant.
4. Advisory services acquired by the Premier or a minister are in compliance with the Agencies and Appointments Directive.
5. Management information systems at a ministry provide timely, accurate and complete information on consulting and advisory services to support effective management of such services.

Appendix 3: Consulting and Professional Services Expenditures by Crown Agencies and Crown-Controlled Corporations, 2015/16-2017/18 (\$ 000)

Source of data: Survey responses from 54 Crown agencies and Crown-controlled corporations

Crown Agency or Corporation	Consulting Expenditures			Professional Services Expenditures		
	2015/16	2016/17	2017/18	2015/16	2016/17	2017/18
Agricorp*	317.5	537.0	1,346.2	37.4	77.8	64.2
Agricultural Research Institute of Ontario	—	—	—	23.0	32.2	28.6
Algonquin Forestry Authority	27.3	9.1	35.1	—	—	9.3
Cancer Care Ontario*	5,736.4	3,736.9	3,943.2	5,171.9	7,348.4	8,309.1
Centennial Centre of Science and Technology (Ontario Science Centre)	34.5	85.6	535.3	21.0	5.8	5.8
Education Quality and Accountability Office	1,154.7	1,017.2	839.4	32.9	28.8	29.4
eHealth Ontario	24,771.7	23,968.1	23,120.5	5,954.8	487.3	602.6
Financial Services Commission of Ontario	4,096.1	4,656.2	3,142.0	27,715.6	23,425.8	1,921.4
General Real Estate Portfolio	2,486.6	2,848.3	5,576.8	9,170.3	14,227.1	11,243.8
Independent Electricity System Operator*	4,025.7	7,363.7	5,674.6	10,549.2	6,554.6	8,788.2
Legal Aid Ontario	1,613.3	519.1	403.5	710.9	1,258.5	622.9
Liquor Control Board of Ontario	7,644.5	9,820.9	13,276.7	7,072.6	6,806.8	5,322.8
Local Health Integration Network – Central	—	—	—	233.2	256.2	421.3
Local Health Integration Network – Central East	—	—	—	216.3	231.9	901.5
Local Health Integration Network – Central West	275.7	23.9	291.3	17.0	17.0	58.1
Local Health Integration Network – Champlain	22.5	—	3.6	298.7	312.8	451.4
Local Health Integration Network – Erie St. Clair	44.5	50.8	115.3	14.1	14.1	49.1
Local Health Integration Network – Hamilton Niagara Haldimand Brant	21.4	—	—	162.1	162.4	320.8
Local Health Integration Network – Mississauga Halton	25.0	8.2	99.6	410.4	380.3	880.8
Local Health Integration Network – North East	286.6	285.2	355.3	24.5	15.1	282.5
Local Health Integration Network – North Simcoe Muskoka	284.7	196.8	381.1	22.3	14.1	60.5
Local Health Integration Network – North West	46.6	49.5	42.1	15.1	15.1	26.7
Local Health Integration Network – South East	—	32.1	63.4	14.8	14.8	51.3
Local Health Integration Network – South West	326.9	385.5	862.7	40.2	27.5	339.7
Local Health Integration Network – Toronto Central	30.7	261.7	644.0	43.0	43.0	33.6
Local Health Integration Network – Waterloo Wellington	—	190.0	255.3	135.8	36.2	190.7

Crown Agency or Corporation	Consulting Expenditures			Professional Services Expenditures		
	2015/16	2016/17	2017/18	2015/16	2016/17	2017/18
Metrolinx	53,959.1	57,835.7	39,361.2	155,469.1	220,974.5	128,259.3
Metropolitan Toronto Convention Centre Corporation	191.9	235.3	426.2	406.3	1,266.2	510.1
Niagara Parks Commission	217.8	263.6	219.6	438.5	541.2	1,047.0
Northern Ontario Heritage Fund Corporation	10.0	69.7	267.9	1,934.4	1,921.4	1,418.4
Ontario Agency for Health Protection and Promotion (Public Health Ontario)	793.1	630.5	1,318.2	350.7	303.0	274.1
Ontario Capital Growth Corporation	101.0	80.7	296.1	285.1	318.2	299.8
Ontario Clean Water Agency*	580.4	494.3	486.6	943.7	1,503.7	1,259.2
Ontario Educational Communications Authority (TVO)	85.6	74.3	332.6	201.1	133.4	182.5
Ontario Electricity Financial Corporation	227.8	181.7	38.8	1,126.4	383.5	187.4
Ontario Energy Board	12,551.1	8,314.3	5,354.4	741.7	379.7	933.4
Ontario Financing Authority	307.9	614.1	486.4	105.9	72.7	151.3
Ontario French-Language Educational Communications Authority (TFO)	2,347.2	2,515.3	2,375.4	2,169.6	1,421.2	1,075.0
Ontario Infrastructure and Lands Corporation (Infrastructure Ontario)	15,322.8	11,792.0	3,842.8	23,710.6	24,809.5	27,114.2
Ontario Lottery and Gaming Corporation	9,678.9	13,474.0	11,692.2	18,312.6	19,527.4	31,048.5
Ontario Mortgage and Housing Corporation	—	—	—	—	—	—
Ontario Northland Transportation Commission	242.6	1,464.8	680.1	4,649.3	4,465.3	4,448.4
Ontario Pension Board*	7,770.5	4,851.6	6,308.6	1,537.9	1,420.1	938.6
Ontario Place Corporation *	20.0	—	1,220.3	14.1	284.1	1,225.5
Ontario Power Generation Inc.*	19,738.7	13,927.2	15,908.0	105,534.7	107,711.8	109,514.4
Ontario Securities Commission	2,146.8	3,900.2	2,747.6	1,329.0	867.4	1,349.1
Ontario Tourism Marketing Partnership Corporation	—	—	20.0	31.0	31.0	32.0
Ontario Trillium Foundation	494.8	429.2	579.9	176.0	191.7	260.1
Ornge	369.1	179.4	238.2	1,177.9	1,463.4	1,260.0
Ottawa Convention Centre Corporation	—	41.0	24.8	170.6	100.5	174.0
Pension Benefits Guarantee Fund	—	—	—	6,117.8	2,674.2	3,807.0
Province of Ontario Council for the Arts (Ontario Arts Council)	513.1	671.2	279.0	134.8	61.8	52.8
Royal Ontario Museum	373.0	461.3	761.9	1,937.9	1,355.8	1,508.3
Workplace Safety and Insurance Board*	62,170.4	58,862.1	28,140.6	53,087.4	55,314.0	56,655.3
Total	243,486.5	237,409.3	184,414.4	450,201.2	511,290.3	416,001.8

* Financial statements have a December 31 year end.

Chapter 3

Section 3.15

Waterfront Toronto

1.0 Summary

In 2002, the federal, provincial and Toronto municipal governments established Waterfront Toronto “to oversee all aspects of revitalization of Toronto’s waterfront.” With the land along the waterfront being held by a variety of public- and private-sector landowners, it was widely accepted that the waterfront could only be successfully revitalized if a coordinated, well-planned approach was undertaken. This required that some entity be put in charge to ensure that the needs of the public would be put first and foremost, so that the full potential of Canada’s largest city—a city by the lake—could be realized. That entity was Waterfront Toronto.

Successful oversight requires that the overseer has the authority to ensure the job is done right. Unfortunately, Waterfront Toronto was never given this authority, and as a result, the development of Toronto’s waterfront lands has largely continued to be driven by historical practices, the existing bylaws, and other regulations governing commercial and residential development. Waterfront Toronto has been able to rezone just over 150 acres of land from industrial to mixed commercial-residential use.

Other cities have established entities similar to Waterfront Toronto to ensure that the competing development interests of landowners and other

stakeholders come second to the public’s best interest. These oversight entities were given much greater authority than was given to Waterfront Toronto, making it possible for them to implement such measures as restricting building heights, creating large public spaces, providing public access to the water’s edge and expropriating land in cases where the intended use was not consistent with the overall revitalization plans.

Another key responsibility of an effective overseer is to watch over all work being done to ensure it is done right, cost-effectively and on time. Waterfront Toronto never established all of the necessary processes to do this. This may have been partly because it never had any real authority to stop projects it believed were not consistent with its vision of a world-class transformation of Toronto’s waterfront. It tended to take a more hands-off approach when it came to project implementation.

From day one, Waterfront Toronto was well aware of the constraints that it operated under, and its concerns about this were confirmed in a 2004 consultant report to the Board. Waterfront Toronto, on several occasions, informed the three levels of government of the constraints, but few changes were made. Waterfront Toronto’s communications to the public gave the impression that it was playing an irreplaceable role in the world-class transformation of Toronto’s waterfront, a total of 2,840 acres. This was not our conclusion.

Waterfront Toronto's purchase of Quayside land between 2007 and 2009 created an opportunity for Waterfront Toronto to develop land in the way it sees fit. This will be Waterfront Toronto's first development of its own land. It will now be up to Waterfront Toronto to determine how to develop the Quayside without any current financial commitment from the three levels of government. It was proactive of Waterfront Toronto to seek out interested parties to procure an innovation and funding partner for Quayside. This in effect gives Waterfront Toronto the autonomy that would have been beneficial for it to have had over the last 15 years. However, its new agreement with Sidewalk Labs raises concerns in areas such as consumer protection, data collection, security, privacy, governance, antitrust and ownership of intellectual property. These are areas with long-term and wide-ranging impacts that the provincial government, along with the City of Toronto, needs to address from a policy framework perspective to protect the public interest before this initiative proceeds further.

As well, we noted that the Board of Waterfront Toronto was given just a weekend to discuss and understand the implications of the initial Framework Agreement before being asked to approve it. The Intergovernmental Steering Committee also expressed concern about the lack of sufficient time given to the Board and the governments to review the initial Framework Agreement. The committee itself was only made aware of the name of the successful bidder five days before the October 17, 2017, public announcement, which involved the Prime Minister, the Premier of Ontario, the Mayor of Toronto, Waterfront Toronto and Sidewalk Labs. Sidewalk Labs was selected by Waterfront Toronto as the successful bidder on September 12, 2017.

In addition, we noted that by May 2018, the federal, provincial and city governments had further committed to providing \$1.25 billion to Waterfront Toronto to cover the cost of flood protection of the Port Lands. This also extended Waterfront Toronto's operation to 2028 without the benefit of an operational review of Waterfront Toronto. The three

levels of government could still request a review of Waterfront Toronto to be done three months before the 20-year anniversary date in 2021 to determine whether the corporation should continue until 2028. Sidewalk Labs' provision of \$50 million to further explore the development in Quayside was contingent on the three levels of government providing this \$1.25 billion toward Port Lands flood protection. A second agreement with Sidewalk Labs called the Plan Development Agreement, signed in July 2018, replaces the initial Framework Agreement and potentially opens the door to expand the Sidewalk Labs' project to the approximately 600 acres of land in the Port Lands. Waterfront Toronto does not have the authority to grant rights to lands beyond what it owns in Quayside.

In the following, we explain some of our specific concerns:

Mandate

- **Waterfront Toronto was not given ownership over the lands it was tasked to revitalize, and therefore the visions of those with ownership controlled the decisions over waterfront development.** Waterfront Toronto was given ownership and control of 1% of the land it was tasked to revitalize. While the three governments and the Toronto and Region Conservation Authority own 75% of the developable waterfront area, they did not transfer ownership to Waterfront Toronto. Waterfront Toronto also did not have the authority to expropriate the 24% of private land that was available for development. Under a protocol with the City of Toronto, Waterfront Toronto must ask the City to expropriate on its behalf. In 2002, in an attempt to exert greater independence to regulate building heights and the use of land in the waterfront, Waterfront Toronto's Board of Directors asked its founding governments to first consult with the Intergovernmental Steering Committee and Waterfront Toronto

before approving development on both public and private land. However, Waterfront Toronto informed us that the governments did not approve this arrangement, and therefore Waterfront Toronto had to follow the plans of others.

- **Waterfront Toronto did not pursue more large-scale planning of the entire waterfront development.** The Province did not give Waterfront Toronto the authority to conduct the planning and zoning of lands. Under the *Planning Act*, the City of Toronto has the authority to conduct the planning and zoning of lands. Waterfront Toronto used the City's Central Waterfront Secondary Plan as a guide for revitalization rather than creating its own master plan or large-scale vision. Such a plan could have established areas allocated to parks, condominiums, cultural sites and businesses over the entire waterfront area and used those targets as a measure of Waterfront Toronto's progress. Waterfront Toronto conducted its planning on a neighbourhood-by-neighbourhood basis and any plans Waterfront Toronto did make had to be approved by the City. We found that neighbourhood plans by Waterfront Toronto were similar to the City's, focusing on mixed-use development rather than public spaces, which would have benefitted all waterfront visitors as intended under the *Toronto Waterfront Revitalization Corporation Act, 2002*.
- **Waterfront Toronto's development mandate overlaps with other entities, which can cause development delays and duplication of effort.** Waterfront Toronto's mandate overlaps with the mandates of other entities, such as CreateTO; Infrastructure Ontario; the Ministry of Tourism, Culture and Sport; and Ontario Place Corporation. The roles and mandates of these entities were not re-evaluated or revised, resulting in overlapping jurisdiction and mandates. For example, there was a conflict between Waterfront Toronto's

neighbourhood plan to create a beach park (which became Sugar Beach) and Toronto Economic Development Corporation's (now CreateTO) plan to build an office complex (the Corus building). Waterfront Toronto and the City negotiated for two years before reaching a compromise—both had to reconfigure their projects to accommodate the other.

Use of Government Funding

- **Governments provided funding on a project-by-project basis through complex funding agreements.** These agreements set out the funding contributions among the three governments, which were done on a project-by-project basis. From its inception until 2017, Waterfront Toronto signed 93 funding agreements with the three governments. This funding method focused on individual projects as opposed to the broader revitalization mandate and expected long-term deliverables and results.
- **The governments redirected \$700 million (approximately 47%) of their original \$1.5 billion in funding commitments to other agencies for other projects.** The governments directed Waterfront Toronto to provide government funding of about \$313 million it had already received, and \$383 million the governments initially committed to provide to Waterfront Toronto, to other agencies for other projects. In their public announcements of funding, the governments generally did not disclose that some of the funding they provided for these projects was already part of their earlier commitment to Waterfront Toronto. These projects included an expansion of GO Transit, the Union Station second subway platform and the Union–Pearson Express. Public announcements gave the impression that the governments were investing more than they did in waterfront revitalization.

- **Waterfront Toronto has not met its mandate of making development financially self-sustaining.** Waterfront Toronto has a mandate to ensure that ongoing development in the waterfront area can continue in a financially self-sustaining manner, but it has been dependent on government funding and is unable to sustain ongoing development without it. In 2009, a consulting report advised Waterfront Toronto to build internal expertise in fundraising, pursue a strategy to generate revenues from corporate sponsorship and explore strategic philanthropy. Waterfront Toronto did not act on these recommendations until 2016.
- **Waterfront revitalization project costs exceeded initial estimates.** We reviewed all projects over \$10 million, which represented over 60% of total spending on construction and planning projects directly managed or implemented by Waterfront Toronto. We found that five of the 13 projects we reviewed cost 22% in total (about \$43 million) more than the estimated project amounts. Our audit found that Waterfront Toronto did not have a consistent approach in determining the estimated project amounts. Waterfront Toronto relied on a mixture of high-level planning estimates, funding agreements and spending approvals by the Board as its source of initial project cost estimates.
- **Monitoring projects against budgets was difficult due to poor documentation.** In 2012, Waterfront Toronto introduced a new corporate data server to centralize the storage of project documents, but some project documents and files continued to remain on individual staff computer hard drives. Over time, these project files and documents could not be located due to staff turnover. At the time of our audit, Waterfront Toronto was in the process of implementing a new project management system to store project documentation and better track projects' spend-

ing against budgets and monitor progress against timelines.

- **Waterfront Toronto provided poor oversight of those projects where it transferred funds to other organizations to conduct the development work.** We reviewed all projects over \$10 million where Waterfront Toronto transferred funds to other organizations that delivered the projects. These projects represent nearly 90% of all funding provided by Waterfront Toronto to other organizations. Of the eight projects we reviewed, five did not include any cost estimates in the agreements between Waterfront Toronto and the recipient organizations. One project cost 55% in total (\$49 million) more than its initial estimated cost. The remaining two projects were on time and on budget.

Port Lands Flood Protection

- **The upfront provision for consulting, operating and other costs and contingencies is significant (at \$453 million) and amounts to 37% of the projected total.** Funding for this project was approved by the governments in May 2018 before a detailed budget was finalized. Such a large contingency provision is questionable, and consulting, operating and other costs are already forecast to be higher than the initial estimate.

Sidewalk Labs Project

- **Waterfront Toronto communicated and provided information to Sidewalk Labs and other potential bidders prior to the issuance of the request for proposals (RFP).** In March 2017, Waterfront Toronto issued an RFP for an innovation and funding partner for the Quayside area. Respondents were given six weeks to respond to a complex request for proposal—in comparison to 10 weeks previously being given to respondents for public art projects in the West Don Lands. Sidewalk Labs

was selected as the innovation and funding partner, as its proposal was by far the most comprehensive. Sidewalk Labs received more information from Waterfront Toronto prior to the RFP than other parties that would be responding to the RFP. Waterfront Toronto indicated that it also shared information with some other potential bidders prior to the issuance of the RFP. Sharing agreements were also signed with Sidewalk Labs and two other organizations, one of which was also short-listed. According to Waterfront Toronto, this sharing of information was before the issuance of the RFP and part of its regular market sounding process where it was trying to gauge market interest in the Quayside project.

- **Unlike its previous operating practices, Waterfront Toronto did not adequately consult with any levels of government regarding the Sidewalk Labs project.** The scope of the project, from self-driving vehicles to data collection, falls under multiple provincial and federal ministries and City departments, but Waterfront Toronto did not adequately consult with any of them prior to signing an initial agreement on October 16, 2017, and beyond. This was being discussed at a senior political level.
- **Because the smart city site will likely be larger than the Quayside lands, even more attention will need to be given to addressing the significant public concerns with this project.** The Plan Development Agreement stated that while the scope of planning could include the entire waterfront area, the implementation of urban innovation (smart technology that improves sustainability and efficiency in the community) is restricted to the 12-acre Quayside lands. However, the Plan Development Agreement permits implementation on any land owned by Waterfront Toronto or Sidewalk Labs outside of Quayside—in the wider waterfront area—but this would require approvals from all levels of government.
- **The project has raised public concerns regarding data collection and use.** To ensure the ethical use of data that may be collected by the smart city project, the Plan Development Agreement aims to establish a digital governance framework. Such a framework establishes accountability, roles, and decision-making authority for Waterfront Toronto and Sidewalk Labs and includes areas such as digital policy and standards. The Plan Development Agreement also proposes new data governance approaches, such as the use of a data trust, where data is stored by a third-party organization. However, the agreement does not provide specifics on data governance. Also absent is clarification on whether personal information, which Sidewalk Labs gathers, will be linked to its sister company's, Google's, existing collection of personal data in its users' accounts. In April 2018, Waterfront Toronto established a 15-member Digital Strategy Advisory Panel (Panel), consisting of industry experts and academics, to advise it on matters such as data security, systems set-up, privacy of personal data and intellectual property. Based on discussions with Panel members, the Panel's effectiveness in providing management guidance on key issues in the smart city project has been limited. Members assessed some meetings as primarily focused on administrative work, such as project background and confidentiality, and technical and scheduling issues. There have also been two resignations due to concerns over lack of transparency and apathy on the part of Waterfront Toronto over residents' concerns over data privacy.
- **Uncertainty exists about whether Waterfront Toronto and Sidewalk Labs will comply with provincial procurement obligations and the memorandum of understanding with the City of Toronto.** The current agreement between Sidewalk Labs and Waterfront Toronto requires the

two parties to jointly issue requests for proposals (RFPs) to developers if the project goes ahead. Waterfront Toronto's current procurement policies are required to comply with the Province's Broader Public Sector Procurement Directive. Also, a memorandum of understanding (MOU) between Waterfront Toronto and the City of Toronto gives the City a significant role in overseeing and approving RFPs to developers for the revitalization of lands owned by the City. It is unclear at this stage how the Broader Public Sector Procurement Directive will be applied by Waterfront Toronto when issuing joint RFPs with Sidewalk Labs in order to comply with its provincial procurement obligations and the MOU with the City. Waterfront Toronto management indicated that it will comply.

Overall Conclusion

We concluded that Waterfront Toronto has not been as effective as it could have been in the delivery of its mandate of revitalizing Toronto's waterfront, for several reasons. Ownership and control of the lands it was tasked to revitalize remained with the original owners. The City of Toronto also had the authority for the planning and zoning of lands in the waterfront area, and Waterfront Toronto used the City's existing plan to guide the development of the waterfront area rather than creating its own plan or vision. Waterfront Toronto's development mandate also overlapped with the mandates of other provincial and City entities. We also noted that the governments approved and provided Waterfront Toronto with funding using a short-term project-by-project focus rather than a holistic long-term perspective. As a result, Waterfront Toronto has directly developed only 5% of the total publicly owned developable land in the waterfront area and provided development funding to other organizations for revitalization projects for another 151 acres since its inception in 2002.

Our audit also found that Waterfront Toronto has not had sufficient systems and procedures in place to plan and execute the revitalization projects in Toronto's waterfront in a cost-efficient and timely manner. For example, five of the 13 projects we reviewed cost 22% in total (about \$43 million) more than the estimated project amounts. As well, Waterfront Toronto did not provide sufficient oversight of projects when it transferred funds to other organizations conducting development work.

We also concluded that the Province lacks a policy framework to guide the development of a mixed-use smart city such as the one being contemplated for Quayside. To protect the public interest, such a framework should address intellectual property; data collection, ownership, security and privacy; legal issues; consumer protection issues; infrastructure development; and economic development.

This report contains six recommendations for Waterfront Toronto and four recommendations for the Ministry of Infrastructure, consisting of 36 action items, to address our audit findings.

OVERALL WATERFRONT TORONTO RESPONSE

Waterfront Toronto respects the Auditor General and her Office's mandate. We thank the Auditor General and her team for their work. Waterfront Toronto commits to take all necessary and appropriate steps to use this report's recommendations and observations to improve our operations.

While Waterfront Toronto is proud of our development achievements and role in protecting Toronto's waterfront from the ad-hoc development that had characterized the previous five-plus decades, we share the audit's view that our work in revitalizing Toronto's waterfront is far from complete. Toronto only has one waterfront and to meet its full potential will take over 30 years. Our public interest mandate means getting development right must

take priority to irreversible development for development's sake—as has been the case on the waterfront previously. While the latter may generate short-term revenues, it won't preserve or make best use of the waterfront.

We also note that, as never before, the world is watching Toronto's waterfront. People are excited about Quayside's potential to radically improve some of the challenges posed by living in big cities today: affordable housing, traffic, energy use and waste. At the same time, people are interested in issues about data privacy and what role technology should have in our lives. Waterfront Toronto will not go forward with the Quayside project without first consulting with the three levels of government and giving the governments an opportunity to review and comment on any key documents before they are approved by the Waterfront Toronto Board.

As stated in the audit, Waterfront Toronto has already taken steps to update our project management system.

OVERALL MINISTRY RESPONSE

The Ministry of Infrastructure welcomes the recommendations made by the Auditor General to improve the government's oversight of Waterfront Toronto and to ensure that Waterfront Toronto is able to effectively deliver upon its mandate of revitalizing Toronto's waterfront.

The Ministry oversees the performance of Waterfront Toronto with respect to its legislative mandate. The Province works closely with partners, including the federal government and the City of Toronto, to ensure Waterfront Toronto complies with government legislation and regulations to develop the waterfront in a cost-effective manner.

The Province, in collaboration with the City of Toronto and the federal government, has established the objects of the corporation as well as specific authority for Waterfront Toronto to undertake its activities—for instance, the

authority to identify, define and manage projects within the scope of its legislative objects.

Since Waterfront Toronto's inception, funding from all three levels of government has contributed to the development of the waterfront. This funding has resulted in an economic boost and job creation. Between 2001 and 2013, the investment made by government partners resulted in the creation of about 16,200 full-time, full-year jobs. This investment contributed to the creation of multiple projects, including public spaces such as Sherbourne Common, Corktown Commons and Underpass Park. This public funding also contributed to the development of the West Don Lands, which currently provides affordable and low-end-market housing as well as 9.3 hectares of park and public space.

A third-party report noted that the initial government funding dedicated to enabling infrastructure has unlocked lands, resulting in \$4.1 billion in economic output to the Canadian economy and \$2.6 billion in development value attracted to the waterfront, based on the first six developments.

The Province is working with its government partners to further enhance the oversight of Waterfront Toronto. The Province will continue to work to ensure that the development of Toronto's waterfront proceeds in a responsible and efficient way while maximizing economic development and job creation opportunities.

2.0 Background

2.1 Waterfront Toronto Overview

Toronto's history of being a port city has meant that for decades the waterfront has been largely an underutilized industrial area. **Figure 1** shows the portion of land available for development.

The Waterfront Revitalization Task Force, comprising representatives of the City of Toronto,

Figure 1: Waterfront Land

Source of data: Waterfront Toronto

Type of Land	Publicly Owned Land		Developable Land	
	Acres	%	Acres	%
Privately owned land			338	12
Publicly owned land available for development				
Developed by other agencies with Waterfront Toronto funds	151	14		
Developed by others (e.g., Infrastructure Ontario, private developers)	39	4		
Developed by Waterfront Toronto	55	5		
Remaining to be developed by Waterfront Toronto	817	77		
Total publicly owned land available for development	1,062	100	1,062	37
Total land available for development			1,400	49
Non-developable land			1,440	51
Total waterfront land			2,840	100

the Government of Canada and the Province of Ontario, was established in November 1999 to develop a business plan and make recommendations for revitalizing the waterfront. In its March 2000 report, the Task Force's recommendations included:

- making the water's edge publicly accessible from Etobicoke to Scarborough;
- making the waterfront a place of fun, excitement and entertainment all year round;
- removing the elevated Gardiner Expressway and building a new road and transportation network to Toronto's downtown and revitalized waterfront; and
- creating neighbourhoods in the core of the City for working, living and recreation, resulting in a substantial increase in the City's stock of affordable and market housing.

The Task Force was established to support Toronto's bid to host the 2008 Summer Olympics. After Toronto lost the Olympic bid to Beijing in July 2001, Waterfront Toronto was established by the three governments in 2002, but it operates under provincial legislation—the *Toronto Waterfront Revitalization Corporation Act, 2002* (Act)—with a broad legislative mandate to oversee and lead the renewal of Toronto's waterfront. Its mandate is to

enhance the economic, social and cultural value of the waterfront area.

The Act has a sunset clause that provides for Waterfront Toronto to be wound up after May 15, 2023. If, however, a review is completed by the governments before this time and recommends that the corporation not be wound up until 2028, then the corporation may continue operations until 2028. On March 5, 2018, the Ministry of Infrastructure wrote a letter to Waterfront Toronto restating the legal provisions of the Act, which specifies that Waterfront Toronto can continue to exist until 2028 provided that the governments do not agree to an early wind-up.

In May 2018, the governments in effect exercised a five-year extension of Waterfront Toronto's mandate by approving a seven-year Port Lands flood protection project that takes the corporation beyond the sunset date in 2023. The project will involve the rerouting of the Don River to the middle of the Port Lands between Ship Channel and Keating Channel, and the creation of a stretch of naturalized river valley in the process. The project will also involve extensive excavation of soil and remediation work that will ultimately raise the ground throughout most of the Port Lands.

2.2 Ownership of Waterfront Lands

Under Ontario Regulation 200/03, the total waterfront area under development, excluding roadways and waterways, covers an area generally south of Front Street between Dowling Avenue to the west and Coxwell Avenue to the east (see **Appendix 1** for a map of the Toronto waterfront area). The area, a total of 2,840 acres, also includes Mimico, Port Union, Ontario Place and the Leslie Street Spit but excludes the Toronto Islands. As seen in **Figure 2**, the three levels of government and the Toronto and Region Conservation Authority own 1,047 acres, or 75%, of the developable waterfront area. Waterfront Toronto owns 15 acres, or about 1%, of the developable waterfront area, and about 338 acres, or 24%, of the developable waterfront area is privately owned.

2.3 Legislated Mandate

According to the *Toronto Waterfront Revitalization Corporation Act, 2002*, the legislated objectives of Waterfront Toronto are to:

- implement a plan that enhances the economic, social and cultural value of the land in the waterfront area and creates an accessible and active waterfront for living, working and recreation, and to do so in a fiscally and environmentally responsible manner;

- ensure that ongoing development in the waterfront area can continue in a financially self-sustaining manner;
- promote and encourage the involvement of the private sector in the development of the waterfront area;
- encourage public input into the development of the waterfront area; and
- engage in other activities that may be prescribed by future provincial regulations.

In addition, these objectives should be carried out to ensure the revitalization of the waterfront area creates new economic growth and jobs, new cultural institutions, new parks and green space for the public, and diverse and dynamic new commercial, residential and recreational communities. See **Appendix 2** for results of Waterfront Toronto's operations and progress toward its legislated and strategic revitalization objectives.

2.4 Intergovernmental Steering Committee

The three levels of government provide oversight and governance of Waterfront Toronto through an Intergovernmental Steering Committee. The Steering Committee comprises a voting member from each level of government (usually Deputy Ministers and the City Manager) who is supported by a staff member from each level of government, and

Figure 2: Waterfront Land Ownership, 2018

Prepared by the Office of the Auditor General of Ontario

Land Owner	Acres	Developable	Distribution (%)
Federal government	381	110	8
Provincial government	678	220	16
City of Toronto	1,161	629	45
Toronto and Region Conservation Authority	88	88	6
Total government lands	2,308	1,047	75
Waterfront Toronto	15	15	1
Private and other*	517	338	24
Total waterfront area	2,840	1,400	100

* Includes land where ownership data is unavailable (three acres).

Waterfront Toronto is represented by a non-voting member. The Steering Committee helps with executive decision-making, funding projects and directing project implementation. As per the Steering Committee's terms of reference, "it is to serve as an executive level focal point for inter-governmental management and co-ordination on matters related to Waterfront Toronto. It also provides governance and oversight to Waterfront Toronto. Specifically:

- Leads the identification and discussion of general and project-specific governance issues related to waterfront revitalization and Waterfront Toronto, when necessary;
- Co-ordinates activities between the three levels of government and Waterfront Toronto;
- Serves as a forum for information exchange related to the implementation of tri-government funded projects;
- Undertakes joint planning exercises to ensure that proposed projects are in keeping with the goals and objectives and mandate of the TWRI and Waterfront Toronto;
- Manages contribution agreements and related activities;
- Provides feedback on Waterfront Toronto's Annual Corporate Plan to the Waterfront Toronto Board;
- Establishes working groups, as required, to provide advice and direction on sub-issues; and
- Establishes project-based executive steering committees, as required, to direct and implement the delivery of government supported waterfront revitalization projects."

See **Figure 3** for the structure of how revitalization projects are delivered and **Figure 4** for a list of stakeholders and partner agencies.

Figure 3: Revitalization Projects Delivery Structure

Prepared by the Office of the Auditor General of Ontario

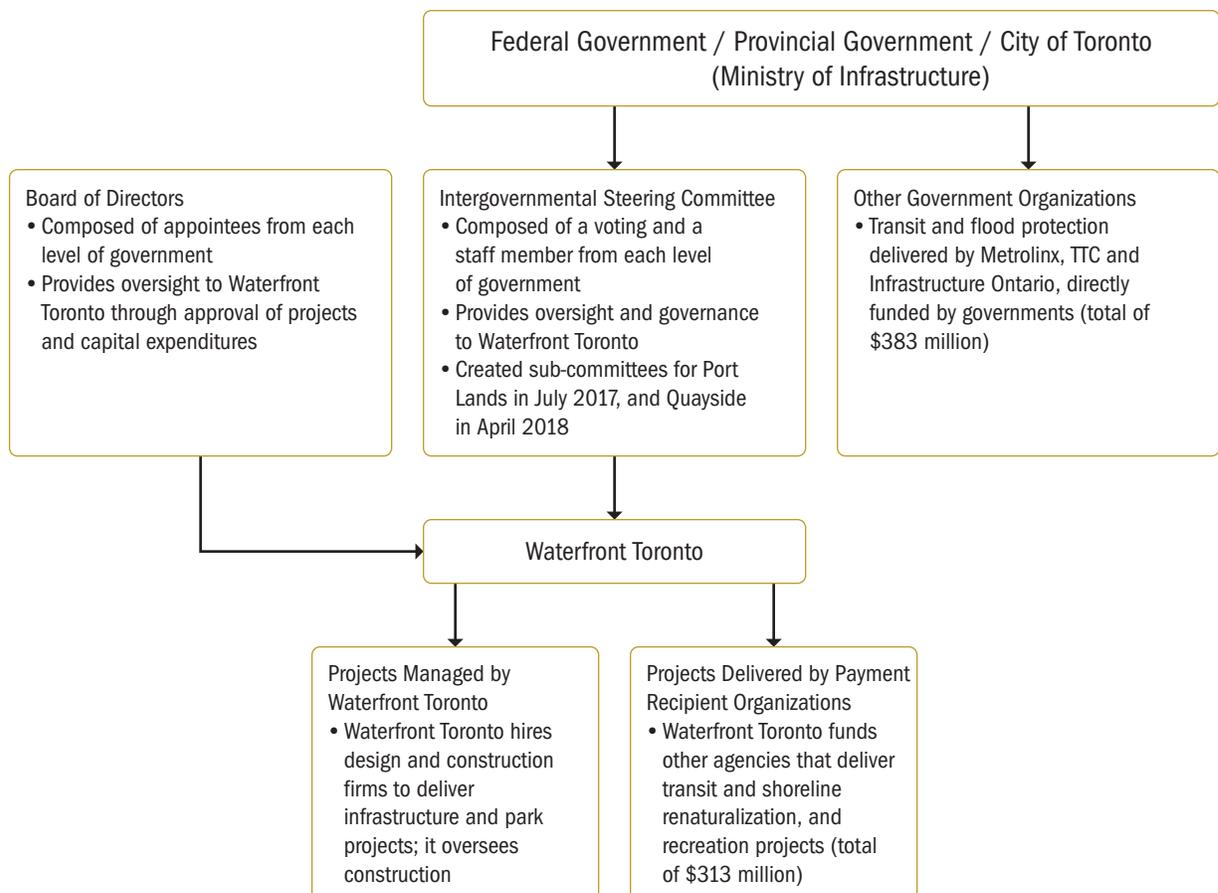


Figure 4: Waterfront Toronto Stakeholders and Partner Agencies

Prepared by the Office of the Auditor General of Ontario

Federal	
Infrastructure Canada	A ministry representing the federal government's interest in waterfront revitalization and responsible for approving federal funding to Waterfront Toronto.
Toronto Port Authority	An agency that owns and operates the Billy Bishop Toronto City Airport, the Port of Toronto and Outer Harbour Marina. Collaborates with Waterfront Toronto in the revitalization of the Port Lands.
Provincial	
Ministry of Infrastructure	A ministry with legislative responsibility for Waterfront Toronto, including its mandate, provincial funding and oversight through annual progress reports.
Infrastructure Ontario	An agency of the Ministry of Infrastructure, which oversees major project procurement and delivery, including real estate. Project lead for the flood protection in the West Don Lands and developed the Pan Am Athletes' Village in partnership with Waterfront Toronto and a private-sector developer.
Toronto and Region Conservation Authority	One of the 36 conservation authorities in Ontario that delivers a wide range of programs and services related to flood protection, erosion control, water quality and quantity management, and protecting the natural environment. Works with Waterfront Toronto to re-naturalize the mouth of the Don River and lead re-naturalization of Mimico and Port Union shorelines.
Ministry of Tourism, Culture and Sport	Developed a revitalization plan for Ontario Place (within the designated waterfront area), and in partnership with Infrastructure Ontario led its parkland projects: Trillium Park and Trail, and Celebration Common.
Municipal	
City Planning Division	Holds authority over city planning, zoning, permits and urban design.
Toronto Economic Development Corporation/Toronto Port Lands Company/CreateTO	Toronto Economic Development Corporation (TEDCO) was established as a self-financing corporation to pursue real estate development and to promote employment revitalization in Toronto. In 2009, TEDCO was re-branded as the Toronto Port Lands Company to better reflect its business in the port area. In 2017, Toronto Port Lands Company and other City agencies were merged to form CreateTO, which continues to own and manage about 500 acres of waterfront land in and around the Port Lands.
Toronto Transit Commission	Operates public transit in Toronto. Works with the City and Waterfront Toronto to increase capacity of public transit to accommodate new commercial and residential waterfront development.
Local Planning Appeal Tribunal (formerly the Ontario Municipal Board)	Adjudicative tribunal that hears cases in relation to a range of municipal planning, financial and land matters such as official plans, zoning bylaws, subdivision plans, and development charges.

2.5 Board of Directors

In addition to the Steering Committee, Waterfront Toronto is also governed by a Board of Directors, composed of 12 members and a Chair, with each level of government appointing four representatives. The Chair is jointly appointed by the three levels of government unless governments do not agree on a Chair, in which case the Board appoints

a Chair from its members. Members of the Board are not allowed to be employees of the governments. At the City and provincial levels, only one of the appointees may be an elected official. At the federal level, there are no such restrictions. Otherwise, members are not allowed to hold office. Through representation on the Board and the Intergovernmental Steering Committee, the three governments' policy interests are incorporated in

strategic decision-making at Waterfront Toronto. Currently all Board members have served for less than two years, with the exception of the Chair, who has served since February 2016. Through the years, the Board has been supported by numerous committees responsible for providing recommendations to the Board in different areas of operations such as finance, real estate development, public and government engagement and design review.

In addition, a Digital Strategy Advisory Panel was set up in April 2018 to guide Waterfront Toronto in its negotiations for a smart city partnership with Sidewalk Labs (see **Section 2.9**). The Panel advises Waterfront Toronto management on issues such as data security, systems set-up, privacy of personal data, and ownership and control of intellectual property. At the time of our audit, the Panel was composed of 12 members. The members, appointed by Waterfront Toronto management, had varied backgrounds in areas such as venture capital, civic technology, and information law and privacy.

2.6 Operating Funding and Spending

In 1999, the Waterfront Revitalization Task Force estimated that it would take approximately \$12 billion to realize the potential of the undevel-

oped waterfront land. It was proposed that the private sector could fund \$7 billion of the costs through various partnerships with governments, and the remaining \$5 billion could be raised by governments.

As seen in **Figure 5**, in October 2000, the governments of Canada, Ontario and the City of Toronto pledged \$500 million each (for a total of \$1.5 billion) toward revitalizing Toronto's waterfront. Governments retained their ownership of lands on the waterfront (see **Appendix 3** for a land-ownership map).

Subsequently, the governments redirected \$383 million from the \$1.5-billion commitment to other government organizations for transit and flood protection projects on the waterfront. In 2006, the City allowed Waterfront Toronto to retain and reinvest proceeds from the sale of City lands toward revitalization work. By March 2018, Waterfront Toronto had received a total of \$1.135 billion from the governments, and \$133 million from sources other than governments, such as parking fees, proceeds from land sales and a donation.

By May 2018, the three governments further committed \$1.25 billion to Waterfront Toronto to be distributed over seven years toward a second phase of waterfront redevelopment—the flood protection of the Port Lands. In the 2017/18 fiscal year,

Figure 5: Breakdown of Government's Initial Funding to Waterfront Toronto, from Inception to March 31, 2018 (\$ million)

Source of data: Waterfront Toronto

Type of Funding	Total	Level of Government		
		Federal	Provincial	City
Governments' initial commitment	1,500	500	500	500
Less: Funds redirected to other agencies ^{1,2}	(383)	(102)	(200)	(81)
Add: Sale of City of Toronto lands ³	18	—	—	18
Funding to Waterfront Toronto	1,135	398	300	437
Less: Transfer payments to other agencies ^{2,4}	(313)	(75)	(123)	(115)
Funding available for use	822	323	177	322

1. Includes funding for GO Transit expansion, Union Pearson Rail and West Don Lands flood protection.
2. In public announcements of program funding for the initiatives in footnote 1, the governments generally did not include notice that some of the funding would be provided from their previous commitments for revitalization.
3. Over the next five years, as a result of current commitments by the City, Waterfront Toronto will receive a further \$86 million.
4. The governments instructed Waterfront Toronto to provide funding to agencies such as the Toronto and Region Conservation Authority for shoreline renaturalization in Port Union and Mimico, and to the TTC for a second subway platform at Union Station.

Waterfront Toronto received an advance of \$65 million against the \$1.25-billion commitment, from which it spent \$39 million for an infilling project at the Port Lands.

As seen in **Figure 6**, since inception, Waterfront Toronto has spent a total of \$1.34 billion toward revitalization projects, including operating costs of \$112 million in total. **Figure 7** shows the types of projects on which governments directed Waterfront Toronto to spend the funding it was provided.

Figure 8 shows Waterfront Toronto's revenues and expenses over the last five years, including salaries averaging \$9.5 million and other operating costs of

\$3 million. **Figure 9** shows the financial position of Waterfront Toronto during the past five fiscal years.

2.7 Staffing at Waterfront Toronto

Over the last five years, Waterfront Toronto has employed on average 70 full-time and contract staff. Waterfront Toronto briefly reduced staff by about 10% to 63 in 2015 and 2016, based on a recommendation by the City citing a decrease in active projects. **Figure 10** shows that as of September 2018, Waterfront Toronto had increased the staff count to 96, 20 of whom were contract staff, as it begins work on the \$1.25-billion flood protection of the Port Lands.

About 60% of Waterfront Toronto's staff work on project-related activities such as urban planning, project design, management and procurement. The remaining 40% of staff work in government liaison and public communications, legal, finance, human resources and administration. Nine staff are fully dedicated to the Sidewalk Labs smart city project, reviewing legal documents and co-ordinating with Sidewalk Labs to develop the plan for the Quayside project (see **Section 2.9** for more details).

Figure 6: Breakdown of Spending on the Waterfront, from Inception to March 31, 2018 (\$ million)

Source of data: Waterfront Toronto

Category of Spending	Amount
Projects directly managed by Waterfront Toronto	760
Cancelled projects	49
Land purchases	106
Payments to other agencies for projects	313
Operating costs	112
Total	1,340

Figure 7: Revenue Source by Level of Government and Expense by Project, from Inception to March 31, 2018

Source of data: Waterfront Toronto

Types of Projects	Toronto	Ontario	Canada	Other ¹	Total	Total (%)
	(\$ million)					
Promenade and streetscape	115	49	112	60	336	25
Other municipal infrastructure ²	130	134	39	24	327	24
Other and corporate costs ³	32	42	35	37	146	11
Union Station second platform ⁴	58	63	17	0	138	10
Park	22	23	70	0	115	9
Land acquisition	3	17	86	0	106	8
Planning and preliminary work	46	22	21	2	91	7
Cancelled	9	10	23	7	49	4
Soil and environmental management	13	11	5	3	32	2
Total	428	371	408	133	1,340	100

1. Other is funding from sources other than governments, such as land sale proceeds and parking fees.

2. Other municipal infrastructure includes a stormwater treatment facility.

3. Other includes costs associated with one-time events.

4. Waterfront Toronto was directed in 2002 by the three funding governments to transfer \$138 million to the TTC toward the construction of a second subway platform at Union Station.

Figure 8: Waterfront Toronto's Five-Year Income Statement (\$ million)

Source of data: Waterfront Toronto

	2013/14	2014/15	2015/16	2016/17	2017/18	5-Year Average
Revenue from governments	36.2	29.1	24.9	15.3	4.5	22.0
Other operating income	2.2	3.6	1.3	2.1	2.6	2.4
Total revenue	38.4	32.7	26.2	17.4	7.1	24.4
Salaries	9.3	9.0	8.9	10.0	10.3	9.5
Operating costs	2.8	3.2	3.6	2.6	2.8	3.0
Direct project costs	32.7	27.1	23.8	5.6	2.6	18.4
Less: Capitalized portion of expenses ¹	(8.4)	(7.4)	(6.2)	(3.9)	(7.1)	(6.6)
Total expenses	36.4	31.9	30.1	14.3	8.6	24.3
Operating income	2.0	0.8	(3.9)	3.1	(1.5)	0.1
Gain on sale of land and capital assets	—	19.9 ²	—	3.3	1.5	4.9
Net income	2.0	20.7	(3.9)	6.4	0.0	5.0

1. Capitalized portion of expenses are costs that relate to assets that are still under development. They are not recognized in the financial statements when they are incurred but rather over the life of the asset.
2. Sale of East Bayfront land to developer.

Figure 9: Waterfront Toronto's Five-Year Balance Sheet, as of March 31 Each Year (\$ million)

Source of data: Waterfront Toronto

	2014	2015	2016	2017	2018	5-Year Average
Assets						
Cash and other current assets	91	108	63	66	81	82
Assets under development	298	392	309	300	347	329
Capital assets	113	106	104	88	89	100
Total assets	502	606	476	454	517	511
Liabilities						
Deferred contribution and grants	74	51	58	45	57	57
Other current liabilities	18	31	8	7	23	18
Long-term liabilities	3	3	5	6	5	4
Total liabilities	95	85	71	58	85	79
Net assets	407	521	405	396	432	432
Total liabilities and net assets	502	606	476	454	517	511

2.8 Waterfront Revitalization Projects

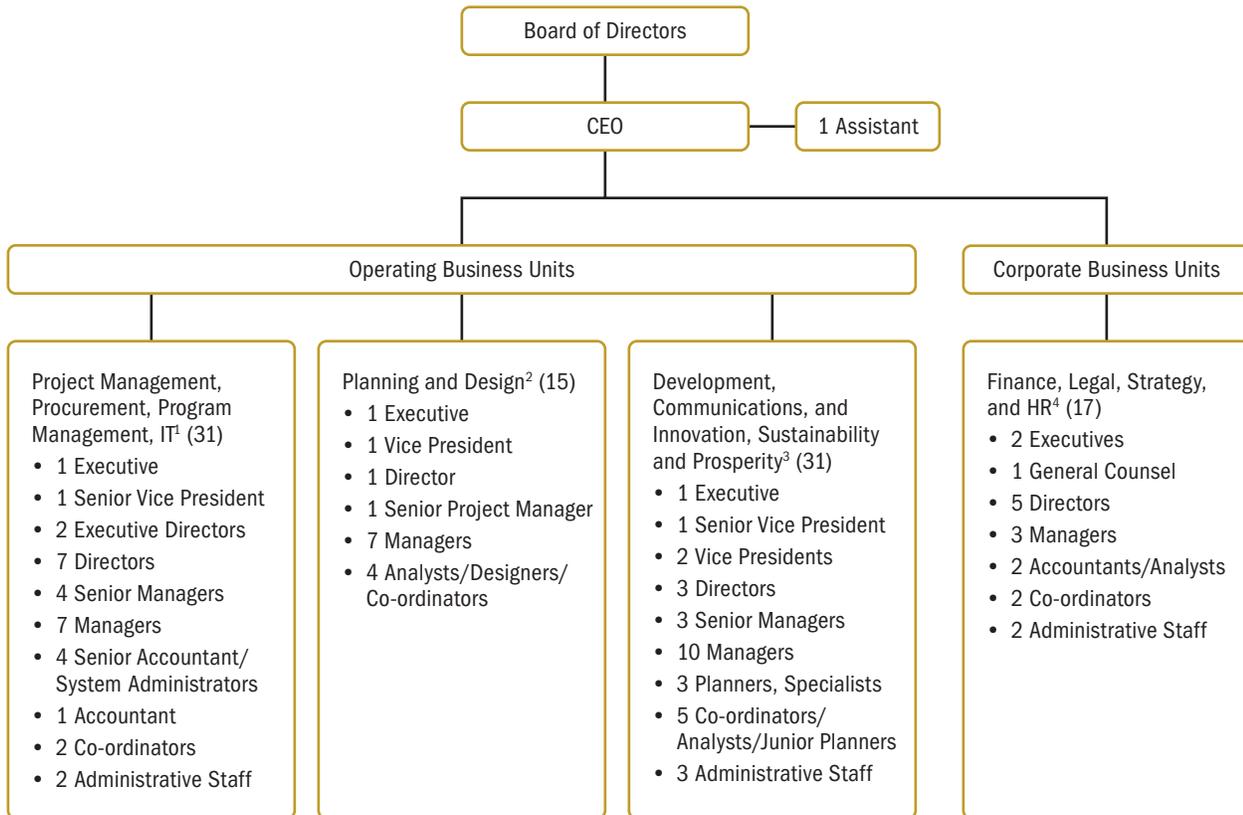
Appendix 4 lists the projects Waterfront Toronto has been involved in. Waterfront Toronto's involvement has ranged from leading and paying for the projects to completion, to only participating in the planning or acting in just an advisory capacity on

projects led by other organizations. For some projects, on the direction of its funding governments, Waterfront Toronto has only provided funding to other agencies to carry out the projects. As seen in Figure 11, the 55 acres that Waterfront Toronto has developed primarily fall within three categories:

- parks;

Figure 10: Waterfront Toronto Organizational Chart, September 2018

Source of data: Waterfront Toronto



1. Project Management and Procurement procure all design, engineering, consulting and construction services for the building of infrastructure and park projects.
2. Planning and Design co-develop urban plans for neighbourhoods with the City of Toronto and oversee design of infrastructure and park projects. They further manage regulatory approvals, including environmental assessments and permits.
3. Development and Communications direct and develop land, liaise with governments, and are responsible for public consultations and external communications.
4. Finance, Legal, Strategy, and HR are responsible for managing funding agreements and financial performance, recruitment and retention of staff, and oversee corporate and legal activities, such as the agreements with Sidewalk Labs.

- promenades and streetscapes, including bike lanes and sidewalks; and
- residential buildings, including affordable housing.

Appendix 5 contains a map of where these projects are located in the waterfront area.

There has also been significant development of residential condominiums in the waterfront area since 2003 led by private-sector developers.

2.9 Smart City Project with Sidewalk Labs in Quayside

Between 2007 and 2009, Waterfront Toronto purchased Quayside land plots for \$68 million to build affordable housing, provide public access to the water's edge, enable streetcar track extensions, locate an energy plant and enable other development opportunities.

Sidewalk Labs was the successful bidder to an RFP issued by Waterfront Toronto in March 2017 for the procurement of an innovation and funding partner for Quayside. In the October 2017 Framework Agreement between Waterfront

Figure 11: Use of Lands Led by Waterfront Toronto, March 31, 2018

Source of data: Waterfront Toronto

	Acres	% of Total
Parks	31	56
Promenades and streetscapes	10	18
Residential in West Don Lands and East Bayfront	10	18
Parking lots	3	6
Civic (George Brown College Waterfront Campus)	1	2
Total	55	100

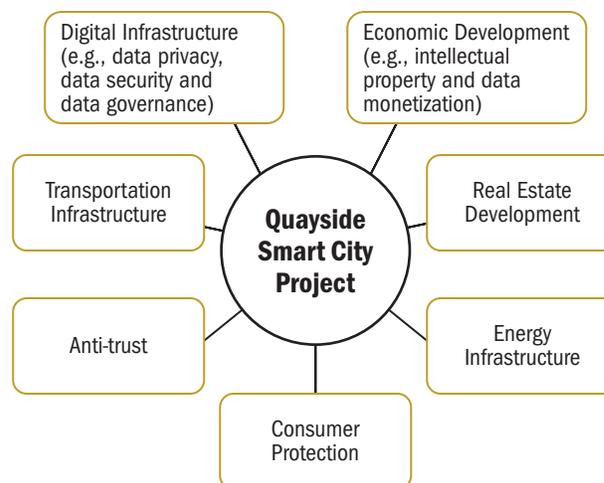
Toronto and Sidewalk Labs, they agreed to create an urban area (now publicly referred to as a “smart city”) that uses electronic sensors to collect data for the purpose of managing assets and resources efficiently within the area in Quayside (see **Figure 12** for areas requiring study and analysis, and potentially requiring provincial and municipal policy development). The intent is to address urban challenges—such as efficient energy use, housing affordability and transportation—by employing technologies such as high-efficiency modular buildings and self-driving cars and developing a network of cameras and sensors within the neighbourhood.

On July 31, 2018, Waterfront Toronto and Sidewalk Labs signed a further agreement called the Plan Development Agreement, which replaced the October 2017 agreement. The Plan Development Agreement establishes the roles of the two companies, sets project management structures and identifies principles for the governance of data, including for the collection and use of personal data. As part of both the Framework Agreement and the Plan Development Agreement, Sidewalk Labs committed to establish Google Canada’s new Toronto headquarters in the eastern waterfront.

Waterfront Toronto is able to withdraw from this smart city project without penalty up until a Master Innovation and Development Plan—a successor to the Plan Development Agreement—is signed.

Figure 12: Areas Needing Provincial Analysis and Policy Development Prior to Moving Forward with the Quayside Smart City Project

Prepared by the Office of the Auditor General of Ontario



Waterfront Toronto is planning to sign such an agreement in 2019.

A 15-member Digital Strategy Advisory Panel was established by Waterfront Toronto in April 2018 to advise management on issues such as privacy, data ownership and intellectual property.

Sidewalk Labs and Waterfront Toronto held public meetings in March, May and August, 2018, and more are scheduled for December 2018 and early 2019.

3.0 Audit Objective and Scope

The objective of our audit was to assess whether Waterfront Toronto, in working with the municipal, provincial and federal governments and other stakeholders, has effective systems and procedures in place to:

- plan and execute the revitalization of Toronto’s waterfront in a cost-efficient and timely manner in accordance with applicable legislation, regulations, agreements and mandates; and

- regularly monitor and publicly report on the progress and performance of revitalization projects.

We identified the audit criteria (see **Appendix 6**) we would use to address our audit objective. These criteria were established based on a review of applicable legislation, policies and procedures, and internal and external studies. Senior management at Waterfront Toronto reviewed and agreed with our audit objective and associated criteria.

Our audit was conducted primarily at Waterfront Toronto's office from December 2017 to October 2018. We obtained written representation from Waterfront Toronto that, effective November 9, 2018, it has provided us with all the information it is aware of that could significantly affect the findings of this report.

Our audit examined various aspects of Waterfront Toronto's operations, including planning, designing, prioritizing, budgeting, procurement, management and delivery of revitalization projects, since its inception in 2002. We interviewed senior management, current and former Board members, and current and former members from the Digital Strategy Advisory Panel; and examined related data, emails and other documentation at Waterfront Toronto. We also interviewed staff from the City of Toronto, the Ministry of Infrastructure, and Infrastructure Canada to obtain an understanding of each funding government's involvement with Waterfront Toronto. We met with stakeholders such as Infrastructure Ontario, the former and current Information and Privacy Commissioners of Ontario, CreateTO (formerly the Toronto Economic Development Corporation), the Toronto and Region Conservation Authority, the City of Mississauga, the Toronto Transit Commission (TTC), Sidewalk Labs, and community groups representing the interests of residents.

Waterfront Toronto, in addition to undergoing an annual audit of its financial statements, has been the subject of 31 other audits between 2003 and 2017. The majority of these audits, commissioned either by the three levels of government, or by

Waterfront Toronto itself, reviewed either specific aspects of Waterfront Toronto's operations (for example, human resources and cash management) or whether Waterfront Toronto spent funding it received from governments for the intended project. The scope of three audits included the review of Waterfront Toronto's effectiveness and efficiency in the last five years. We reviewed the audit reports we considered relevant in determining the scope and extent of our audit work. These reports generally contain findings consistent with those in our report.

In addition, we contracted a national survey company to ask Greater Toronto Area residents about their awareness of Waterfront Toronto as an organization and their views regarding Toronto's waterfront. We also reviewed relevant research and best practices in waterfront revitalization in Canada and other jurisdictions. We engaged an independent advisor with expertise in revitalization projects to assist us on this audit. We also reviewed other audits performed on behalf of the three levels of government in this area in planning our work.

We conducted our work and reported on the results of our examination in accordance with the applicable Canadian Standards on Assurance Engagements—Direct Engagements issued by the Auditing and Assurance Standards Board of the Chartered Professional Accountants of Canada. This included obtaining a reasonable level of assurance.

The Office of the Auditor General of Ontario applies the Canadian Standards of Quality Control and, as a result, maintains a comprehensive quality control system that includes documented policies and procedures with respect to compliance with rules of professional conduct, professional standards and applicable legal and regulatory requirements.

We have complied with the independence and other ethical requirements of the Code of Professional Conduct of the Canadian Professional Accountants of Ontario, which are founded on fundamental principles of integrity, objectivity, professional competence and due care, confidentiality and professional behaviour.

4.0 Detailed Audit Observations: Mandate and Original Funding

4.1 Waterfront Toronto Conducted Limited Direct Development of Waterfront

As seen in **Figure 1**, the entire waterfront area consists of developable and non-developable land. About half of the waterfront land is non-developable, including railways, infrastructure, heritage sites, landmark venues such as the CN Tower, and pre-existing community centres, commercial buildings and residential condominium towers. Of the 1,400 acres of developable land, about 338 acres are privately owned. **Figure 1** shows that the remaining 1,062 acres of land in the waterfront area are publicly owned.

Since Waterfront Toronto's inception in 2002, it has directly developed (that is, managed projects directly to completion) 55 acres or 5% of the 1,062 acres of publicly owned developable land. **Appendix 3** is a map of the Toronto waterfront area that shows the areas directly developed by Waterfront Toronto. Waterfront Toronto provided development funding to other organizations for revitalization projects for an additional 151 acres. Private developers and other government organizations, such as Infrastructure Ontario, have developed 39 acres, leaving 817 acres of publicly owned land, mainly the Port Lands, to be developed in the future.

In 2013, Waterfront Toronto hired a consultant to assess the economic benefit of its projects as a way of estimating the impact of its work. The consultant estimated that nearly \$10 billion of development—such as buildings and infrastructure—would be created in areas adjacent to those developed by Waterfront Toronto. However, the consultant was not able to definitively determine the contribution of Waterfront Toronto's work toward the \$10 billion in development, since

external factors, such as strong growth of demand for residential and commercial space in Toronto, are likely to have influenced the local market. In the report, the consultant stated that the economic impacts are at least in part attributable to direct impacts by Waterfront Toronto.

4.2 Waterfront Toronto Had Limited Authority to Lead Revitalization

4.2.1 Waterfront Toronto Has Mainly Relied on City of Toronto Plans for Waterfront Land Use

In 2000, the Toronto Waterfront Revitalization Task Force, established by the three levels of government to make recommendations for revitalizing the Toronto waterfront, characterized the approach to managing the waterfront lands as “random and unco-ordinated dispositions of public assets. Investment cannot be attracted unless such a mechanism [that is, an organization] is present to co-ordinate, phase, promote and integrate public and private actions.” While Waterfront Toronto was subsequently created to be such an organization in theory, it did not lead waterfront revitalization and development.

Under the *Planning Act*, municipalities in Ontario have the authority to plan and zone lands for different uses, such as residential, commercial, or parklands. In 2003, the City of Toronto had already developed a master plan for the central waterfront area. Given that Waterfront Toronto does not have the formal planning authority and the fact that the plan took City Council five years to review and approve, Waterfront Toronto did not develop its own master plan or a large-scale vision for revitalizing Toronto's waterfront. Instead, it relied, as expected by City Council, on the City's master plan and used it to guide waterfront revitalization.

The City's master plan generally identified the waterfront as an area for mixed residential, commercial, civic and parkland uses. However, it did not

specify, for example, what percentage of land could be used for parks relative to other uses. It also did not identify specific areas for each type of development—for example, the location where parks would be built in the waterfront area. The City’s master plan identified 25 potential projects on the waterfront. Of these 25 potential projects, we identified 18 as aligning with Waterfront Toronto’s mandate. As seen in **Figure 13**, at the time of our audit, Waterfront Toronto had substantially completed only eight of the 18 projects. The other seven projects aligned more closely with the other agencies.

Waterfront Toronto, in conjunction with the City of Toronto, had developed more detailed plans for the West Don Lands and East Bayfront neighbourhoods in 2005, the Keating Channel in 2010, and Villiers Island (a portion of the Port Lands) in 2017. Together, these neighbourhood plans cover about 10% of land in the central waterfront area. Since Waterfront Toronto had to obtain approvals from City Council for these plans, the plans for the West Don Lands and East Bayfront neighbourhoods are very similar to those for surrounding neighbourhoods planned by the City of Toronto, which focused on mixed-use development rather than public spaces.

In September 2004, a consultant hired by Waterfront Toronto evaluated the organizational and governance model against success factors found in other waterfront revitalization organizations in other jurisdictions. The review noted that Waterfront Toronto had no control over lands, including the ability to regulate privately owned lands, and that co-ordination among government stakeholders or agencies, such as the City, appeared insufficient. It also found that although the original vision for Waterfront Toronto was to operate like an empowered development corporation, it actually was operating like a co-ordination agency with insufficient power and control to compel alignment among stakeholders’ efforts and/or advance the development of the waterfront.

4.2.2 Waterfront Toronto Had Limited Ownership and Control of Land

Waterfront Toronto was not given ownership and control over the lands it was tasked to revitalize, which limited its ability to plan large-scale projects. Waterfront Toronto may also be subject to the changing priorities and revenue needs of its funding governments. As early as 2002, in an attempt to control building heights and the use of land in the waterfront, Waterfront Toronto’s Board of Directors asked its founding governments to require that proposed developments on both public and private land along the waterfront be reviewed by the Inter-governmental Steering Committee and Waterfront Toronto. Waterfront Toronto informed us that the governments did not approve this arrangement.

Waterfront Toronto owned only 15 acres (1%) of the developable land, while the Government of Canada, the Province of Ontario, the City of Toronto and the private sector owned the majority of the remainder of the land, which was not transferred to Waterfront Toronto. As shown in **Appendix 7**, this is in contrast to the development of, for example, The Forks in Winnipeg, where the organization charged with the development of The Forks was given ownership of the lands it was responsible for revitalizing. In 1993, an international organization dedicated to downtowns and city centres around the world gave The Forks a special achievement award that it won over 60 other Canadian, U.S., Caribbean and South African cities.

Waterfront Toronto did not and still does not have the authority to expropriate land. Under a protocol with the City, Waterfront Toronto must ask the City to expropriate on its behalf. However, Waterfront Toronto has not exercised this protocol.

Over the last decade, privately owned lands were largely developed into condominiums. Since Waterfront Toronto did not own these lands, it had no direct control over their development. While the City of Toronto has control over zoning of these private lands, rezoning privately owned land toward use as parks requires the City to compensate landowners

Figure 13: Status of Potential Waterfront Projects Identified in the City of Toronto's 2003 Central Waterfront Secondary Plan

Status assessed by the Office of the Auditor General of Ontario

Project	Type	Description and Scope	Within Waterfront Toronto Mandate	Substantially Completed by Fall 2018
1 Queen's Quay streetscaping	Removing barriers	Transform the street into a pedestrian and cycling friendly avenue	Yes	Yes
2 Waterfront trail/Martin Goodman trail	Removing barriers	Connecting and expanding existing trails to achieve a continuous trail from Garrison Creek to the Don Valley	Yes	Yes
3 Water's edge promenades	Public space creation	Promenades connecting individual parks and public spaces into a continuous pedestrian corridor	Yes	Yes
4 Harbourfront Centre	Public space creation	Replacing surface parking lots with underground ones to free up land for cultural or commercial use	Yes	Yes
5 East Bayfront parks	Public space creation	Build new parks at the foot of Jarvis, Sherbourne and Parliament streets	Yes	Yes
6 West Don Lands flood protection	Sustainability	Create a berm to protect flooding	Yes	Yes
7 West Don Lands	Development	Developing the Don Lands	Yes	Yes
8 East Bayfront	Development	Build new residential neighbourhood of mid-rise condominium	Yes	Yes
9 Gardiner Corridor	Removing barriers	Overcoming the barrier that the Gardiner Expressway creates	Yes	No
10 Lakeshore Boulevard streetscaping	Removing barriers	Transform the street into a pedestrian and cycling friendly avenue	Yes	No
11 Foot of Yonge Street	Public space creation	Create a distinguishing public space incorporating a pier, plaza, cultural and entertainment venues	Yes	No
12 Don Greenway	Public space creation	Green space corridor connecting the Don Valley and the Tommy Thompson Park through the Port Lands, including a Centre for Creativity and Innovation	Yes	No
13 Lake Ontario Park	Public space creation	Extension of Ashbridges Bay through infilling to expand and connect Tommy Thompson Park	Yes	No
14 Ship Channel	Public space creation	Explore possibilities of using some of the dock space along the channel for a community amenity	Yes	No
15 Commissioners Park	Public space creation	Build a new park between Cherry St. and Don Roadway (north to Commissioners St.)	Yes	No
16 Sustainable transportation	Sustainability	Prioritize transit, bikes and walking as means of transportation	Yes	No
17 Renaturalizing the mouth of the Don River	Sustainability	Renaturalization will result in a new recreational space	Yes	No
18 Opening the Port Lands to urban development	Development	Develop the area into a busy neighbourhood featuring innovation and knowledge industries	Yes	No

Project	Type	Description and Scope	Within Waterfront Toronto Mandate	Substantially Completed by Fall 2018
19 New Fort York Park	Public space creation	Expand the Fort York park to create an attraction with national, regional and local draw	No	Some
20 Marilyn Bell Park extension	Public space creation	Addition of 3 hectares to the park	No	Some
21 Exhibition Place	Development	Leverage and improve upon existing development in the area	No	Some
22 LRT Transit	Removing barriers	Extending Light Rail Transit routes between Exhibition Place and the Port Lands	No	No
23 Ontario Place	Public space creation	Connect Ontario Place into the waterfront parks system	No	No
24 Canada Malting silos	Public space creation	Leverage the existing silos to build a special place for public and private use	No	No
25 Create Cultural Heritage Corridors	Removing barriers	Link the water's edge to form a waterfront cultural grid	No	No

for the land's value. The City also benefited from revenue received through developers' charges and property taxes from condominium development.

4.2.3 Development Mandate Overlaps with Other Government Entities' Mandates

Waterfront Toronto's mandate is similar to those of other existing government entities, which further limited its ability to plan and execute the revitalization of Toronto's waterfront. The roles and mandates of the following infrastructure and economic development agencies were not re-evaluated or revised, resulting in overlapping jurisdictions and mandates.

Toronto Economic Development Corporation (TEDCO)

Toronto Economic Development Corporation (TEDCO), established in 1986 prior to Waterfront Toronto's inception, is a wholly owned corporation of the City with responsibility for managing its owned land and selected city-owned lands located within the downtown waterfront area. In 2006, there was a conflict between Waterfront Toronto's neighbourhood plan to create a public area, includ-

ing a park and a public attraction, and TEDCO's plan to build an office complex (the Corus building) near the south end of Jarvis Street on land owned by the City. Waterfront Toronto and the City negotiated for two years before reaching a compromise—both had to reconfigure their projects to accommodate the other. Waterfront Toronto's planned 4.5 acres of public space was reduced to a two-acre triangular beach park (which became Sugar Beach).

In June 2017, TEDCO merged with other City agencies to form CreateTO. While a 2006 Memorandum of Understanding between the City of Toronto, TEDCO, and Waterfront Toronto designated Waterfront Toronto as the revitalization lead for the Port Lands, CreateTO continues to own and manage about 500 acres of waterfront land in and around the Port Lands (part of the 1,400 acres of developable land in the waterfront area).

Without resolving this overlapping mandate, there could be future potential conflict over the use of the land in the Port Lands, for which CreateTO oversees long-term land leases. The City's long-term plan for the Port Lands indicates the eastern parts of the area would continue to be used by film studios and for industrial purposes. However, Waterfront Toronto's latest neighbourhood plan for

the area shows that it intends to develop adjacent lands as a mixed-use residential community.

In the fall of 2017, the Intergovernmental Steering Committee asked the two organizations to discuss a process to confirm their respective roles and responsibilities, but did not provide further direction. Since January 2018, Waterfront Toronto has been working with CreateTO to define their respective roles and responsibilities. At the time that our audit was completed, this was still ongoing.

Infrastructure Ontario (IO)

Infrastructure Ontario (IO), an agency of the Province, is responsible for leading major infrastructure projects and managing the government's real estate portfolio. By 2011, the Ministry of Infrastructure had provided to IO \$135 million in funding, \$120 million of which was redirected from Waterfront Toronto's committed funding of \$1.5 billion, toward building a flood-protection landform in the West Don Lands. This landform fortifies and elevates the bank of the Don River, thereby removing the risk of West Don Lands flooding, and in turn enables building in the area.

In 2010, the Ministry of Tourism, Culture and Sport funded, through IO, the Athletes' Village in the West Don Lands for the 2015 Pan Am Games. IO oversaw the development of five blocks of buildings by a private developer, which were used as dormitories during the Pan Am Games in 2015. After the Games, two of the blocks provided affordable housing, two were developed into condominiums, and a student residence and community centre were also built. The private developer built condominiums on three additional blocks after the completion of the Games. Although the West Don Lands is a neighbourhood within the designated waterfront area, the Ministry of Tourism, Culture and Sport designated IO as the lead for this project.

Ministry of Tourism, Culture and Sport

Ontario Place, a 155-acre complex including water lots (that is, land plots, some or all of which are

covered by water), is within the area designated for revitalization by Waterfront Toronto. However, the Ministry of Tourism, Culture and Sport, which oversees the Ontario Place Corporation, led development of a revitalization plan for it and relied on IO to support the implementation of its parkland projects. In June 2017, IO completed the development of the Trillium Park and Trail, covering 7.5 acres of land previously used primarily as a parking lot. Waterfront Toronto's involvement in the project was limited to managing the public-consultation and design process.

In February 2018, the Ministry of Tourism, Culture and Sport further awarded a design contract for Celebration Common, an additional 18-acre park to be built next to Trillium Park. Again, this project is being planned by the Ministry and will be managed by IO. The park was being planned to provide a multi-purpose green space with opportunities for public art, community events and recreational use. Waterfront Toronto was not involved in the planning of the project or the procurement of the design contract. In June 2018, design work paused when the new provincial government was elected.

4.2.4 Nearly Half (\$700 Million) of the \$1.5-Billion Funding Commitment to Waterfront Toronto Redirected to Other Agencies

As seen in **Figure 5**, by 2018, the governments of Ontario, Canada and Toronto had reduced the amount of funding committed to Waterfront Toronto for revitalization to about \$1.1 billion from their original commitment of \$1.5 billion. A total of \$383 million from the \$1.5 billion was reallocated to other agencies for projects, such as an expansion of GO Transit (\$130 million), West Don Lands flood protection (\$120 million), Port Lands Sports Complex (\$32 million), the Union–Pearson Express (\$25 million), Fort York Pedestrian Bridge (\$21 million) and 19 other smaller projects.

In addition, the governments directed Waterfront Toronto to provide a total of \$313 million in

funding to other agencies for shoreline restoration and transit projects. While these projects fit within a mandate of developing the waterfront, in total they represent nearly \$700 million for projects that Waterfront Toronto did not directly design or manage.

In their public announcements of funding, the governments generally did not disclose that some of the funding they would be providing for these projects represented a reduction of their earlier announced commitment to Waterfront Toronto. These public announcements gave the impression that the governments were investing additional amounts toward waterfront revitalization.

4.2.5 Funding to Waterfront Toronto Was Project-Focused Versus Being Provided Annually or Long-Term Focused

Funding from the three governments was provided to Waterfront Toronto in a project-by-project basis through 93 separate funding agreements. In 2006, in a letter to the federal government's independent panel on grants and contribution, Waterfront Toronto expressed concern that this funding mechanism "focuses on individual projects as opposed to the broader revitalization mandate and expected long-term deliverables and results." A year earlier, in 2005, Waterfront Toronto had begun planning for how to allocate the governments' funding commitment toward possible projects, but the governments would only fund amounts specific to individual projects as opposed to providing annual funding. As a result, in effect, the governments directly controlled the choice of specific projects and the nature of revitalization on government-owned land.

One example was Waterfront Toronto's unsuccessful attempt to bring a campus of the United Nations-affiliated University for Peace to the foot of Yonge Street. The City of Toronto's master plan called for the pier to be preserved as public space of special significance. Waterfront Toronto's plan was to use the pier as a cultural space to re-brand and bring recognition to Toronto's water-

front. It proposed a campus of the University for Peace offering masters level educational programs to international students, UN officials and governments on conflict prevention, democracy and governance.

In 2004, the privately owned 10-acre site was listed for sale. Waterfront Toronto only received support from the federal and City governments for the purchase of the site, but not the Province. This left a shortfall in funding for the purchase of the site. In November 2005—while Waterfront Toronto was trying to secure sufficient funds to purchase the land—a consortium of developers acquired nine of the 10 acres of the site to build a 15-storey condominium complex. Later that year, Waterfront Toronto purchased the remaining one-acre plot. However, the University for Peace was abandoned by its sponsors. Waterfront Toronto did not have funds allocated for building a park in that location at the time. The lot remains in use as a parking lot until such time as funding is available for park construction.

The additional \$1.25-billion commitment from the governments for the Port Lands flood protection project will flow funds to Waterfront Toronto in accordance with an overall funding schedule that already defines the individual project budgets that will need to be established by early 2019.

RECOMMENDATION 1

To have Waterfront Toronto's mandate reflect the public and governments' vision for a revitalized waterfront, and so that it does not overlap with other entities' mandates in the future, we recommend the Ministry of Infrastructure, in consultation with partner governments:

- conduct a review of Waterfront Toronto's mandate, focusing on defining clearly the role and authority necessary for it to play in revitalizing the waterfront for the remainder of its legislated term; and
- clarify the roles and responsibilities of existing organizations such as CreateTO and the Ministry of Tourism, Culture and Sport,

which may have overlapping mandates or interest in the revitalization of Toronto's waterfront.

MINISTRY RESPONSE

The Ministry acknowledges the importance of establishing clear roles between the levels of government and Waterfront Toronto in the development of Toronto's waterfront.

The provincial government will discuss with its government partners the Auditor General's recommendations on a mandate review and on how best to clarify roles and responsibilities between relevant organizations.

The provincial government, along with the federal government and the City of Toronto, utilizes an Intergovernmental Steering Committee that jointly supports Waterfront Toronto to fulfill its mandate and to facilitate collaboration with other relevant parties. The Province has also actively engaged with relevant government partners to ensure decisions are made in alignment with other key initiatives.

The provincial government is working with government partners and Waterfront Toronto to develop an accord that will strengthen accountability and clarify the roles and responsibilities of each party.

The Province, working with its government partners, will also consider these recommendations as it works with and reviews Waterfront Toronto's 2019–2023 Strategic Business Plan.

The provincial government will continue to work with its partners to support Waterfront Toronto in effectively delivering on its mandate and collaborate with other relevant agencies and corporations.

4.3 Actual Project Spending Exceeded Estimated Project Costs

We compared the estimated project amounts for all construction projects over \$10 million managed

by Waterfront Toronto (detailed in **Figure 14**) to the actual cost of the projects. These projects collectively represent over 60% of total spending on projects by Waterfront Toronto.

We found that the actual cost for six of these projects was lower by about 12% (about \$29 million). However, for the remaining five projects, the actual cost to date was higher by about 22% (about \$43 million). Two projects are still not complete, and Waterfront Toronto estimated that it will require a further \$40 million to complete them, which will be funded through revenues expected to be received from land sales and other sources.

For two planning projects listed in **Figure 14**, Waterfront Toronto had not prepared detailed costs estimates. We, therefore, could not determine whether these projects were on budget. For example, for the West Don Lands planning and preliminary work, Waterfront Toronto did not prepare any cost estimates prior to undertaking the planning work and continued to spend an average of over \$1 million annually for 10 years ending in the 2014/15 fiscal year.

Waterfront Toronto funded the continued implementation of construction projects whose actual cost exceeded their estimated amounts through subsequent funding agreements signed after construction had begun and from other sources.

4.3.1 Inconsistent Approach in Determining Estimated Project Costs

Waterfront Toronto did not have a consistent approach in determining estimated project amounts. It relied on a mixture of high-level planning estimates, funding agreements and spending approvals by the Board as its source of initial estimates.

We did note improvements in the project planning for the Port Lands flood protection work. A project charter outlining project scope, budget and completion timelines was developed for the first time in February 2017 for the Cherry Street infilling project, the first sub-component of the Port Lands

Figure 14: Projects Managed by Waterfront Toronto Tested by the Office of the Auditor General of Ontario

Source of data: Waterfront Toronto

Project	Type	Neighbourhood	Estimated Cost (\$ million)	Total Spent by March 2018 (\$ million)	Cost Increase (\$ million)	% Change	Planned Completion Date	Actual Completion Date	# of Months Delayed
Queens Quay – Promenade and streetscape revitalization	Public Space	Central Waterfront	85.7	120.3	34.6	40.4	Summer 2015	Jun 2015	0
Land servicing in West Don Lands – Water, sewer, streets	Municipal Infrastructure	West Don Lands	46.3	48.8	2.5	5.4	2014/2015	2015/2016	Up to 12
Sherbourne Park	Park	East Bayfront	28.9	30.1	1.2	4.2	Mar 2011	Jul 2011	4
Corktown Common ¹ – Park	Park	West Don Lands	26.8	27.3	0.5	1.9	Jan 2012	Jun 2013	17
Land Remediation ²	Environment Management	East Bayfront	11.2	15.8 ²	4.6	41.1	2011	Ongoing	84+
Subtotal			198.9	242.3	43.4	21.8			
Land servicing in East Bayfront – Water, sewer, streets ²	Municipal Infrastructure	East Bayfront	132.2	111.1 ²	(21.1)	(16.0)	Various	Ongoing	Up to 12
Stormwater Treatment Facility ³	Municipal Infrastructure	East Bayfront	24.9	24.2 ³	(0.7)	(2.8)	Apr 2014–Mar 2015	Dec 2015	9
Canada Square	Public Space	Central Waterfront	30.8	29.7	(1.1)	(3.6)	Mar 2012	Jun 2012	3
Wavedeck Promenade	Public Space	Central Waterfront	17.4	14.3	(3.1)	(17.8)	Spring 2008–Summer 2009	Sep 2008–Aug 2009	0
Canada's Sugar Beach	Public Space	East Bayfront	16.1	14.2	(1.9)	(11.8)	Jul–Sep 2010	Jun 2010	0
Water's edge walkway	Public Space	East Bayfront	12.6	11.4	(1.2)	(9.5)	2016/2017	Dec 2015	0
Subtotal			234.0	204.9	(29.1)	(12.4)			
Lower Don Lands – Neighbourhood plan	Planning and Preliminary Work	West Don Lands	n/a	19.5	n/a	n/a	n/a	n/a	n/a
West Don Lands planning	Planning and Preliminary Work	West Don Lands	n/a	12.6	n/a	n/a	n/a	n/a	n/a
Subtotal				32.1					
Total				479.3					

1. The delay was mainly due to a flood protection landform, which had to be completed prior to park construction. Park construction began in August 2010.

2. Waterfront Toronto expects to spend \$40 million in addition to what it has spent by March 31, 2018, as parts of these projects are ongoing.

3. The City expanded the capacity of the Stormwater Treatment Facility, contributing to a cost increase.

flood protection. As well, the finance committee of the Board reviewed the design and cost of projects at different stages and provided quarterly updates to the Board. This approach will be needed to effectively oversee projects related to the planned \$1.25 billion Port Lands flood protection.

4.3.2 Change Orders in Projects Added Costs and Extra Work

Conditions at construction sites may not always be fully known when project blueprints are completed, resulting in requests for information from contractors that, in turn, require Waterfront Toronto to issue site instructions or change orders. We found that a number of change orders added during

construction contributed to additional project costs and work.

In **Figure 15**, we list the most common reasons for change orders in projects managed by Waterfront Toronto. While we recognize not all instances requiring a deviation from the original construction contract could have been foreseen during project planning, we noted instances where more detailed planning prior to construction could have helped to avoid some of the change orders after construction started.

For example, close to \$700,000 was necessary for resizing the pipes used in a sanitary sewer due to a design change recommended by a consultant after construction had already begun. We also found that the original design for a fountain at

Figure 15: Rationale for Delays and Added Costs in Projects Managed by Waterfront Toronto Tested by the Office of the Auditor General of Ontario

Source of data: Waterfront Toronto

Project	Inadequate Design and Planning	Unforeseen Site Conditions	Co-ordination of Multiple Stakeholders	Rationale for Delays and Added Costs
Queens Quay - Promenade and streetscape revitalization	●	●	●	Unanticipated site conditions, delay costs, co-ordinating work with TTC
Land servicing in West Don Lands - Water, sewer, streets	●	●	●	Unanticipated site conditions/conflicts, additional utility investigation which resulted in the realignment of the sanitary foremain
Sherbourne Park	●		●	Design changes, delay cost, City requests
Corktown Common - Park	●	●	●	Flood protection landform quality of work and delay
Land remediation	●	●		Greater-than-anticipated contamination
Land servicing in East Bayfront - Water, Sewer, streets	●	●	●	Additional municipal approvals, co-ordinating multiple contractors, unstable terrain and high water table
Stormwater Treatment Facility			●	Increase in the capacity of facility and catchment area by the City
Canada Square	●	●		Unanticipated site conditions and design changes
Wavedeck promenade				n/a
Canada's Sugar Beach				n/a
Water's edge walkway				n/a
Lower Don Lands - Neighbourhood plan	●			No cost estimates developed for project
West Don Lands Planning	●			No cost estimates developed for project

Sherbourne Common included stainless steel components. These components were removed during the procurement process in order to scale down the project but were added back during construction at a cost of nearly \$275,000.

For its largest project—the addition of promenades and bike lanes along Queens Quay—there were 598 change orders between 2008 and 2015 at an additional cost of \$18.5 million (about 14% of the total project cost). We found that some of these change orders could have been avoided through more rigorous planning and better co-ordination with partner agencies that were also working on the same site. For example, Waterfront Toronto spent \$3.9 million due to insufficient co-ordination with an electrical utility and the TTC, both of which were conducting work on the site at the same time. Penalties imposed by contractors and trades as a result of delays amounted to \$3 million. These delays were caused by both Waterfront Toronto and by contractors working on a piece of the project that was not completed in order for another contractor to start at the agreed-upon time. Additional permits and approvals required by the City of Toronto after construction had begun cost another \$2.3 million.

4.3.3 \$49 Million Spent by Waterfront Toronto on Cancelled Projects

Waterfront Toronto spent a total of \$49 million (see **Figure 7**) contributed by all three governments on cancelled projects. For example, it spent \$28 million on planning the district heating plants (central facilities where heating is provided to adjacent buildings rather than through boilers being installed in the individual buildings) for the East Bayfront and West Don Lands neighbourhoods. The plan was to introduce a central heating plant that would be more efficient for the high density in the two residential neighbourhoods. However, the Province would no longer fund the construction of the heating plants and Waterfront Toronto's Board had to cancel the project. The buildings in these two neighbourhoods can be retrofitted for district

heating, but currently use conventional heating and cooling systems.

Waterfront Toronto provided the City's Transport Division \$18 million toward the purchase of land along a planned two-kilometre extension of Front Street to Dufferin Street. The extension was pre-requisite work to demolish the Gardiner Expressway east of Spadina. The project was intended to improve road capacity and increase public space on Lakeshore Boulevard East through addition of bike lanes, landscaping and public arts. However, because the Gardiner Expressway is not being demolished, this project was cancelled. The City's Transport Division still owns the land.

The remaining \$3 million was spent on the cancellation of three smaller projects.

RECOMMENDATION 2

To deliver future projects, such as the flood protection of the Port Lands, on time, on budget and in accordance with the planned scope, we recommend that Waterfront Toronto:

- consistently develop detailed project plans and cost estimates based on engineering and technical studies;
- set budget and completion timelines for each component of the Port Lands flood protection project and other projects using the information and estimates it gathers through the engineering and technical studies; and
- ensure all levels of government have signed off on project spending needs before commencement of a project.

WATERFRONT TORONTO RESPONSE

Waterfront Toronto supports the recommendation.

Consistent with our current practices, which have been applied to the Port Lands flood protection project, Waterfront Toronto will develop detailed project plans and cost estimates based on design, engineering and technical studies for future projects.

The overall budget of \$1.25 billion and completion timeline of late 2023 for the Port Lands flood protection project was established in the October 2016 due diligence report, which was completed by a competitively procured team of multi-disciplinary professionals to create more certainty on the project's cost, schedule and risks prior to the funding commitment from governments.

Waterfront Toronto will set the budget and completion timelines for each individual component of the Port Lands flood protection project and other projects using the information and estimates it has gathered through design, engineering and technical studies at the 30% design drawing stage, in accordance with leading industry practice and will continue to do so for future projects.

Waterfront Toronto's current practice is to ensure a signed funding agreement with governments is in place prior to the commencement of a project.

4.3.4 Difficult to Monitor Projects against Budgets Due to Poor Documentation

We noted that prior to 2012, project documents and files were stored only on local hard drives of staff computers. In 2012, Waterfront Toronto introduced a new corporate data server to centralize the storage of project documents to help staff collaborate on projects. However, some project documents and files continued to remain on individual staff computer hard drives and were not transferred to the corporate data server. Over time, these project files and documents could not be located due to staff turnover, and there were no backups for these files. We noted that six of the 11 project managers have left the organization since 2014.

In March 2018, Waterfront Toronto internally identified that it risked being “unable to produce accurate and timely information, resulting in impacts to decision-making, accountability and transparency.” It also identified there was a risk of

“inadequate project information (including design, scope and cost estimates) used to develop strategic plans and project budgets, resulting in possible cost overruns or reduction in scope.”

At the time of our audit, Waterfront Toronto advised us that it was in the process of implementing an off-the-shelf financial and project management system to store project documentation and better track projects' spending against budgets and monitor progress against timelines. It expected to have the new system in place by early 2019. Such a system would be beneficial in overseeing projects related to the planned \$1.25-billion Port Lands flood protection and any other project work.

4.3.5 No Process to Guide the Review of Invoices

Prior to approving payment of construction invoices, Waterfront Toronto engages external consultants to review invoices against the contract and check for legitimacy of expenses billed.

We found that invoice reviews were not documented, and there was no process to guide the review of invoices, such as what type of information or supporting documents reviewers should look for. The only documentation Waterfront Toronto could show us was that invoices were approved for payment in the accounting system. Among the invoices we examined, we also noted that Waterfront Toronto had not revised or rejected any of the invoice claims relating to the 13 projects we reviewed (see **Figure 14**).

In comparison, at The Forks in Winnipeg, a project manager was required to attach a memo documenting his or her approval of invoices and, where possible, a project status update also was provided by frontline staff.

RECOMMENDATION 3

To have the required systems and procedures in place to effectively manage the Port Lands flood protection project and other projects, we recommend that Waterfront Toronto:

- complete the implementation of a project management information system to track project progress against budgets and timelines;
- actively monitor change orders, investigate instances where cost trends suggest budgets may be exceeded and take corrective actions when necessary, such as modifying the scope of a project or simplifying its delivery to ensure project costs are within budget;
- provide regular updates to senior management on project status with explanations for significant variations between budget and actual cost;
- provide Board members with regular project progress updates, including comparisons to budgets and timelines, to enable them to exercise oversight;
- provide the three levels of government with regular project progress updates, including actual-expense-to-budget information and timelines, to enable them to exercise their oversight;
- develop and implement guidelines for the review of construction invoices, including appropriate and timely site visits; and
- establish a file management, document and archival policy.

WATERFRONT TORONTO RESPONSE

Waterfront Toronto supports the recommendation.

Waterfront Toronto is currently implementing a new Enterprise Resource Planning (ERP) system to enhance its ability to manage, monitor and report on projects—including project budgets and change orders, enhancing transparency and accountability, and increasing operational effectiveness and risk management. This system is expected to be operational in early 2019.

Waterfront Toronto's current practice in a situation of unavoidable cost that cannot be managed by the contingency is to:

- reduce project costs through value engineering or alter timelines without modifying project scope; and/or
- if necessary, obtain approval to modify the project scope, through the deferral or elimination of non-critical project elements to ensure that the budget can be met.

In early 2018, Waterfront Toronto enhanced its project governance to create a formal Capital Program Management Office (CPMO) to streamline and strengthen controls related to project and program management.

The CPMO has developed new project oversight dashboard reports that will be used to provide regular updates to senior management, Board members and the three levels of government on project status and key risk areas, as well as budget, cost, scope and schedule variations.

In fall 2018, Waterfront Toronto improved the documentation related to its existing processes for the review of construction invoices, including appropriate and timely site visits by project cost certifiers.

Waterfront Toronto is currently developing a file management and document retention policy and anticipates adoption of this policy on or before December 31, 2019.

4.4 Waterfront Toronto Had Weak Oversight over Projects It Funded Other Organizations to Deliver

4.4.1 Project Costs Exceeded Amounts in Initial Agreements

We reviewed all projects over \$10 million each where Waterfront Toronto transferred funds to another organization to manage and deliver the projects. These projects are listed in **Figure 16** and represent nearly 90% of all funding provided by Waterfront Toronto to other organizations.

Figure 16: Projects Funded by Waterfront Toronto to Other Organizations Tested by the Office of the Auditor General of Ontario

Source of data: Waterfront Toronto

Projects Funded by Waterfront Toronto	Other Organizations	Estimated Cost (\$ million)	Total Spent by March 2018 (\$ million)	Cost Increase (\$ million)	% Change	Planned Completion Date	Actual Completion Date	# of Months Delayed	Rationale
Union Station second platform	TTC	89.3	138.3	49.0	54.9	Dec 2011	Aug 2014	32	Initial budgets were incomplete. Refinements to overall scope of the project, such as removal of structures, platform finishes, increased foot prints, increased demolition costs.
Subtotal		89.3	138.3	49.0	54.9				
Western Beaches Rowing Watercourse	Toronto and Region Conservation Authority	22.6	22.4	(0.2)	(0.9)	June 2006	Jun 2006	0	n/a
Corus building	Toronto Economic Development Corporation	12.5	12.5	0.0	0.0	n/a	n/a	n/a	n/a
Subtotal		35.1	34.9	(0.2)	(0.6)				
Port Union Waterfront Park	Toronto and Region Conservation Authority	n/a	23.7	n/a	n/a	n/a	Nov 2012	n/a	n/a
Mimico Park	Harbourfront Corporation	n/a	17.8	n/a	n/a	n/a	Oct 2012	n/a	n/a
York Quay and John Quay – Harbourfront Centre	George Brown College	n/a	17.7	n/a	n/a	Spring 2005	2006	12+	Contract tendering costs exceeded initial estimates, therefore, a portion of the project was deferred until funding was available.
George Brown College Parking Garage	Toronto and Region Conservation Authority	n/a	21.9	n/a	n/a	n/a	Sep 2012	n/a	n/a
Lower Don River Bridge	Toronto and Region Conservation Authority	n/a	19.7	n/a	n/a	Dec 2007	Dec 2007	0	n/a
Subtotal			100.8	n/a	n/a				
Total			274.0						

We found that five of the eight projects did not initially include complete estimated costs in the agreements between Waterfront Toronto and the recipient organizations. One example is the shoreline re-naturalization project at Port Union that was completed by the Toronto and Region Conservation Authority—Waterfront Toronto agreed in 2003 to reimburse the Conservation Authority for the cost of the project. The initial agreement between Waterfront Toronto and the Conservation Authority did not identify a cost estimate. However, there was a cost estimate of \$16 million set between Waterfront Toronto and the three levels of government in 2004. Subsequently in 2008, Waterfront Toronto and the Conservation Authority amended their initial agreement to include a cost estimate of \$25 million. The project came in at \$23.7 million, which was nearly 50% more than the \$16 million that the three levels of government had planned to fund. Waterfront Toronto had to request more funding from the governments to cover the additional cost of \$8 million to the Conservation Authority.

We found that two of the remaining three projects were on budget, while one project incurred cost overruns of about 55%, about \$49 million in total. This project was the second subway platform at Union Station whose cost increased from the initial estimate of \$89.3 million in 2006 to a final cost of \$138.3 million in 2014. The increase was due to higher-than-anticipated costs for platform finishes, demolition and structure removal costs, and the increased footprint of the station. Waterfront Toronto paid for the entire cost of the project using funds primarily provided by the Government of Ontario and the City of Toronto.

4.4.2 Initial Agreements Did Not Always Include Planned Completion Dates

We found that four of the eight projects did not have a planned completion date in the agreements between Waterfront Toronto and the recipient. Waterfront Toronto cannot exercise appropriate project oversight when basic information such as

timelines are not provided to the recipient organizations at project onset.

Of the remaining four projects that did have planned completion dates, two of them took an average of 22 months longer than planned to complete. For example, the Harbourfront York Quay and John Quay project carried out by Harbourfront Corporation was delayed by about 12 months. The delay was due to contract tendering costs exceeding the initial estimates, which resulted in a portion of the project being deferred until funding was available.

4.4.3 Waterfront Toronto Unable to Find All Tracking Documents of Projects It Funded

Agreements between Waterfront Toronto and organizations that it paid to deliver projects, such as the shoreline restoration in Port Union delivered by the Toronto and Region Conservation Authority (described in **Section 4.4.1**), broadly outlined the responsibilities of each party. Waterfront Toronto oversaw projects by providing direction, approving work plans, and holding meetings on a quarterly basis to review project progress.

Recipient organizations were required to maintain a master project schedule plan and submit monthly and quarterly progress reports and a final report, at completion of project, to Waterfront Toronto and to each level of government. However, as noted in **Section 4.3.4**, Waterfront Toronto did not have a project management information system to track and store these reports. As a result, it was unable to find all such documents it may have received, to provide them to us. We followed up with one recipient organization that had received funding from Waterfront Toronto for four projects completed as far back as 2006 and found that the organization had not completed the final reports for these projects.

4.4.4 Payments Made without Independently Checking that Expenses Were Legitimate

Prior to Waterfront Toronto reimbursing the recipient organizations for expenses they incurred in delivering projects, Waterfront Toronto's internal policy required it to engage external consultants to review invoices against the contract and check that expenses billed were legitimate. However, we found that rather than engaging external consultants to review invoices, Waterfront Toronto relied only on the recipient organization itself to confirm that all charges were for legitimate project costs.

As with projects directly managed by Waterfront Toronto, there is no formal process to guide the review of invoices, such as what type of information or supporting documents reviewers should review (see **Section 4.3.5**). Of the invoices we examined, staff had not revised or rejected any invoice claims. We did not find any documentation indicating the extent of review that staff had performed to ensure the accuracy of invoices. Waterfront Toronto only showed us that the invoices were approved for payment in the accounting system.

RECOMMENDATION 4

To improve oversight of organizations receiving funding from Waterfront Toronto so that projects are delivered on time, on budget and in accordance with the planned scope, we recommend that Waterfront Toronto:

- include project budgets and timelines for completion in formal agreements with recipient organizations;
- approve projects and associated funding only after satisfying itself that the funds requested by recipient organizations are based on detailed and reliable budget estimates;
- require and review quarterly project updates and reports from recipient organizations and follow up with the recipient organization in cases where there are risks of cost overruns;

- provide Board members with regular project progress updates, including comparisons to budgets and timelines, to enable them to exercise oversight;
- provide the three levels of government with regular project progress updates, including actual-expense-to-budget information and timelines, to enable them to exercise their oversight;
- develop and implement processes for the review of contractor invoices provided by recipient organizations, including appropriate and timely site visits; and
- establish a file management, documentation and archiving policy.

WATERFRONT TORONTO RESPONSE

Waterfront Toronto supports the recommendation.

Waterfront Toronto has not entered into any new eligible recipient agreements in the past five years nor does it anticipate transferring any major funding to recipient organizations over the next five years.

Waterfront Toronto's current practice is to specify appropriate contract terms— including project budgets and timelines for completion— with all vendors (including those previously deemed to be “eligible recipients”).

Board members and the three levels of government will receive improved project budget, schedule and risk reports, including new dashboard reports referred to under **Recommendation 3**.

In fall 2018, Waterfront Toronto improved the documentation related to its processes for the review of construction invoices, including timely site visits by project cost certifiers.

Waterfront Toronto is currently developing a file management and document retention policy and anticipates adoption of this policy on or before December 31, 2019.

4.5 Waterfront Toronto Not Financially Self-Sustaining as Mandate Anticipated

According to the *Toronto Waterfront Revitalization Corporation Act, 2002* (Act), one of Waterfront Toronto's mandates is to "ensure ongoing development in the waterfront area can continue in a financially self-sustaining manner." However, we found that it has been substantially dependent on government funding and is unable to sustain ongoing development of the waterfront, or even its own operations, without it. In comparison, The Forks in Winnipeg generated sufficient income from land leases, including retail and parking space, to cover both its operating costs and make funds available for revitalization projects.

Waterfront Toronto did not prioritize exploring alternative ways to generate revenues in its strategic plans. Some non-government revenues, which Waterfront Toronto collected, include parking, small-scale land leasing and rental fees as well as revenues from land sales totalling \$133 million since inception (see **Figure 7** for details). However, these revenues are not sufficient to generate the level of income necessary to cover ongoing revitalization costs.

By March 2015, Waterfront Toronto had used almost all of the federal and provincial funding commitments and had only \$67 million of municipal funding commitments remaining from the \$1.5 billion seed capital. In the following years, to ensure it had sufficient cash, the Province allowed it to establish a \$40-million line of credit secured against the 10 acres Waterfront Toronto owns in the Quayside district. During the same year, it borrowed \$5 million, which was repaid within a few months. In 2017, it sold a parking facility for \$11.3 million and issued a letter of credit of about \$3 million to the Department of Fisheries and Oceans for the Cherry Street Stormwater and Lake-filling project at the Port Lands. At the time of our audit, the letter of credit remains outstanding.

4.5.1 Waterfront Toronto Did Not Proactively Explore Fundraising and Corporate Sponsorships for New Revenue

Waterfront Toronto has not been successful in leveraging corporate sponsorships, philanthropic donations and fundraising toward revitalization. Waterfront Toronto did not initiate projects that would generate revenue from sources other than government funding or develop a framework on how to achieve this in the future.

In 2009, a consulting report advised Waterfront Toronto to build internal expertise in fundraising, pursue a strategy to generate revenues from corporate sponsorship, and explore strategic philanthropy along the waterfront. However, Waterfront Toronto did not act on these recommendations; it informed us the reason was a lack of Board consensus because the 2008 recession would make fundraising more difficult.

In December 2015, Waterfront Toronto was transferred a philanthropic donation of \$25 million, received by the City of Toronto, for the Bentway project—an initiative to transform the area below the elevated lanes of the Gardiner Expressway into community space, including a skating rink. The donor gave the funds to the City of Toronto, which enlisted the help of Waterfront Toronto to manage the project. Waterfront Toronto itself has not directly received or pursued philanthropic contributions.

In 2016, Waterfront Toronto applied to the Canada Revenue Agency to be a charitable organization and received that status in October 2017. This now allows Waterfront Toronto to receive donations and to issue tax receipts for those donations. However, it has yet to engage in any fundraising activities or receive any further donations.

In comparison, Chicago explored strategic philanthropy in the early 2000s, when raising funds for the Millennium Park along its waterfront, and nearly half of its costs of \$490 million USD were raised through corporate donations. The park is also on 25 acres of land donated by the state rail company.

RECOMMENDATION 5

To further develop the waterfront area in a financially self-sustaining manner, we recommend that Waterfront Toronto create and implement a plan for making revitalization self-sufficient, which could include leveraging private-sector funding and revenue-generating sources such as corporate partnerships and philanthropy.

WATERFRONT TORONTO RESPONSE

Waterfront Toronto supports the recommendation.

Waterfront Toronto has outlined its objective to leverage private-sector funding, corporate partnerships and philanthropy in its Strategic Business Plan 2019–2023. During this five-year period, Waterfront Toronto will create and develop a plan for making revitalization self-sufficient and less reliant on government funding. In 2017, Waterfront Toronto received qualified donee status from the Canada Revenue Agency, which allows it to receive donations and issue tax receipts.

4.6 Intergovernmental Steering Committee Does Not Have a Project Decision-Making and Dispute Resolution Framework

The Intergovernmental Steering Committee does not have a framework or guide to support its decision-making process regarding what types of projects to fund in order to advance a revitalization mandate. Such a framework could be useful in ensuring consistency given that the membership of the Steering Committee has changed a number of times over the years. For example, at the federal level, the ministry responsible for revitalization changed three times. This revolving nature of committee membership in a multi-government structure can lead to poor corporate memory and weak oversight.

There is also no formal dispute-resolution mechanism that the governments could use if they cannot come to an agreement on an issue. Such a mechanism could have been useful in instances where governments in the past have disagreed on what project to fund; for example, the district heating project in East Bayfront and West Don Lands was cancelled near the end of the planning stage because the provincial government would not commit to the final funding. A conflict resolution mechanism may also be useful in the future as governments determine and discuss their support for the various components of the proposed smart city project.

RECOMMENDATION 6

To have effective communication and decision-making processes in place to support future revitalization of the waterfront, we recommend that the Ministry of Infrastructure in conjunction with its partner governments:

- develop a framework to guide project-funding decisions; and
- establish a formal dispute resolution process.

MINISTRY RESPONSE

The Ministry agrees that effective communication and decision-making processes are key to support the revitalization of the waterfront.

The three levels of government utilize an Intergovernmental Steering Committee to collaborate and co-ordinate project funding decisions. The Terms of Reference of the Intergovernmental Steering Committee guides the decision-making process. The decision-making has also been guided by the requirements stated in the legislation and Contribution Agreements.

The Intergovernmental Steering Committee also acts as the dispute resolution mechanism for issues related to the development of Toronto's waterfront.

Contribution Agreements for Waterfront Toronto projects contain measures to promote collaboration and procedures to resolve disputes.

The Port Lands flood protection project's Executive Steering Committee has also developed, in September 2017, dispute resolution mechanisms for issues specific to the delivery of the project and provides direction in relation to project management, planning and identified risks.

The Province is working with the government partners and Waterfront Toronto to develop an accord to strengthen accountability of each party and will consider these recommendations in the development of the accord.

4.7 Some Best Practices Not Part of Projects despite Multiple Overseas Trips to Learn About Waterfronts

Between 2003 and 2006, Waterfront Toronto's leadership team conducted an international review of best practices by travelling to study revitalization in other cities, including Montreal, Vancouver, New York City, Chicago, Boston, San Francisco, Rio de Janeiro, London, Paris, Stockholm, Hamburg, Barcelona and Singapore. At the time of our audit, Waterfront Toronto no longer had documentation on the costs incurred for those trips. Waterfront Toronto informed us that the purpose of the trips was largely to educate the CEO about waterfronts around the world. Some trips were paid for by third parties, such as the Greater Toronto Marketing Association paying for the CEO to visit Australia.

Waterfront Toronto could not confirm, after the international review concluded in 2006, whether a formal presentation or report of findings was produced for the review of the Board of Directors. However, Waterfront Toronto internally identified general best practices to revitalize waterfront areas. These included large public spaces, building height control, public access to the water's edge and recreational use of water.

While Waterfront Toronto projects designed by consultants have won more than 90 regional and international architect awards for design excellence in its public space projects, we noted that some of the best practices identified in the 2003 to 2006 international review have not been consistently part of Waterfront Toronto's projects:

- **Large Public Spaces:** Waterfront Toronto's major projects to date consist of municipal infrastructure and small public spaces (two to three acres), with the exception of the 12-acre Corktown Common in the West Don Lands neighbourhood. This park was built on a flood-protection landform that is not suitable for commercial and residential development.
- **Building Height Control:** Waterfront Toronto does not have the authority to control building height of condominiums developed by private developers on privately owned land in the waterfront area. Buildings in East Bayfront on the water's edge under Waterfront Toronto's jurisdiction are limited to 14 floors south of Queens Quay and 32 floors north of it to preserve views of the lake. The East Bayfront neighbourhood was developed by Waterfront Toronto and therefore it had control over building heights. However, condominiums currently being built at the foot of Yonge Street, on privately owned land adjacent to East Bayfront, will have 90 or more storeys. We also noted that, while there were no buildings taller than 150 meters (at least 35 storeys) in the waterfront area in 2003, 15 have been built since (with height ranging from 35 to 67 storeys).
- **Public Access to Water's Edge:** Public access to the water's edge in projects directly developed by Waterfront Toronto has been limited to a 19-metre-wide promenade between condominium buildings and the lake, along the 600-metre shore of East Bayfront. Swimming access is restricted by federal regulations, since the inner harbour is a designated port.

- **Use of Water:** The only projects funded in the central waterfront area by Waterfront Toronto that featured the recreational use of Lake Ontario were a restoration project at Cherry Beach and a 600-metre rowing course proposed and constructed by Toronto and Region Conservation Authority near Ontario Place.

In May 2018, Waterfront Toronto completed another review of urban waterfronts to guide its future work, such as designing communities on the Port Lands. The most common features it found to be associated with successful revitalization include continuous public access to the water's edge, destination parks, festivals and cultural attractions. Waterfront Toronto has dedicated funding for only one festival and itself has not developed cultural attractions in the waterfront area since its inception.

RECOMMENDATION 7

To successfully revitalize the remaining waterfront land, we recommend that Waterfront Toronto work with the three levels of government to consider incorporating in the Port Lands flood protection area and other projects best practices and lessons learned from past Waterfront Toronto revitalization projects, projects in other jurisdictions, and the features commonly associated with successful revitalization that Waterfront Toronto identified between 2003 and 2006 and in May 2018, such as large public spaces, more building height control, public access to the water's edge, festivals and cultural attractions.

WATERFRONT TORONTO RESPONSE

Waterfront Toronto supports the recommendation.

Waterfront Toronto's current practice is to complete a lessons learned (post-mortem) workshop at the end of each major project, with the objective to apply those lessons to future projects.

As Waterfront Toronto develops its future strategic and annual corporate plans, it will incorporate the relevant and appropriate features commonly associated with successful waterfront revitalization.

4.8 Performance Measures and Targets Not Established

4.8.1 Outcome Performance Measures and Targets Not in Place

Neither Waterfront Toronto nor its overseeing governments developed a set of formal performance measures and targets to assess whether its mandate or policy objective was being achieved. Waterfront Toronto developed specific policy objectives with respect to its broad mandate. These include:

- reducing urban sprawl, and developing sustainable and complete communities in accordance with Ontario's Growth Plan for the Greater Golden Horseshoe;
- creating more parks and public spaces, expanding public transit and increasing economic competitiveness, jobs and prosperity based on interpretation of its legislation; and
- increasing the supply of affordable housing on direction from the City of Toronto.

The initial \$1.5-billion funding agreement identified general areas for potential performance measurement, such as the development of public transit, affordable housing, recreation/tourism and commercial space. Subsequent funding agreements also contained project outcomes that Waterfront Toronto was to meet, but did not contain targets by which its performance could be assessed.

In its 2014 strategic plan, Waterfront Toronto identified the types of projects that would further these policy objectives—for example, building local infrastructure, land decontamination, parks, transit and flood protection. However, without a set of formal performance measures and targets, it is difficult to determine the effectiveness of Waterfront Toronto's individual projects, or its overall approach to revitalization.

In August 2007, a consultant proposed a list of potential performance indicators, including the number of new community gardens, the percentage mix of affordable and market-priced housing units developed, increase in tourism, the ratio between private and public funds, and project performance measures (that is, whether projects are on time and on budget). The consultant's report was presented and approved by the Board, which asked Waterfront Toronto management to further develop more specific performance measures. Management did follow through with this initiative and presented a report to a committee of the Board, but the committee did not adopt the report.

4.8.2 Waterfront Toronto Not Meeting City of Toronto's Target for Affordable Rental Units

One numeric target for Waterfront Toronto was set by the City of Toronto in 2003 —20% of all residential units are to be affordable rental units. This target applies to areas inside of the waterfront. The City of Toronto defines affordable housing as units where total rent and utility costs are at or below the City's average: average rents in Toronto were about \$1,200 for a one-bedroom unit and over \$1,400 for a two-bedroom unit in the fall of 2017. By the completion of our audit, a total of about 5,000 new residential units had been built with Waterfront Toronto's involvement, but only 580 (or 12%) of them were affordable housing units, which is below the City's 20% target.

4.8.3 Public Reporting of Operational Statistics Infrequent and Inconsistent

To inform the public of progress, Waterfront Toronto periodically publishes a report that includes descriptions of projects and various statistics such as the number of residential and affordable housing units built and number of public spaces renovated or built. However, the information in these reports does not directly relate to Waterfront Toronto's legislated objectives and was

insufficient to assess the effectiveness and efficiency of Waterfront Toronto's operations on an annual basis and over time. Waterfront Toronto published these reports only every two or three years, not annually, and when statistics were reported, they were not compared against any targets. These statistics reported outputs of activities—for example, the number of residential units developed—but did not report outcomes of revitalization such as an increase in social and cultural value of land, or improvement in the public's access of the waterfront area. Statistics were also not reported consistently over the years, making it difficult to perform trend analysis.

4.8.4 Waterfront Toronto Actively Consults with Local Residents but Not with Broader Population

Part of Waterfront Toronto's mandate is to encourage public input on the development of the waterfront area. We met with community groups representing residents along the waterfront who expressed positive views of Waterfront Toronto and the extensiveness of its community consultation. In particular, they valued the investment in infrastructure and public spaces it has created for local residents.

However, Waterfront Toronto did not engage in a similar manner with the public beyond the local waterfront residents. Engaging a broader population would have ensured that the interests of all Ontarians were known and incorporated into the design and planning of waterfront revitalization projects.

We also contracted a national survey company to conduct a survey of Greater Toronto Area residents and it found that 45% of respondents were familiar with Waterfront Toronto as an organization. Of these respondents, nearly half of them were familiar with Waterfront Toronto's purpose. The survey also showed that while 45% of respondents thought that Toronto's waterfront meets the expectation of what a large urban city's waterfront should look

like and include, 35% thought that it did not meet their expectations. The remaining 20% of survey respondents either did not visit or did not have any expectations of the waterfront.

Top reasons why respondents disliked the waterfront include too many high-rise condominium and industrial buildings, not easily accessible, not enough green space and parks and lack of attractions. This is consistent with our finding that Waterfront Toronto spent 49% of its funding for municipal infrastructure and streetscapes, and only 9% on the creation of parks, as shown in **Figure 7**.

RECOMMENDATION 8

In order for the three governments to be able to monitor and assess the progress and performance of Waterfront Toronto and its future revitalization projects in the Port Lands and other projects, we recommend that the Ministry of Infrastructure, in conjunction with its partner governments and the Intergovernmental Steering Committee:

- develop a set of performance measures and targets that are linked to Waterfront Toronto's legislated objectives;
- require Waterfront Toronto to publicly report on its performance against the targets set in these objectives at least annually; and
- regularly encourage public input from the broader population, not just local waterfront residents, into the development of the waterfront area.

MINISTRY RESPONSE

The Ministry of Infrastructure agrees that performance measures are essential to the monitoring and assessment of projects.

The Province is currently working with its government partners and Waterfront Toronto to develop an accord to strengthen accountability of each party and will further consider how to address the recommendation of the Auditor General, including performance measures and

targets that are linked to Waterfront Toronto's legislative objectives, public reporting and engagement.

The Province, along with its government partners, is working with Waterfront Toronto as it develops performance measures linked to its legislative objectives through its 2019–23 Strategic Business Plan.

5.0 Detailed Audit Observations: Port Lands Flood Protection

5.1 Planning and Development of the Port Lands

5.1.1 Preliminary Estimate of the Cost of Flood Protection in the Port Lands Raises Concerns

The City of Toronto estimates the revitalization of the entire Port Lands (including flood protection) to be a 30-year project. This timeline extends beyond Waterfront Toronto's mandate, set in its legislation to expire in 2028. The governments of Canada, Ontario and the City of Toronto announced the project in June 2017, based on a 2016 due diligence report by Waterfront Toronto containing cost and time estimates.

By May 2018, the governments had signed joint agreements to fund a total of \$1.25 billion toward flood protection of the Port Lands. The project involves:

- excavating and remediating 1.2 million cubic metres of soil to a depth of approximately six to 10 metres;
- raising the new river's edge by 1.5 metres or more;
- building a weir (a wall that will control the water flow);
- designing and building three bridges;
- constructing the underground portion of the future stormwater treatment facility; and

- building two parks including permanent aquatic habitats and recreation programming.

In contrast to how the initial \$1.5 billion was funded, the new funding arrangement for the additional \$1.25 billion will be provided to Waterfront Toronto in accordance with a funding schedule based on individual project budgets that will be established by early 2019.

The \$1.25-billion amount was determined using 2016 cost projections. These cost projections were preliminary estimates that per the Public Services and Procurement Canada cost estimate definitions were not sufficiently accurate to warrant federal funding approval. Regardless, all three governments approved the funding. The Ministry of Infrastructure informed us that the governments were aware of the preliminary nature of the cost projections and a due diligence report commissioned by Waterfront Toronto noted that there was a 90% probability of completing the flood protection project on or below budget.

However, as seen in **Figure 17**, the \$1.25-billion cost projection of the Port Lands flood protection comprises a base construction cost and three additional categories of costs: consulting and operating

costs, risk contingency, and an escalation allowance. At a total of \$453 million, these additional costs amount to 37% of the total cost estimate. We question the reasonableness of these costs below.

Consulting, Operating and Other Costs Already Forecast to Be Higher than Initial Estimate

Consulting, operating costs and other costs are estimated as a fixed 20% of base construction costs such as materials and labour. As of March 2018, Waterfront Toronto already revised the forecast for consulting, operating and other costs to \$175 million, which is \$15 million over the initial estimate in 2016 of \$160 million. Waterfront Toronto forecast a breakdown of the consulting, operating and other costs as follows:

- \$100 million—design and engineering consultants;
- \$24 million—Waterfront Toronto operations;
- \$24 million—geotechnical testing, permits and approvals;
- \$17 million—project management, public engagement and other consultants; and

Figure 17: Breakdown of \$1.25 Billion Port Lands Funding Based on 2016 Cost Projections

Source of data: Waterfront Toronto

	Cost (\$ million)	% of Total Funding
Construction Costs		
River bed digging and lake-filling	529	42
Roads, services and utilities	106	8
Bridges and dockwall structures	104	8
Parks and public spaces	58	5
Total Construction Costs	797	63
Risk contingency ¹	174	14
Consulting, operating and other costs ²	160	13
Escalation allowance ³	119	10
Subtotal	453	37
Total	1,250	100

1. Risk contingency is an allowance for risks and events that may increase the cost of the project or delay its schedule.

2. Consulting, operating and other costs include design and engineering, project management, legal, and permits and approvals, and were set as 20% of construction costs.

3. Escalation allowance is an estimate to address the inflation of costs over the seven years of the project.

- \$10 million—payments to partner agencies (Toronto and Region Conservation Authority, CreateTO, City of Toronto).

Estimate of Risk Contingency May Be Overstated

The risk contingency is an allowance for risks and events that may delay the project or increase its cost. We noted that the risk contingency assumes possible construction problems are not prevented. As seen in **Figure 17**, Waterfront Toronto has budgeted \$174 million, which was calculated by a consultant using a computer simulation incorporating 62 risks, such as potential construction or other project problems, and the cost overrun associated with each. The contingency amount results in a high probability of the project being completed on budget.

While Waterfront Toronto informed us that it believes the large risk contingency amount is necessary due to the high-risk nature of this project, we question the reasonableness of some of the risks identified. For example:

- **Soil Contamination Risk:** This is the project risk with the largest contingency amount. It addressed the potential discovery of unanticipated contaminants while digging through the Port Lands. The Toronto and Region Conservation Authority, which acts as regulator of the flood plain, informed us that this risk has been somewhat mitigated by the extensive geotechnical study already conducted by Waterfront Toronto's geotechnical consultants.
- **Stormwater Treatment Facility:** Another risk associated with the contingency value is the possibility of the City deciding to upgrade a temporary storm water facility to a permanent one, which would cost an additional \$15 million and take one year to complete. At the time of our audit, the City had not assessed whether the upgrade is immediately needed. Rather than the City funding this upgrade on its own should it decide to go ahead with it, its cost estimate was included as a contingency allowance.

5.1.2 Development in Port Lands Allowed before Flood Protection Is Complete

The hydrological design of the Port Lands flood protection aims to ensure that if a storm like 1954's Hurricane Hazel, with rainfall over Toronto of 73 millimetres during a day and a half, happens again, the Port Lands and surrounding areas will not be flooded. (In comparison, the flooding that occurred in Toronto in August 2018 was on two separate days each with 22 to 25 millimetres of rain.)

Developers owning land at the mouth of the Don River, and film studios in the eastern part of the Port Lands, have expressed interest to begin building prior to the completion of the flood protection project. In April 2018, the ministries of Natural Resources and Forestry, and Municipal Affairs, and the City created a protocol allowing for some parts of the Port Lands to be developed prior to the flood protection of the entire area. The protocol allows a departure from current practices, which require development applications to include technical flood-related information. Instead, applicants will only be required to submit examples of measures they will implement to manage flood risks. The protocol does, however, require landowners and developers to prepare an emergency management plan to the satisfaction of the City and the Toronto and Region Conservation Authority. Developers are to assume all potential costs in the event of flooding and are to agree to not hold the government authorities who developed the protocol liable for damages resulting from potential flooding.

Ontario amended its building code on July 20, 2018, to allow for development to proceed under this protocol. However, the protocol does not allow occupancy until flood protection of the entire Port Lands is completed in seven years. If development is allowed and future flood protection work requires a redo of parts of this early development as a result of unanticipated difficulties during flood protection work, the developer is responsible for paying for the rework.

RECOMMENDATION 9

To manage the development of the Port Lands with due regard for economy, we recommend that Waterfront Toronto:

- produce detailed construction cost estimates for each of the 23 component projects of the flood protection for review by the funding governments;
- report quarterly on progress against these budgets; and
- assess the effectiveness of its work on reducing the impact of construction risks, which could otherwise increase the final cost of flood protection.

WATERFRONT TORONTO RESPONSE

Waterfront Toronto supports the recommendation.

Waterfront Toronto has completed detailed construction cost estimates for each of the 23 component projects to a 30% design drawing level. These estimates will be reviewed by the funding governments through the Port Lands Executive Steering Committee and Infrastructure Canada Port Lands Project Oversight Committee in accordance with the terms of the tri-partite contribution agreement.

Through its dashboard reporting framework, Waterfront Toronto will formally report on progress against these budgets on a monthly basis and will provide this information to the Waterfront Toronto Board and three levels of government on at least a quarterly basis. Waterfront Toronto has engaged a third-party expert risk consultant for the Port Lands flood protection project whose responsibility is to document and assess the impact of construction risks on the project. Waterfront Toronto management and the entire project team, with support of a Capital Peer Review Panel, identify and review project risks on a monthly basis. Through this process, mitigation strategies are identified to reduce the impact of construction risks on the project.

6.0 Detailed Audit Observations: Smart City Project with Sidewalk Labs

6.1 Waterfront Toronto Enters into Agreements with Sidewalk Labs without Sufficient Due Diligence and Provincial Involvement

6.1.1 Smart City Originally Not Part of Waterfront Toronto's Development Plan

During 2015, Waterfront Toronto was developing a request for proposals (RFP) that contemplated mixed-use development (that is, residential, commercial and public space) on 4.5 acres of land owned by Waterfront Toronto in Quayside. This was consistent with its 2014-2023 Strategic Business Plan and the City of Toronto's 2003 Central Waterfront Secondary Plan.

After the arrival of a new Chief Executive Officer in January 2016, the plan to develop the Quayside district as a typical mixed-use development changed. Waterfront Toronto began approaching companies to understand what innovative development options could potentially be available for Quayside.

As a result of these consultations, a new RFP was developed and issued by Waterfront Toronto in March 2017 to procure an innovation and funding partner for Quayside (now for a 12-acre area along Queens Quay near Parliament Street adjacent to the Port Lands).

On September 12, 2017, Waterfront Toronto internally selected Sidewalk Labs, a sister company to Google, as the successful bidder as an innovation and funding partner to create an urban area (now publicly referred to as a smart city) in Quayside that would showcase advanced technologies, building materials, sustainable practices, and innovative solutions toward climate-positive urban development. This was publicly announced on October 17, 2017, by the Prime Minister, the Premier, the Mayor

of Toronto, Waterfront Toronto and the Executive Chairman of Alphabet Inc. (parent company of Google and Sidewalk Labs).

As noted in its November 2017 meeting minutes, the Intergovernmental Steering Committee expressed concern about how Waterfront Toronto shared Quayside information with its Board and government partners prior to the official announcement. The meeting minutes stated that “Waterfront Toronto needs to give its Board and government partners information in advance, with adequate time to review materials.” The Intergovernmental Steering Committee was briefed about the project and RFP in a June 2017 meeting, about three months after issuing the RFP. While the Committee was informed that Waterfront Toronto had internally selected a successful bidder during a September 2017 committee meeting, the Committee was only made aware of the name of the successful bidder five days before the October 2017 public announcement. As for the Mayor’s Office, it had received “almost no information about the project” according to an internal Waterfront Toronto email three weeks prior to the signing of the Framework Agreement. In addition, while Waterfront Toronto signed the Framework Agreement with Sidewalk Labs on October 16, 2017, the three levels of government expressed frustration according to the Intergovernmental Steering Committee meeting minutes that they did not receive a copy of the signed agreement until after November 2, 2017.

Up until the awarding of a project to Sidewalk Labs for the development of the smart city, Waterfront Toronto had primarily handled traditional mixed-use developments. As a result, it had limited experience in digital data infrastructure development.

Appendix 8 contains a timeline for the Quayside (smart city) project.

6.1.2 Exchange of Information Was Occurring with Mainly Sidewalk Labs, but also Others, prior to the RFP

In a June 2016 email, the Chief Planning and Design Officer of Waterfront Toronto contacted the CEO of Sidewalk Labs. The email stated: “My new CEO and I are very interested in what you are doing at Google and would like to talk to you about a potential pilot in Toronto.” Between June 2016 and the issuance of the RFP, there were frequent communications between Waterfront Toronto and Sidewalk Labs. As well, Waterfront Toronto provided Sidewalk Labs with surveys, drawings, topographic illustrations of the waterfront area including Eastern waterfront, and other materials. Sidewalk Labs architects signed a digital data licence agreement with Waterfront Toronto to allow Sidewalk Labs to use the information it was provided.

Although Waterfront Toronto did not issue the RFP until March 2017, in August 2016, Waterfront Toronto also signed a non-disclosure agreement with Sidewalk Labs in order to receive information from it. Further, in September 2016, Waterfront Toronto met with a delegation from Sidewalk Labs and provided a site visit and tour of the waterfront area.

Waterfront Toronto has indicated that it, as well, shared information with some other potential bidders prior to the issuance of the RFP, including providing site tours of the waterfront area. As well, sharing agreements were signed with two organizations, one of which was also shortlisted.

Waterfront Toronto advised us that this sharing of information was before the issuance of the RFP and part of their regular market sounding process where they were trying to gauge market interest in the Quayside project. Further, Waterfront Toronto said the information provided did not give these potential bidders an unfair advantage over other potential bidders that did not receive the information and would have been provided to any interested party that would have requested it.

As such, this raises the risk of an unfair and unequal advantage to all parties that would be responding to the RFP. Fair practice and equal treatment would suggest that all potential bidders receive the same information at the same time.

6.1.3 Six Weeks Was Not Enough Time for Respondents to Respond to RFP Given Sidewalk Labs' Earlier Involvement with Waterfront Toronto

Waterfront Toronto gave respondents only six weeks to respond to the RFP for the smart city project. Six proponents responded, of which three were shortlisted. The unsuccessful respondents that we interviewed indicated to us that the six-weeks response timeframe for a project of this magnitude was too short. In comparison, in the past Waterfront Toronto has given bidders significantly longer to respond to more traditional tenders. For example, 10 weeks were given to bidders to submit proposals for public art projects in West Don Lands, 11 weeks for a construction manager for Port Lands flood protection and 25 weeks for a developer to lead the construction of a single office building—the Innovation Centre in East Bayfront.

A bids evaluation panel, consisting of six Waterfront Toronto staff, scored Sidewalk Labs' proposal significantly higher than those of the other two short-listed candidates—an international technology infrastructure company and a Canadian consortium including a real estate developer, venture capitalists and an insurance firm. The panel's notes indicated that Sidewalk Labs' proposal was the only one combining both technology and real estate development.

Sidewalk Labs was also the only proponent offering \$50 million USD in funding to cover the cost of developing a Master Innovation and Development Plan for a smart city to be signed in 2019 as discussed below. As per the October 2017 Framework Agreement, \$40 million of this amount was contingent upon Waterfront Toronto securing the \$1.25-billion commitment from the three

governments for flood protection for the Port Lands (about 600 acres of land surrounding Quayside), which it obtained in May 2018 (as noted in **Section 5.1**). From our review of information from July to December 2016, we confirmed that Sidewalk Labs' interest in Quayside from the start was being able to expand its project to the Port Lands. As noted in **Section 6.2.1**, Waterfront Toronto does not have authority to grant rights to lands beyond the lands in Quayside that it owns and that Sidewalk Labs is aware of this limitation.

6.1.4 Full Waterfront Toronto Board Not Provided with Sufficient Time to Approve the Framework Agreement for the Smart City Initiative

In October 2017, Waterfront Toronto signed a Framework Agreement with Sidewalk Labs to create the mixed-use community (publicly referred to as a smart city).

The Framework Agreement was presented by the Chief Executive Officer to Waterfront Toronto Board members on October 13, 2017, and the agreement was approved by the Board on October 16, 2017. On the same date, the Framework Agreement was signed by the Chief Executive Officer and the Chief Development Officer of Waterfront Toronto following Board approval. Prior to receiving the formal draft agreement for its review and approval, the Board was given two briefings about the project on October 11 and 12, 2017. However, the two briefings were background information about the project and the RFP selection process and a high level briefing on the terms of the Framework Agreement. The three-member Investment and Real Estate Committee of the Board typically reviews similar agreements prior to recommending an agreement for Board approval. This Committee received an overview of the principles and draft terms of the Framework Agreement about one month prior to the submission of the agreement to the Board for approval and met with management a number of times to review issues. However, the Committee

could not reach a consensus on whether or not to support the project. As a result, it did not issue a recommendation on October 13, 2017, to the Board on whether or not to sign the agreement. Not only did the Board not receive a recommendation from its sub-committee, it had only one business day to review the agreement prior to providing approval.

In addition, we found internal Waterfront Toronto emails indicating that the Board felt it was being “urged—strongly” by the federal and provincial governments to approve and authorize the Framework Agreement with Sidewalk Labs as soon as possible. The October 17, 2017, public announcement by the Prime Minister, the Premier, the Mayor, Waterfront Toronto and Sidewalk Labs about the signing of the Framework Agreement was arranged on October 12, the day before the Board received the final Framework Agreement for review and approval.

6.2 Further Questions Remain about the Smart City Project after the Second Agreement

A second agreement, which establishes the roles of the two companies, sets project management structures, and principles for the governance of data—was signed on July 31, 2018, after consultation with and approval by the Board, by the new acting CEO and Chair of the Board.

The objective of this second agreement was to “establish a roadmap for the planning phase of the Project involving the preparation and creation of a Master Innovation and Development Plan for the Project” (MIDP). In other words, the Plan Development Agreement, which replaced the Framework Agreement, sets out the high-level principles and procedures that Waterfront Toronto and Sidewalk Labs will follow in order to jointly develop the MIDP, which will be a plan that describes the project in more detail and addresses commercial terms for the subsequent implementation of the plan.

According to the Plan Development Agreement, Sidewalk Labs will cover costs of develop-

ing the MIDP up to \$50 million USD, including costs incurred by Waterfront Toronto up to \$4.47 million USD.

While Waterfront Toronto and Sidewalk Labs have agreed on how they will work together toward the MIDP, neither are obligated to agree on any version of a final MIDP, sign Implementation Agreements, or follow through with the actual implementation of the smart city prior to signing the MIDP. If Waterfront Toronto, including its Board of Directors, is not satisfied with the content of the MIDP and the accompanying business case, it may terminate the Plan Development Agreement at any time without penalty. Currently, Waterfront Toronto has the authority, through the *Toronto Waterfront Revitalization Corporation Act*, to enter into these and other agreements without any stakeholders’ and government approval.

6.2.1 Plan Development Agreement Expands Smart City Planning Site

On its website, Sidewalk Labs states that it aims to expand the smart city project across the approximately 800 acres in the eastern waterfront.

Although the proposal Sidewalk Labs submitted covered only the 12-acre Quayside area, with possible further planning in the eastern waterfront, the Plan Development Agreement dated July 31, 2018, extended the planning of urban innovation to Toronto’s entire waterfront area (about 2,600 acres).

This change represents an increase in geography of about 200 times from the size of the Quayside area. Waterfront Toronto’s position is that although references to the entire waterfront were previously to the narrower eastern waterfront, this does not alter or broaden the essential purpose of the Plan Development Agreement, which remains focused on the Quayside lands.

While the Plan Development Agreement allows the parties to develop plans for any location in Toronto’s entire waterfront area, this does not mean that the parties are allowed to actually implement

their plans on land that is located outside of the Quayside parcel that does not belong to Waterfront Toronto or Sidewalk Labs. Such development would still require the approval of the applicable governing bodies and/or third-party landowners, and it would need to comply with all applicable laws and regulations. The components of the Plan Development Agreement that relate to the potential expansion of the smart city project beyond the Quayside area is consistent with what was requested in the RFP.

The documents we reviewed showed that Sidewalk Labs informed Waterfront Toronto that it had always seen the project as a twenty-plus year undertaking. In that case, this project will extend well beyond the 2028 sunset date for Waterfront Toronto.

6.2.2 Public Concerns about Digital Data Infrastructure (Consumer Protection, Data Collection Standards, Security, Privacy, Governance and Anti-Trust)

Aiming to ensure the ethical use of data, the Plan Development Agreement establishes a digital governance framework. The digital governance framework includes existing federal legislation, such as the *Privacy Act* and the *Personal Information Protection and Electronic Documents Act*. It also proposes new data governance approaches, such as the use of a data trust, which is when data is stored by a third-party organization. This organization would approve and control the collection of, and manage access to, urban data. At this point in time, it appears that it will be Waterfront Toronto's responsibility to oversee the governance of the data collected by the smart city project, including having personal information removed from the data, allowing individuals to opt out of having their personal data collected, and having the ability to review and delete their own data.

However, detailed approaches on how these principles will be realized are not included in the Plan Development Agreement. The Master Innovation and Development Plan (MIDP) and implemen-

tation agreements are expected to address this. Also absent is clarification on whether personal information, which Sidewalk Labs gathers, will be linked to its sister company's, Google's, existing collection of personal data in its users' accounts.

In April 2018, Waterfront Toronto established a Digital Strategy Advisory Panel consisting of industry experts and academics to advise it on digital economy issues such as data security, systems set-up, privacy of personal data and intellectual property. Its members are bound by a broad agreement to not disclose information they receive in meetings. At the time of our audit completion, the Panel had met four times.

Based on discussion with Panel members, its effectiveness in providing management guidance on key issues on digital governance and privacy has been limited. Members assessed some meetings as primarily focused on administrative work, such as project background and confidentiality, and technical and scheduling issues. There have also been two resignations due to concerns of lack of transparency and apathy by Waterfront Toronto in relation to residents' concerns over data privacy.

Sidewalk Labs publicly released a draft proposal on data collection and privacy, in which it described the use of a Civic Data Trust—a third-party governing body that would have broad authority, including decisions relating to the de-identification of personal data. At the time of our audit, it is unclear who would be in control of or own this governing body. Various members of Waterfront Toronto's Digital Strategy Advisory Panel raised concerns with respect to the proposal including the following:

- the location of the storage of data—within Canada or outside Canada (whereby Canadian privacy laws can be bypassed);
- the access to and use of data stored in the trust; and
- what proportion of the data collected will actually be stored in the trust.

The draft proposal also led to the resignation of Ontario's former Information and Privacy Commissioner from Sidewalk Labs' advisory team over

concerns that the proposed Civic Data Trust would have broad decision-making powers, including decisions relating to the de-identification of personal data. Waterfront Toronto informed us that it has subsequently met with the former Ontario Information and Privacy Commissioner to discuss the concerns raised.

6.2.3 Complex Inter-relationships Need to Be Addressed

The scope of the smart city project as planned by Sidewalk Labs will include components that fall under the jurisdiction of multiple provincial and federal ministries, and divisions of the City. For example: the self-driving vehicles are regulated by the Ministry of Transportation; buildings, including wooden frame ones proposed by Sidewalk Labs, taller than six storeys are regulated by the Ministry of Housing; economic development by the Ministry of Economic Development, Job Creation and Trade; aspects of privacy and data governance, including establishing a digital platform through which the various smart services will be integrated into a system, may be overseen by both the provincial and federal governments; and local planning and waste management are overseen by the City. Prior to the signing of the Plan Development Agreement, Waterfront Toronto had not adequately engaged these ministries or divisions in consultation on the potential impact of the smart city project on the sectors they oversee.

6.2.4 Uncertainty about Whether Waterfront Toronto and Sidewalk Labs Will Comply with Provincial Procurement Obligations and the Memorandum of Understanding with the City of Toronto

The Plan Development Agreement requires Sidewalk Labs and Waterfront Toronto to jointly issue requests for proposals (RFPs) for developers after the Master Innovation and Development Plan (MIDP) is approved (if it is approved). Waterfront

Toronto's current procurement policies are required to comply with the Province's Broader Public Sector Procurement Directive. Further, a memorandum of understanding (MOU) between Waterfront Toronto and the City of Toronto gives the City a significant role in overseeing and approving RFPs for developers in the revitalization of lands owned by the City. However, in issuing the original RFP for a funding and innovation partner for the smart city project, Waterfront Toronto did not ask the City to review the RFP or be involved in the evaluation and selection of the successful bidder. It is unclear at this stage whether Waterfront Toronto will issue joint RFPs with Sidewalk Labs that will comply with its provincial procurement obligations and the MOU with the City. Waterfront Toronto management indicated that it will comply.

Waterfront Toronto had revised its procurement policy in June 2018, making it easier to procure goods and services without a competitive tender process and no requirement to document the rationale for awarding the contract to a single or sole supplier. That change in procurement policy was not presented to the Board after the CEO approved it. During the course of our audit, in October 2018, we brought to the attention of Waterfront Toronto's management that such policy contradicts the Province's Broader Public Sector Procurement Directive. Waterfront Toronto subsequently reinstated their original procurement policy.

6.2.5 Uncertainty Surrounding Ownership of Intellectual Property and Economic Development

The Plan Development Agreement distinguishes between intellectual properties related to urban planning, such as neighbourhood plans and blueprints for street grids, and intellectual properties related to product or services, such as self-driving cars and smart street lights. According to the Plan Development Agreement, ownership of intellectual property developed for the Quayside project will depend on the value of relative contributions of

Waterfront Toronto and Sidewalk Labs. It may be owned by one of them, or jointly if co-ownership is explicitly agreed to in writing.

The legal advice that we sought on this matter noted that the Plan Development Agreement is generally vague as to ownership, use and commercialization, leaving many of the details to be determined in the MIDP and subsequent implementation agreements. If the Plan Development Agreement is terminated, then it is likely that Sidewalk Labs will retain ownership of any intellectual property it has developed to date, but Waterfront Toronto would receive a perpetual, royalty-free licence of site-specific (only in Quayside) intellectual property. Further, Waterfront Toronto is under a legislative obligation to provide the three levels of government with a plan for the transfer of its assets and liabilities when it is eventually wound up. When this occurs, any intellectual property assets held by Waterfront Toronto will likely be transferred to the three levels of government.

6.2.6 Governments' Interests May Not Be Fully Represented

There is a risk that the three governments' interests may not be fully represented during negotiations with Sidewalk Labs because the governments are not required to directly participate in negotiations. According to the Plan Development Agreement, the upcoming MIDP, which may see Waterfront Toronto and Sidewalk Labs agreeing on a plan for the smart city, will not require the governments' approval and signing.

According to the Plan Development Agreement, any implementation of the MIDP will be subject to Waterfront Toronto approval and Sidewalk Labs approval, as well as various other conditions including the receipt of any necessary governmental approvals and clearances with respect to matters falling under each of the three governments' legal jurisdictions. Only Waterfront Toronto's Board is required to approve the MIDP, and Waterfront

Toronto is allowed to seek approval from any or all three governments at its discretion.

The Plan Development Agreement requires that the three parties acknowledge that the MIDP addresses existing laws and policies and that it may require revisions, or other approvals under existing applicable laws and policy frameworks.

As the governments are not included as parties to the agreement, they can only influence Waterfront Toronto through their appointees to its Board of Directors. With the exception of the deputy mayor, Board members are not government employees—they include members with background in real estate development, management consulting, not-for-profit leadership, and academic and policy experts. Without a protocol requiring that the MIDP and implementation agreements address concerns governments may raise during their review of the draft, including concerns on privacy and intellectual property ownership, the governments' ability to influence the decision-making process around the MIDP would be indirect and may be limited.

At the time of our audit, Waterfront Toronto informed us that it plans to ask the governments to review and comment on the draft MIDP it receives from Sidewalk Labs. At the time of our audit, it had formalized this plan into a protocol; however, the protocol only requires Waterfront Toronto to provide to each of the three governments the key agreement and any supplementary agreements for comment. The protocol does not clarify whether Waterfront Toronto would approve the MIDP if Sidewalk Labs does not make changes to the draft that the governments may request.

RECOMMENDATION 10

It is important to protect the public interest and ensure responsible and transparent integration of new digital technology within urban design when creating a mixed-used smart city. Due to the nature, complexity and potential long-term impacts from the initial establishment of

digital data infrastructure planned for Toronto's waterfront in the form of a smart city (the first of its kind in Canada), we recommend that the provincial government, in consultation with partner governments:

- conduct further study on the activities of Waterfront Toronto and Sidewalk Labs in the planning and development of the smart city in Quayside and the broader waterfront area;
- reassess whether it is appropriate for Waterfront Toronto to act on its own initiative in making commitments and finalizing a long-term partnership arrangement with Sidewalk Labs or whether a separate governance structure is needed that allows for more direct provincial oversight;
- establish an advisory council comprised of smart city/digital data infrastructure experts (e.g., information technology, privacy, legal, consumer protection, infrastructure development, intellectual property and economic development) to provide proactive advice on the development of a policy framework to guide the establishment of a smart city in Ontario;
- conduct public consultations to consider in the development of a policy framework for a smart city in Ontario;
- consult throughout government on the roles and responsibilities government ministries and agencies could have during the development, implementation and operation of a smart city;
- to protect the public's interest, establish the policy framework, through legislation, for the development of a smart city in Ontario that addresses: intellectual property; data collection, ownership, security and privacy;

legal; consumer protection issues, infrastructure development and economic development; and

- communicate openly and transparently with the public on what to expect from a smart city project.

MINISTRY RESPONSE

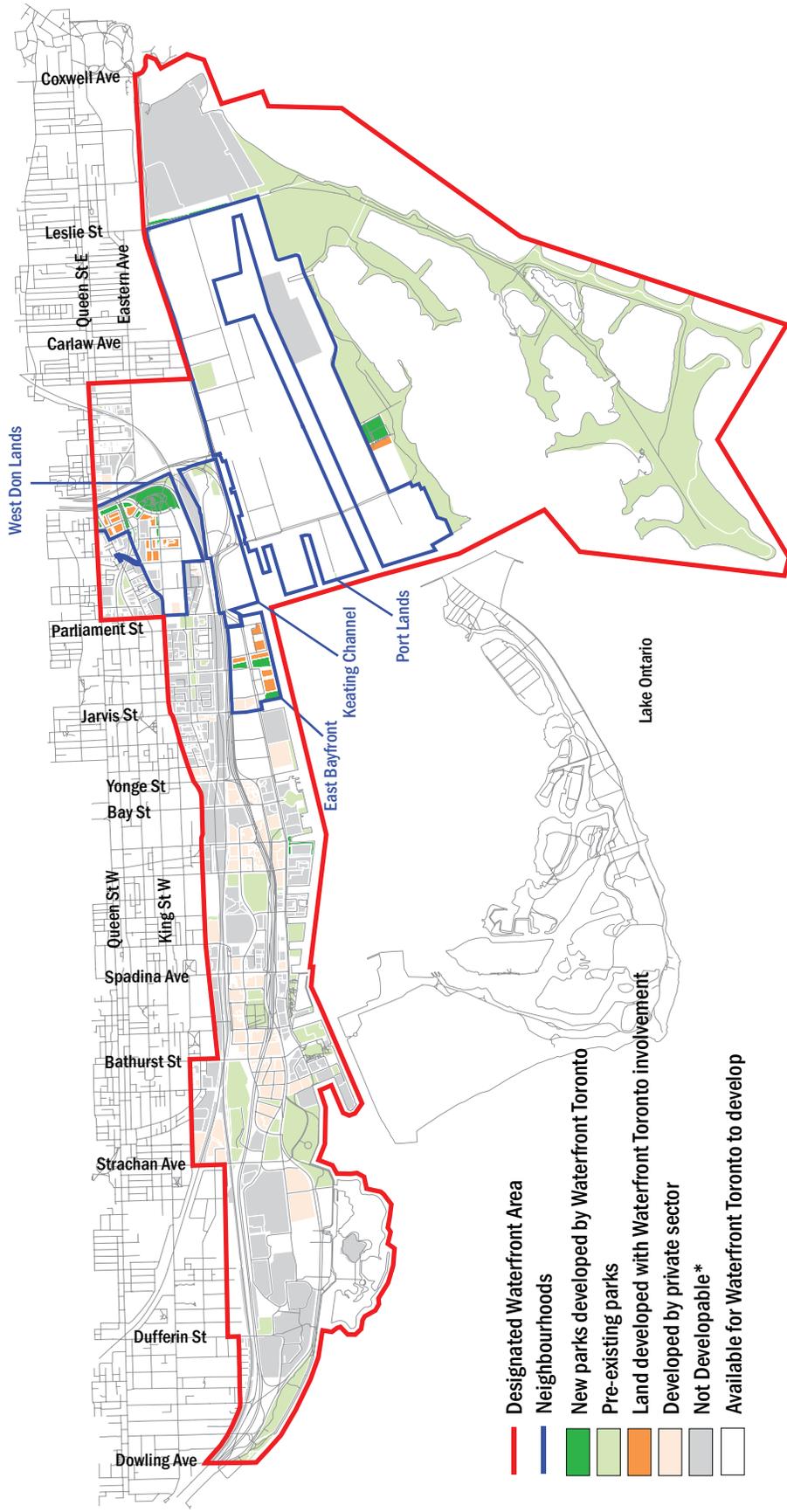
The Ministry welcomes the recommendation from the Auditor General and is committed to protecting the personal privacy of Ontarians. The Province recognizes the importance of the issues and concerns around digital governance and data privacy.

Although Digital Governance Framework Principles have been included in the Plan Development Agreement between Waterfront Toronto and Sidewalk Labs, we acknowledge that there are broader public interest issues around privacy, legal, consumer protection, infrastructure development and intellectual property that could arise from the creation of the first smart city in Canada that the Province needs to study from a provincial government policy framework perspective.

Waterfront Toronto has indicated that it plans to enter into a Master Innovation and Development Plan (MIDP) with Sidewalk Labs in 2019. The Province will work in conjunction with its partner governments to study the issues surrounding the creation of a smart city in Toronto to determine whether any new or amended provincial and/or federal legislation and/or municipal bylaws and/or government policies will be needed to protect the public interest prior to the MIDP being signed.

Appendix 1: Developed Land in Waterfront Area

Source: Waterfront Toronto



* Land that cannot be further developed, as determined by Waterfront Toronto, such as landmarks, railway, infrastructure and pre-existing land.

Appendix 2: Results of Waterfront Toronto's Operations and Progress toward Revitalization

Prepared by the Office of the Auditor General of Ontario

Legislated Objectives ¹	Waterfront Toronto Strategic Objectives ²	Parts of Objectives Achieved	Details in Report Section
<p>To implement a plan that enhances the economic, social and cultural value of the land.</p> <p>Corporation will carry out objectives to ensure:</p> <ul style="list-style-type: none"> • new economic growth • new jobs • diverse new commercial, residential and recreational communities, cultural institutions, and parks and green spaces for public. 	<p>Destinations: Creating enduring value through well-designed and vibrant cultural, recreational, civic and public spaces for residents and visitors.</p> <p>Prosperity: Leveraging innovation and partnerships to deliver economic growth and new jobs.</p>	<ul style="list-style-type: none"> • Waterfront Toronto created plans for four neighbourhoods: West Don Lands, East Bayfront, Central Waterfront and the Keating Channel, covering about 10% of land in the central waterfront. Waterfront Toronto did not create a master plan for the entire waterfront area, but adopted the City of Toronto's <i>Central Waterfront Secondary Plan</i>. • Waterfront Toronto enhanced the social and cultural value of the land through design excellence and public art in West Don Lands. However, similar to adjacent areas, neighbourhood plans include a mix of residential, commercial use and public space. • A consultant for Waterfront Toronto estimated that nearly \$10 billion of development would be created in areas adjacent to those developed by Waterfront Toronto. However, the consultant was not able to definitively determine the contribution of Waterfront Toronto's work toward the \$10 billion in development since external factors such as strong growth of demand for residential and commercial space in Toronto are likely to have influenced the local market. In the report, the consultant stated that the economic impacts are at least in part attributable to the direct impacts by Waterfront Toronto. 	<p>4.2.1</p> <p>4.1</p>
<p>Create an accessible and active waterfront for living, working and recreation, and to do so in a fiscally and environmentally responsible manner.</p>	<p>Neighbourhood: Advancing complete communities that address the need for housing, mobility and access, connectivity and inclusivity.</p> <p>Sustainability: Promoting cutting edge solutions to reduce carbon emissions, while promoting a high quality of life and improving public health.</p>	<ul style="list-style-type: none"> • In the two neighbourhoods where development has progressed, currently 12% of housing units are affordable. The City's target is 20%. • Waterfront Toronto developed 55 acres, and provided development funding to other organizations for revitalization projects over 151 acres. 	<p>4.8.2</p> <p>4.1</p>
<p>To ensure that ongoing development in the designated waterfront area can continue in a financially self-sustaining manner.</p>	<p>Waterfront Toronto aims to complete land servicing using government contributions in areas most likely to attract private-sector investment.</p>	<ul style="list-style-type: none"> • Revenues that Waterfront Toronto generates from parking, small-scale land leasing, rental fees and revenues from land sales are not sufficient to generate the level of income necessary to cover ongoing revitalization costs. 	<p>4.5</p>

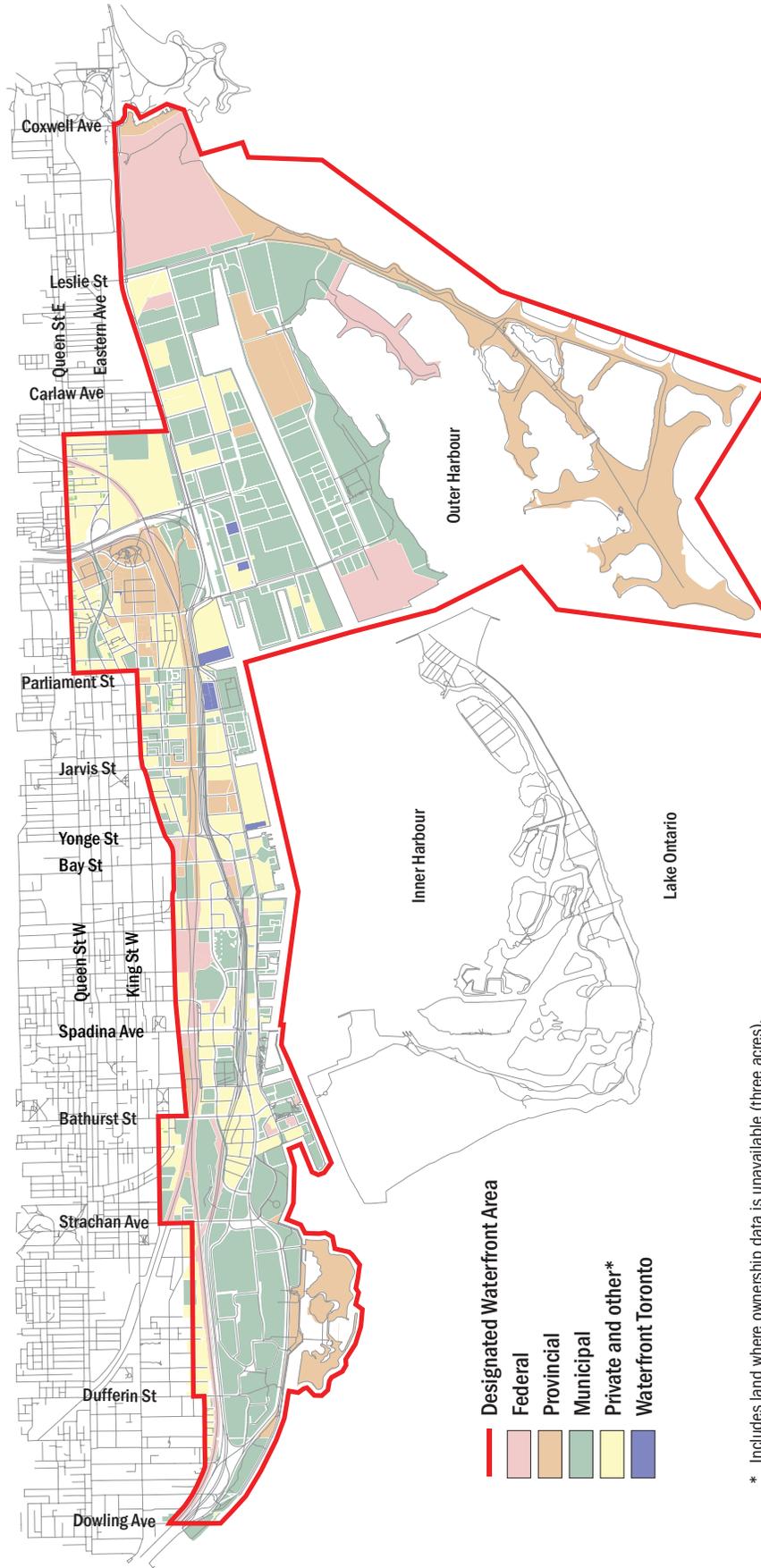
Legislated Objectives ¹	Waterfront Toronto Strategic Objectives ²	Parts of Objectives Achieved	Details in Report Section
To promote and encourage the involvement of the private sector in the development of the designated waterfront area.	Waterfront Toronto uses a development model to attract innovative and experienced development teams.	<ul style="list-style-type: none"> Waterfront Toronto has not been successful in leveraging corporate sponsorship, philanthropic donations and fundraising toward revitalization. Waterfront Toronto sold lands in East Bayfront to condominium developers. 	4.5.1
To encourage public input into the development of the designated waterfront area.	Engagement: Cultivate a high-performance and listening organization, promoting deep stakeholder trust, broad community outreach and consequential citizen feedback using robust data analysis and superior interactive web tools.	<ul style="list-style-type: none"> On September 12, 2017, Waterfront Toronto internally selected Sidewalk Labs as the innovation and funding partner to help create and fund a community that would showcase advanced technologies, building materials, sustainable practices and innovative solutions toward climate-positive urban development. Community groups representing waterfront residents we spoke with conveyed positive impressions of Waterfront Toronto and the extensiveness of its community consultation on public space projects. 	6.1 4.8.4
To engage in such other activities as may be prescribed by regulation.	n/a	<ul style="list-style-type: none"> Governments have not prescribed other activities for Waterfront Toronto. 	n/a

1. As indicated in section 3 of the *Toronto Waterfront Revitalization Corporation Act, 2002*.

2. As indicated in Waterfront Toronto's 2017/18 Corporate Plan and 2014–2023 Strategic Business Plan.

Appendix 3: Waterfront Area Land Ownership, August 2018

Source: Waterfront Toronto



* Includes land where ownership data is unavailable (three acres).

Appendix 4: Projects with Waterfront Toronto Involvement Sorted by Neighbourhood and Completion Date

Source of data: Waterfront Toronto

Project Component ¹	Neighbourhood	Project Lead By	Type of Project	Completed In
Western Beaches Watercourse ²	Central Waterfront	Toronto and Region Conservation Authority (TRCA)	Rowing Course	Jun 2006
Wavedecks	Central Waterfront	Waterfront Toronto	Public space	Jun 2009
Water's edge promenade and boardwalk (west)	Central Waterfront	Waterfront Toronto	Public space	Jun 2009
Martin Goodman trail at Ontario Place	Central Waterfront	Waterfront Toronto	Park	Sep 2009
Queens Quay Environmental Assessment	Central Waterfront	Waterfront Toronto	Planning	Dec 2009
York Quay Revitalization	Central Waterfront	Harbourfront Centre	Public space	Jun 2012
Portland Slip	Central Waterfront	Waterfront Toronto	Public space	Jul 2014
Constructing Queens Quay	Central Waterfront	Waterfront Toronto	Public space	Jun 2015
Queens Quay (west)	Central Waterfront	Waterfront Toronto	Public space	Jun 2015
Union Station second platform ²	Central Waterfront	TTC	Transit	Jul 2015
Lower Yonge precinct planning	Central Waterfront	City of Toronto/Waterfront Toronto	Planning	Apr 2016
Footbridges	Central Waterfront	Waterfront Toronto	Public space	Not funded
Urban park and William G. Davis trail at Ontario Place	Central Waterfront	Ontario Place	Park	Jul 2017
Jack Layton Ferry Terminal	Central Waterfront	Waterfront Toronto	Ferry Terminal	In Progress
York Street and Rees Street Parks Design Competition	Central Waterfront	Waterfront Toronto	Planning	Pre-Construction
Corus Quay ²	East Bayfront	Toronto Economic Development Corporation (now called CreateTO)	Office Complex	Sep 2010
Canada's Sugar Beach	East Bayfront	Waterfront Toronto	Park	Jun 2010
Transit environmental assessment ²	East Bayfront	TTC	Planning	Jul 2010
Sherbourne Common	East Bayfront	Waterfront Toronto	Park	Jul 2011
George Brown College ²	East Bayfront	George Brown College	College Campus	Sep 2012
Aitken Place Park	East Bayfront	Waterfront Toronto	Park	In progress
Queens Quay (east)	East Bayfront	Waterfront Toronto	Public space	Not funded
Water's edge promenade and boardwalk (east)	East Bayfront	Waterfront Toronto	Public space	In progress
Bayside development	East Bayfront	Waterfront Toronto	Residential development	In progress
Monde condominiums	East Bayfront	Private Developer	Condominium	In progress
Waterfront Innovation Centre	East Bayfront	Waterfront Toronto	Business Centre	In progress

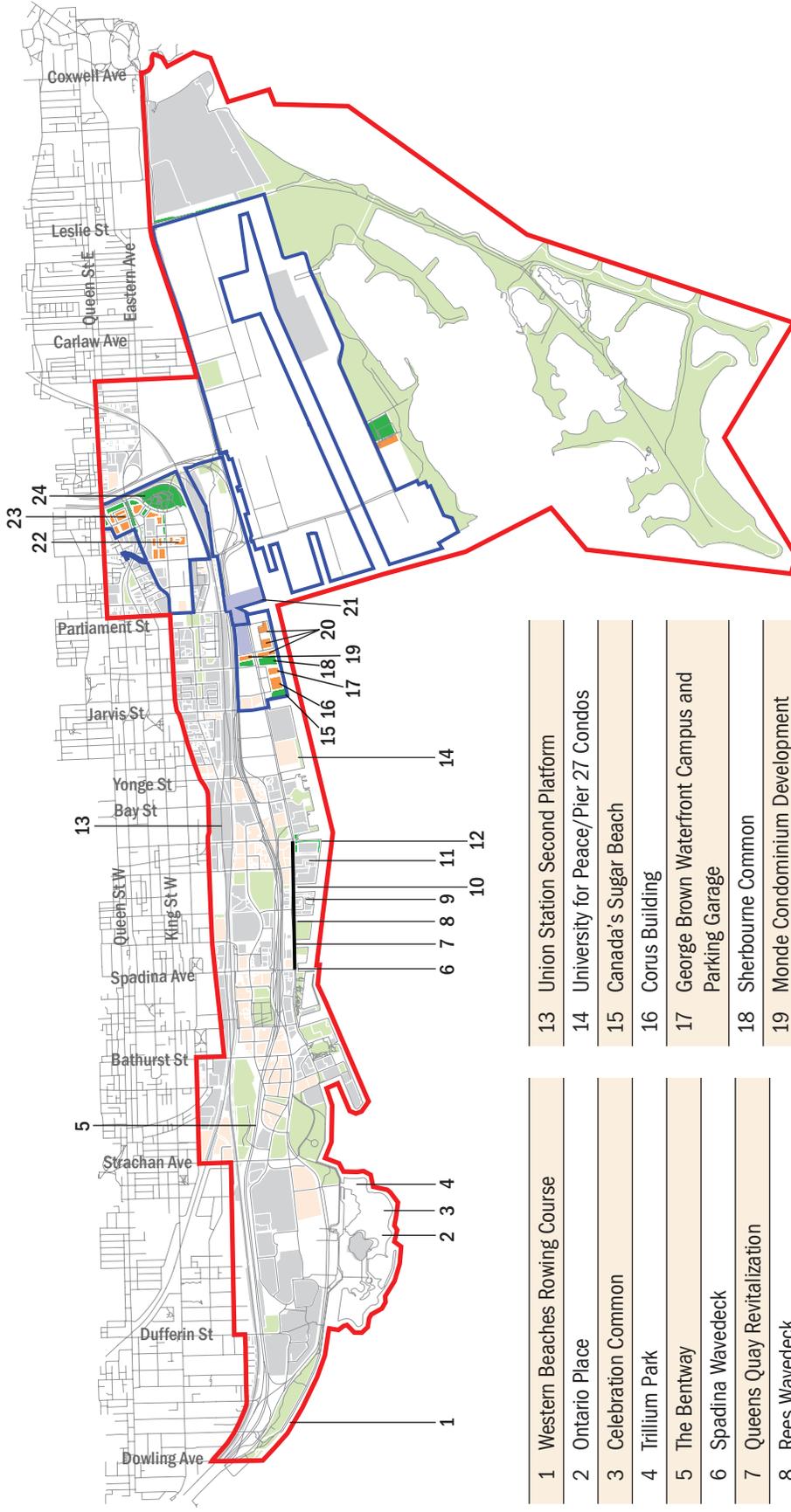
Project Component ¹	Neighbourhood	Project Lead By	Type of Project	Completed In
Quayside	East Bayfront	Sidewalk Labs/Waterfront Toronto	Mixed-use community	Pre-Construction
Cherry Beach	Port Lands	Waterfront Toronto	Park	Sep 2008
Cherry Beach Sport Fields	Port Lands	Waterfront Toronto	Sports Complex	Sep 2008
Keating Channel precinct	Port Lands	Waterfront Toronto	Planning	May 2010
Lower Don Lands framework plan	Port Lands	Waterfront Toronto	Planning	May 2010
Greening the Port Lands	Port Lands	Waterfront Toronto	Park	Jul 2010
Pilot soil recycling facility	Port Lands	Waterfront Toronto	Infrastructure	Nov 2010
Cherry Street stormwater and lake-filling project	Port Lands	Waterfront Toronto	Lake-filling	In progress
Lake Ontario Park project planning ²	Port Lands	TRCA	Park	In progress
Tommy Thompson Park ²	Port Lands	TRCA	Park	Aug 2012
Don Mouth naturalization and port lands flood protection	Port Lands	Waterfront Toronto	Flood Protection	Pre-Construction
Villiers Island	Port Lands	Waterfront Toronto	Planning	Pre-Construction
Lake Ontario park	Port Lands	Waterfront Toronto	Park	Pre-Construction
Underpass park	West Don Lands	Waterfront Toronto	Public space	Aug 2012
Flood protection landform	West Don Lands	Infrastructure Ontario	Flood Protection	Jun 2013
Pan Am Games (2015)	West Don Lands	Infrastructure Ontario	Housing	Jun 2015
Front Street promenade	West Don Lands	Waterfront Toronto	Public space	Jun 2015
Toronto community housing development	West Don Lands	Toronto Community Housing Corporation	Housing	Jun 2015
Stormwater treatment system	West Don Lands	Waterfront Toronto	Infrastructure	In progress
Corktown Common	West Don Lands	Waterfront Toronto	Park	Jun 2013
Cherry Street transit ²	West Don Lands	TTC	Transit	Sep 2016
Affordable housing in the West Don Lands	West Don Lands	Infrastructure Ontario	Housing	In progress
Canary district condominiums	West Don Lands	Private developer	Condominiums	In progress
River City development	West Don Lands	Private developer	Condominiums	In progress
Gardiner environmental assessment terms of reference	Wider Waterfront	City of Toronto	Planning	Sep 2009
Mimico Waterfront Park ²	Wider Waterfront	TRCA	Park	Oct 2012
Port Union Waterfront Park ²	Wider Waterfront	TRCA	Park	Nov 2012
Marilyn Bell Park	Wider Waterfront	City of Toronto	Park	Jul 2007
Gardiner east environmental assessment	Wider Waterfront	TRCA	Planning	Jan 2017
The Bentway (project under Gardiner)	Wider Waterfront	Waterfront Toronto	Public space	In progress
Waterfront transit study ²	Wider Waterfront	Waterfront Toronto/TTC/City of Toronto	Planning	Pre-Construction

1. Items, as presented on Waterfront Toronto's website, sometimes are components of a single project.

2. Funding provided to other agency to conduct work.

Appendix 5: Map of Waterfront Revitalization Projects

Source: Waterfront Toronto



1	Western Beaches Rowing Course
2	Ontario Place
3	Celebration Common
4	Trillium Park
5	The Bentway
6	Spadina Wavedeck
7	Queens Quay Revitalization
8	Rees Wavedeck
9	York and John Quay – Harbourfront Centre
10	Simcoe Wavedeck
11	Canada Square and Ontario Square
12	Promenade – Water’s Edge

13	Union Station Second Platform
14	University for Peace/Pier 27 Condos
15	Canada’s Sugar Beach
16	Corus Building
17	George Brown Waterfront Campus and Parking Garage
18	Sherbourne Common
19	Monde Condominium Development
20	Hines, Tridel Condominium Development
21	Quayside – Smart City Project
22	Pan Am Athletes’ Village
23	River City Condominium Development
24	Corktown Common

Appendix 6: Audit Criteria

Prepared by the Office of the Auditor General of Ontario

1. Roles, responsibilities, accountability and governance requirements for the overall revitalization of Toronto's waterfront and each project are clearly defined to deliver on Waterfront Toronto's mandate including compliance with legislation, regulations and funding agreements.
2. Waterfront Toronto exercised due diligence in designing, prioritizing and implementing a detailed and comprehensive revitalization plan[s] that enhances the economic, social, cultural and environmental value of the waterfront land in a fiscally responsible manner. The plan[s] is informed by best practices in urban development and public engagement and periodically updated to reflect changes in expectations, budgets and timelines.
3. A fair, open and transparent procurement process is used consistently in the awarding and management of contracts for various revitalization projects, with due regard for economy and quality. Information systems are appropriate for effectively managing projects.
4. Processes are in place to ensure resources are managed with due regard for economy and efficiency and used for the purposes intended to meet the Waterfront Toronto's objectives.
5. Appropriate performance measures and targets have been established for Waterfront Toronto and its projects and monitored against actual results and publicly reported to ensure that public and stakeholders' expectations are met. Corrective actions are taken on a timely basis when issues are identified.

Appendix 7: Waterfront Revitalization Comparison with Other Jurisdictions

Prepared by the Office of the Auditor General of Ontario

	Toronto Waterfront	The Forks	South False Creek	Granville Island	Old Port
Description	Toronto's waterfront area stretches across Lake Ontario just south of Toronto's downtown core.	The Forks has been designated as a national historic site and is located at the junction of the Red River and the Assiniboine River.	South False Creek is a medium-density neighborhood that is primarily residential.	Granville Island is an urban waterfront with cultural and commercial offerings. The island's main attraction is the Public Market.	Old Port of Montreal is located along the St. Lawrence River and borders Old Montreal. It hosts festivals and features amenities including Clock Tower beach and a skating rink.
Location	Toronto, Canada	Winnipeg, Canada	Vancouver, Canada	Vancouver, Canada	Montreal, Canada
Acres	2,840	56	136	38	117
Date revitalization began	2002	1988	1974	1972	1981
Waterfront revitalization managed by	Waterfront Toronto	The Forks North Portage Partnership	City of Vancouver*	Canada Mortgage and Housing Corporation	Old Port of Montreal Corporation (now a subsidiary of Canada Lands Corporation Ltd.)
Planning	Waterfront Toronto and City of Toronto	The Forks North Portage Partnership	City of Vancouver	Canada Mortgage and Housing Corporation and City of Vancouver	Old Port of Montreal Corporation
Main types of development and land use	<ul style="list-style-type: none"> Residential Public spaces 	<ul style="list-style-type: none"> Public spaces Recreational Commercial 	<ul style="list-style-type: none"> Residential 	<ul style="list-style-type: none"> Public spaces Commercial 	<ul style="list-style-type: none"> Public spaces Recreational
Funding sources	Public and private	Public and private	Mostly public	Public and private	Mostly public
Land ownership	Government of Canada, Province of Ontario, City of Toronto, private sector, Toronto and Region Conservation Authority and Waterfront Toronto	The Forks North Portage Partnership	City of Vancouver (80%) and others	Government of Canada	Government of Canada
Connections to city	Streetcar, bus, walkway and others	Buses, walkway and others	Bus, walkway and others	Bus, walkway and others	Subway, bus, rail, walkway and others
Level of completion	Ongoing	Initial efforts complete, though future development is planned	Initial efforts complete, though future development is planned	Initial efforts complete, though future development is planned	Initial efforts complete, though future development is planned

* City of Vancouver is evaluating options for long-term governance.

	Inner Harbor	Battery Park City	Millennium Park	Pittsburgh Riverfront	Canary Wharf
Description	Inner Harbor is a seaport which features cultural sites and tourist attractions along the waterfront.	Battery Park City is known for its parks and open spaces in the middle of a major city.	Millennium Park is a public park that has become a top tourist destination. It is known for the public art on display, including the Cloud Gate.	Pittsburgh's waterfront converges around three rivers and is made up of a 13-mile interconnected loop of riverfront parks.	Canary Wharf is a major business district and one of the United Kingdom's two main financial centres, with many of the tallest buildings in Europe.
Location	Baltimore, USA	New York City, USA	Chicago, USA	Pittsburgh, USA	London, U.K.
Acres	240	92	25	850	97
Date revitalization began	1963	1968	1998	1999	1981
Waterfront revitalization managed by	City of Baltimore	Battery Park City Authority	Millennium Park Foundation and City of Chicago	Projects managed by various public and private bodies	Canary Wharf Group
Planning	Waterfront Partnership of Baltimore, Greater Baltimore Committee and City of Baltimore	Battery Park City Authority	City of Chicago and Millennium Park Foundation	Riverlife Task Force	Canary Wharf Group
Main types of development and land use	<ul style="list-style-type: none"> Public spaces Recreational 	<ul style="list-style-type: none"> Public spaces Residential Commercial 	<ul style="list-style-type: none"> Public spaces Recreational 	<ul style="list-style-type: none"> Public spaces Recreational 	<ul style="list-style-type: none"> Commercial
Funding sources	Public and private	Public and private	Public and philanthropic	Public, private and philanthropic	Public and private
Land ownership	City of Baltimore	Battery Park City Authority	City of Chicago	City of Pittsburgh, Urban Redevelopment Authority of Pittsburgh and others (public and private)	Canary Wharf Group
Connections to city	Subway, rail, bus, walkway and others	Subway, bus, walkway, rail and others	Subway, rail, bus and walkway	Rail, bus, walkway and others	Subway, rail, bus, walkway and others
Level of completion	Initial efforts complete, though future development is planned	Complete	Complete	Ongoing	Initial efforts complete, though future development is planned

Appendix 8: Quayside Project Timeline

Prepared by the Office of the Auditor General of Ontario

2015	Waterfront Toronto develops a draft request for proposal (RFP) to procure a partner for the Quayside project. Initially, it only looks to develop 4.5 acres of the Quayside land into a mixed-use neighbourhood.
Dec 2015	Waterfront Toronto's Board announces William Fleissig as President and CEO of Waterfront Toronto.
Jan 2016– Jan 2017	Waterfront Toronto launches a market sounding process to gauge the potential for innovation for the Quayside area. Waterfront Toronto consulted with over 50 local, national and international companies. As part of this process, non-publicly and publicly available documents and tours of the waterfront are provided to interested parties, three of which signed an information sharing agreement with Waterfront Toronto.
Jun 27, 2016	The Chief Planning and Design Officer of Waterfront Toronto approaches the CEO of Sidewalk Labs indicating “my new CEO and I are very interested in what you are doing at Google and would like to talk to you about a potential pilot in Toronto.”
Jul 21, 2016	Waterfront Toronto's Chief Planning and Design Officer discusses the Port Lands as meeting the characteristics that Sidewalk Labs is looking for in building a new community (e.g., 1,000 acres for development). Eight months before the RFP for Quayside was issued, the CEO states in an internal email that “Google has purportedly told other candidate communities that they want to control ALL data in this demonstration project area. Could present privacy issues and control issues.”
Aug 12, 2016	Waterfront Toronto signs a non-disclosure agreement with Sidewalk Labs in order to receive information from them. Waterfront Toronto begins providing surveys, drawings, topographic illustrations of the waterfront area (including the Eastern waterfront) and other materials to Sidewalk Labs.
Sep 16, 2016	Waterfront Toronto leads Sidewalk Labs on a guided tour of the waterfront area.
Jan 2017	Helen Burstyn assumes the role of Chair of Waterfront Toronto's Board of Directors (she was appointed as Board Member by the Province of Ontario in February 2016).
Feb 1, 2017	The draft request for proposal is revised to procure an innovation and funding partner for the Quayside area.
Mar 17, 2017	Waterfront Toronto issues the Quayside request for proposal on various international tender services to develop and fund a plan for a community in the 12-acre Quayside area.
Apr 27, 2017	Waterfront Toronto receives six proposals; however, one bidder withdraws, leaving five proponents.
May 10, 2017	Waterfront Toronto shortlists three proponents from the five proposals it received. They are given until August 22, 2017, to submit a final offer, which includes a term sheet.
Jun 15, 2017	Project background information and the RFP process are presented to the Intergovernmental Steering Committee.
Aug 22–30, 2017	A panel of six Waterfront Toronto staff evaluate the final offers. Sidewalk Labs receives the highest score.
Sep 12, 2017	Waterfront Toronto internally selects Sidewalk Labs as the winning bidder for the request for proposal.
Sep 13, 2017	The Investment and Real Estate Committee, which is a sub-committee of Waterfront Toronto's Board receives Sidewalk Labs' term sheet.
Sep 19, 2017	First draft of the Framework Agreement is drafted, which is substantially the same as Sidewalk Labs' term sheet.
Sep 25, 2017	Waterfront Toronto informs the Intergovernmental Steering Committee that a winner has been selected for the Quayside project. Details of the winner and agreement are not provided.
Sep–Oct, 2017	Drafts of the Framework Agreement are discussed among Waterfront Toronto management, Sidewalk Labs and Investment and Real Estate Committee.
Oct 8, 2017	Investment and Real Estate Committee receives the final draft of the Framework Agreement.
Oct 11, 2017	Waterfront Toronto's CEO provides the first of two briefings to the Board of Directors, including a summary of the RFP screening process, key aspects of the project and terms of the Framework Agreement.

Oct 12, 2017	Waterfront Toronto's CEO provides a second briefing to the Board on the project. The public announcement is scheduled for October 17 by the Prime Minister, the Premier, the Mayor, Waterfront Toronto and Sidewalk Labs.
Oct 13, 2017	Draft Framework Agreement, along with letters from legal counsel and other experts in the fields of procurement and intellectual property, are provided to the Board as part of the Board meeting materials for approval at its October 16, 2017 meeting.
Oct 16, 2017	Waterfront Toronto's Board meets to approve the Framework Agreement. Waterfront Toronto CEO and Chief Development Officer signs the Framework Agreement with Sidewalk Labs to create an urban area (now publicly referred to as a smart city). Sidewalk Labs is to provide a maximum of U.S. \$50 million for the development of the plan, including up to U.S. \$4.47 million of Waterfront Toronto's planning and negotiation expenses. One of the conditions for Sidewalk Labs to release \$40 of the \$US \$50 million is for the three governments to execute the \$1.25 billion funding agreement for the Port Lands Flood Protection Project.
Oct 17, 2017	The agreement is publicly announced by the Prime Minister, the Premier, the Mayor of Toronto, Waterfront Toronto and the Executive Chairman of Alphabet Inc. The Intergovernmental Steering Committee is made aware of the name of the successful bidder only five days before the public announcement.
Oct 17, 2017– Jul 31, 2018	Waterfront Toronto and Sidewalk Labs work toward a second agreement, with regular briefings and reviews by the Board and the three governments.
Mar 20, 2018	Sidewalk Labs and Waterfront Toronto host their first public roundtable on the vision for the project.
Mar 29, 2018	Waterfront Toronto's Board approves a protocol for briefing governments on key agreements relating to the Quayside project.
Apr 27, 2018	The Waterfront Toronto Board creates a 15-member Digital Strategy Advisory Panel to advise management on issues such as privacy, data ownership, ethical use of technology and intellectual property.
May 1, 2018	The three governments sign a joint agreement to fund a total of \$1.185 billion toward flood protection of the Port Lands, in addition to the \$65 million previously committed in June 2017. Sidewalk Labs releases a document called "Responsible Data Use Policy Framework" which contains high level visions of how data use and privacy would be addressed.
May 3, 2018	Sidewalk Labs and Waterfront Toronto host their second public roundtable providing high-level details on the key areas of the project, including the data use framework released earlier that week.
Jun 7, 2018	The Digital Strategy Advisory Panel holds its first meeting, in which background information is provided regarding the project. Members are also asked to sign a confidentiality agreement.
Jun 25, 2018	The Digital Strategy Advisory Panel has its second meeting in which further background information is provided, along with digital governance issues, to which the panel provides advice on.
Jul 4, 2018	Fleissig leaves his position as CEO of Waterfront Toronto. Waterfront Toronto's Board appoints Michael Nobrega as the acting CEO. He also remains as a member of the Board.
Jul 20, 2018	During the Intergovernmental Steering Committee meeting, the three levels of government are briefed on the draft Plan Development Agreement and provided feedback, including that the scope of the planning site should be expanded to the wider waterfront area to be consistent with Waterfront Toronto's mandate.
Jul 23, 2018	Waterfront Toronto's Board sub-committee approves the second agreement and seeks Waterfront Toronto's Board approval.
Jul 25, 2018	CEO of OMERS Ventures resigns from the Digital Strategy Advisory Panel over the confidentiality agreement and the lack of transparency surrounding this project.
Jul 31, 2018	Waterfront Toronto's Board Chair and acting CEO signs a second agreement, the Plan Development Agreement, with Sidewalk Labs, which supersedes the October 2017 Framework Agreement. This agreement further defines the role and responsibilities for each party in developing a plan for the Quayside community (now publicly referred to as a smart city). Board member Julie Di Lorenzo resigns from Waterfront Toronto Board over the terms of the Plan Development Agreement.
Aug 14–15, 2018	Sidewalk Labs and Waterfront Toronto host their third public roundtable providing an overview of smart streets and timber buildings.

Aug 16, 2018	The Digital Strategy Advisory Panel holds its third meeting, in which the panel discusses its purpose and mandate, and drafts a work plan for upcoming meetings.
Aug 27, 2018	A member of the Digital Strategy Advisory Panel resigns due to continued scheduling conflicts that limited active participation.
Oct 4, 2018	Saadia Muzaffar, founder of TechGirls Canada, resigns from the Digital Strategy Advisory Panel over “Waterfront Toronto’s apathy and utter lack of leadership regarding shaky public trust and social license.”
Oct 15, 2018	Sidewalk Labs releases draft proposals for digital governance to address privacy concerns, which include the use of a civic data trust—a third-party governing body that owns and manages the urban data Quayside will collect.
Oct 17, 2018	Sidewalk Labs’ own advisory panel has its first scheduled meeting.
Oct 18, 2018	The Digital Strategy Advisory Panel holds its fourth meeting, in which certain panel members criticize Sidewalk Labs’ digital governance proposal and request that the Master Innovation Development Plan be delayed.
Oct 19, 2018	Ontario’s former Information and Privacy Commissioner resigns as Sidewalk Labs’ consultant over the proposed digital governance plan.
Nov 6, 2018	Waterfront Toronto meets with Ontario’s former Information and Privacy Commissioner to discuss concerns about the proposed digital governance plan.
Dec 8, 2018	Planned date for Sidewalk Labs’ and Waterfront Toronto’s fourth public roundtable, which is to provide an update on the components of the plan, including proposed site plans.
Sep 30, 2019	The Master Innovation and Development Plan for Quayside is to be finalized by September 2019. However, Waterfront Toronto hopes to start reviewing it in early 2019 and then to have completed a review by the three levels of governments and approved by the Waterfront Toronto Board by September 2019.
Dec 31, 2019	Subject to receiving Board approval, Waterfront Toronto plans to sign a series of four implementation agreements. These implementation agreements are to contain details on ownership of intellectual property, data privacy, data management, land valuation and infrastructure.

Review of Government Advertising

Government Advertising Costs Near Record High

Since the government amended the *Government Advertising Act* (Act) in 2015, its advertising spending has grown steadily. These amendments weakened our Office’s authority to ensure that public money is not spent on advertising that gives the government a partisan advantage.

In 2017/18, the government spent more than \$62 million on advertising—the most since the 2006/07 fiscal year. A sizable proportion—just over 30%—was for advertisements we believe had as their primary objective to foster a positive impression of the governing party. We outline those campaigns in the following pages. Although we were required to approve these ads as compliant under the amended Act, we noted that they would not have passed our review under the original Act—and therefore would not have been broadcast, displayed or printed.

The original Act, which took effect in late 2005, required the government to submit advertisements to the Auditor General for review to ensure, among other things, that they were not partisan. Only advertisements that passed this review could run.

The original Act gave the Auditor General discretionary authority to determine what is partisan. Under this system, although our Office took issue with a very small proportion of ads (less than 1%), we approved the overwhelming majority of the

thousands of advertisements submitted to us. When significant amendments to the Act were introduced in 2015, we cautioned that these would weaken the Act and open the door to publicly funded partisan and self-congratulatory government advertisements on television and radio, in print and online.

The amendments imposed a specific and narrow definition of “partisan” as the only measure we can use in our reviews. Essentially, as long as the government avoids using the name or image of an elected official or the logo of a political party in an advertisement, the Auditor General cannot find it partisan under the Act. Our approval is still required under the amended Act before an advertisement can run. However, this approval is almost always automatic. The only other condition that must be met is the ad must say it was paid for by the Government of Ontario.

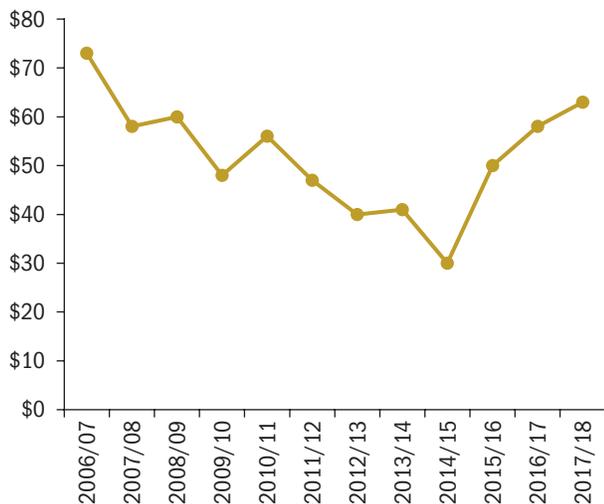
Fiscal Year Results Show Increase

In the fiscal year ending March 31, 2018, our Office reviewed 2,595 advertising items in 292 submissions. The government spent \$55.0 million producing and running these items. The cost of digital advertising on social media and search services exempt from our review totalled another \$7.60 million. This brings the total spending on government advertising for the fiscal year to \$62.60 million.

Figure 1 shows government spending on advertising since 2007. **Figure 2** shows a comparison of submissions and number of ads sent to our Office for review over the last four fiscal years.

Figure 1: Advertising Expenditures, 2006/07–2017/18* (\$ million)

Source of data: Office of the Auditor General/Advertising Review Board



* Yearly expenditures include all digital advertising costs.

Figure 2: Volume and Value of Government Advertising Submitted for Auditor General Review

Source of data: Office of the Auditor General of Ontario

Fiscal Year	# of Submissions	# of Ads	Value ¹ (\$ million)
2017/18	292	2,595	55.0
2016/17	318	2,669	53.7
2015/16 ²	229	1,384	43.7
2014/15	182	653	20.9

1. Value of ads submitted and reviewed by the Office of the Auditor General. Number of ads and submissions include preliminary submissions.
2. Digital advertising (except social and search services) was added as a reviewable medium under the *Government Advertising Act* in June 2015.

See **Appendix 1** for a breakdown of reviewable advertising costs by each government ministry.

Exempted Digital Advertising on the Rise

Our authority to review digital advertising came into effect with other changes made to the Act in June 2015. This type of advertising includes video, text, images, or any combination of these

Figure 3: Government Spending on Digital Advertising Exempt from Auditor General Review (\$ million)

Source of data: Advertising Review Board



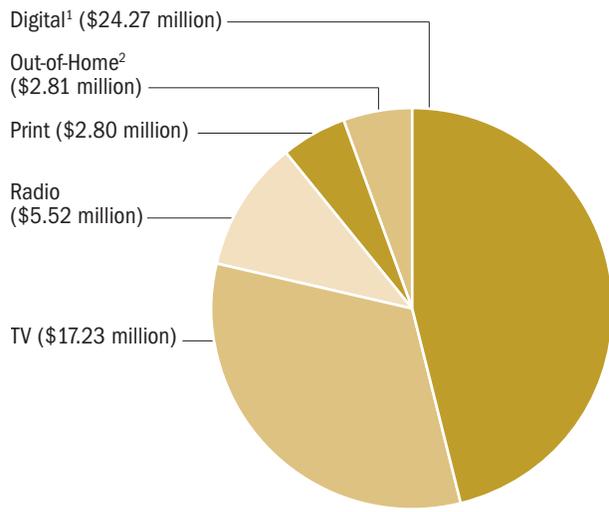
that a government office proposes to pay to have displayed on a website. However, at the same time, a regulation came into force that limited which digital advertising we could review. Regulation 143/15 says that our Office can review digital ads displayed on a website “*other than* a social media website such as Facebook or Twitter” (emphasis added). As well, ads displayed as a result of the government using “a search marketing service, such as Google AdWords,” would not be subject to review.

In the 2017/18 fiscal year, the government spent \$7.60 million on digital ads that were excluded from our review, including \$5.95 million on social media websites and \$1.65 million on search services. This is a 60% increase from the previous fiscal year. See **Figure 3**.

With the government’s spending on exempted digital advertising rising in each of the last three fiscal years, consideration should be given to closing this loophole. As **Figure 4** shows, in the last fiscal year, the government spent more on digital advertising (both included and excluded from our review) than it did on TV time. However, given the narrow definition of partisanship in the current Act, closing this loophole could likely do little to ensure that the government’s digital advertising is non-partisan.

Figure 4: Advertising Expenditure by Medium, 2017/18

Source of data: Ontario government ministries/Advertising Review Board



1. Includes costs of all digital advertising and search marketing services (including those types that are exempt from our review). Production/agency costs are not included.
2. Includes billboards, transit posters, digital screens, etc.

Two Violations under Amended Act

Although we found the overwhelming majority of advertisements submitted to us complied with the revised Act, two submissions did not. The two exceptions were:

- Preliminary versions of seven Ministry of Infrastructure cinema ads violated Section 6(1)1 of the Act because they failed to include a statement saying the Government of Ontario had paid for the items. The items, in a campaign called “New Ontario Infrastructure,” promoted government public-works projects.
- Preliminary versions of four television commercials from the Ministry of Seniors Affairs were found in violation of Section 6(1)1 of the Act because they failed to include a statement saying the items had been paid for by the Government of Ontario. The items, in a campaign called “Get the Reference,” promoted government services aimed at older Ontarians.

In both cases, as required, the ministries resubmitted amended versions that included the

required statement, and we found both in compliance with the Act.

Ad Campaigns That Would Not Have Passed Our Review under the Previous Act

The last fiscal year saw a number of advertisements submitted to our Office for review that we would not have approved under the previous version of the Act. The first two examples are ones that we first approved as compliant with the amended Act in 2016/17, and that were still being used in 2017/18. A common feature of these campaigns was that they appeared designed primarily to give the government credit for its accomplishments.

They are described below:

- **A campaign that said “when Ontario students realize their full potential today, they’re ready to take on tomorrow.”** The Ministry of Education spent \$2.81 million in 2017/18 on this campaign, called “Graduation,” identical to one titled “Education Life Cycle” that ran in 2016/17. Spending on the campaign in 2016/17 was \$2.88 million. We were required under the amended Act to find the advertisements in compliance, but we advised the Ministry that these television, cinema and digital commercials would not have passed under the previous Act because “we believe that the general thrust of this feel-good campaign is to foster a positive impression of the governing party.”
- **A campaign about reductions to hydro bills.** We had concerns in 2017/18 about a \$2.66-million multimedia campaign by the Ministry of Energy promoting the Ontario Fair Hydro Plan, which discounted electricity rates by 25%. This campaign followed a \$1.04-million radio and digital campaign on the same subject in 2016/17, which we found was self-congratulatory. We would not have approved either campaign under the old Act.

The 2017/18 campaign included television commercials (in 25 languages) along with radio ads (in 19 languages), and digital ads. We advised the Ministry that in our view, a “primary objective” of these ads was to “foster a positive impression of the government’s broader energy initiatives in the recent past rather than to provide Ontarians with specific details about the Fair Hydro Plan taking effect this summer.” However, we were required under the amended Act to approve the proposed campaign.

In addition, we told the Ministry that “the radio and TV ads suggest that ‘upgrades to our electricity system’ and ‘the elimination of coal plants’ are what have caused hydro prices to increase. This could be seen as misleading as there are other important reasons not mentioned.”

We also noted that the TV and radio ads said that there will be no increases to hydro rates beyond the rate of inflation for four years, even though that “could change because of the upcoming election in June 2018,” when a new government could potentially alter that commitment.

Campaigns in 2017/18 We Took Issue With

Various ministries submitted the following advertising campaigns during the 2017/18 fiscal year. Under the previous version of the Act, these campaigns would not have passed our review for various reasons. However, we had to find them in compliance with the revised legislation. When we issued our compliance, we noted our concerns to the responsible ministry.

Government advertising campaigns costing more than \$1 million are listed in **Figure 5**. These campaigns accounted for almost 80% of the total reviewable expenditure on advertisements that our Office reviewed in the past fiscal year. It is worth noting that six out of the highest-costing eight cam-

paigns either would not have passed our review in their entirety or included elements that would not have prior to the 2015 revisions to the Act.

- **A campaign to promote “New Ontario Infrastructure.”** This \$4.88-million campaign, the costliest of the last fiscal year, included 329 targeted digital ads, online videos, cinema and radio ads highlighting government investments in specific infrastructure projects. In having to approve these ads under the amended Act, we advised the Ministry of Infrastructure that this campaign was “self-congratulatory” and “aimed at ensuring that the government is getting credit in certain areas of Ontario for its actions.” We also found phrases used in the ads, such as “it’s how we build,” “see how we’re building” fostered a positive impression of the government.

This campaign was similarly themed to one that ran in 2016/17 about “Ontario’s nearly \$160-billion investment in infrastructure.” Spending for this campaign was \$2.95 million for television and digital. We would also have found this campaign not to be in compliance with former Act because its overall thrust was to ensure the government gets credit for its potential future spending plans.

- **Government ads about child care that could be perceived as political.** The Ministry of Education began running advertisements in October 2017 about its plan to create more licensed child-care spaces over the next five years.

The television and pre-roll ads told viewers that: “Over the next five years, we’ll help double the amount of licensed child care for kids, aged 0 to 4.” It is not until the 30-second ads draw to a close that it is possible to determine that the government, rather than a political party, paid for them.

We told the Ministry at the time that the ads could be perceived as political in light of the forthcoming election in June 2018. We also noted that they provided no useful information

Figure 5: Campaigns Costing More Than \$1 Million in 2017/18

Source of data: Ontario government ministries

Topic	Ministry ¹	Expenditure (\$ million)
New Ontario Infrastructure	Infrastructure	4.88
Child Care Fall 2017	Education	4.06
OSAP ²	Advanced Education and Skills Development	3.88
Ontario 150	Tourism, Culture and Sport	3.72
OHIP+ Launch	Health and Long-Term Care	3.60
Graduation	Education	2.81
Fair Hydro Plan-Phase II	Energy	2.66
Fair Workplaces	Labour	2.61
Seniors Aging Well	Seniors Affairs	2.50
Smoking Cessation	Health and Long-Term Care	2.39
Opioids	Health and Long-Term Care	2.02
Consumer Protection Ontario	Government and Consumer Services	1.81
Foodland Ontario	Agriculture, Food and Rural Affairs	1.77
Sexual Violence and Harassment	Status of Women	1.23
Ontario Savings Bonds	Finance	1.11
Flu Campaign	Health and Long-Term Care	1.10
ServiceOntario	Government and Consumer Services	1.02
Total		43.17

1. Name of ministry during the 2017/18 fiscal year.

2. Included three campaigns: "Monkey," "You Earned It," and "Yes You Can."

and fostered a positive impression of the government. However, the amended Act required us to find them in compliance.

The campaign was expanded to include digital advertising and multilingual television ads, which ran until February 2018. We continued to express concern that the ads provided no useful information to viewers and appeared intended to promote a positive impression of the government. In addition, we noted that "with the upcoming general election in June 2018, commitments made for 'over the next five years' could change and could be interpreted as a political campaign commitment instead of government policy." However, the amended Act required us to find the expanded campaign in compliance.

The total cost of the campaign in 2017/18 was \$4.06 million.

- **OHIP+ ads self-congratulatory.** The Ministry of Health and Long-Term Care made three preliminary submissions for a multilingual television and cinema campaign between August and October 2017 titled "A Little Easier" about OHIP+, a new program to provide free prescription drugs to all Ontarians under age 25.

We found all three submissions "self-congratulatory," and we noted that "the use of the words 'we' and 'completely 100% free' lead us to conclude that these scripts have a primary objective of promoting the partisan interests of the government party."

The Ministry subsequently made eight final submissions for the campaign, renamed "OHIP+ Launch" and covering television and digital formats. It dropped the phrase "completely 100% free," but kept the word "we."

We concluded that for three of the eight new submissions (two television and one digital), the ads “have a primary objective of promoting the partisan interests of the government party,” and would not have passed our review under the previous Act.

The campaign cost \$3.60 million in 2017/18.

- **Some labour ads misleading.** We had concerns about one component of a \$2.61-million television and digital campaign by the Ministry of Labour that outlined changes to Ontario law regarding the minimum wage, personal emergency leave, paid vacations and shift scheduling. Specifically, we found that six digital ads referencing “reliable scheduling” could “leave a misleading impression that the law has already changed in regards to scheduling” when, in fact, the scheduling provisions would not take effect until January 1, 2019. We advised the Ministry that these ads would not have passed our review under the previous version of the Act.

Other Issues of Interest

Government Advertising before and during Elections

The amendments made in 2015 to the *Government Advertising Act, 2004* stipulate that the government cannot advertise as of the day when an election writ is issued. As well, changes made in 2016 to election financing rules placed further limits on when the government can advertise prior to a scheduled election: government advertising is now prohibited 60 days before the writ is issued. In both cases, these rules do not apply if the government determines that the advertising relates to a revenue-generating activity, is time-sensitive, or meets any other criteria that it may prescribe.

In the period leading up to the June 7, 2018, election, we noted that the government observed these new statutory requirements. Govern-

ment offices made 34 submissions to our Office for review of items they proposed to run in the blackout period (March 10, 2018, to May 9, 2018) and/or the writ period (May 10, 2018, to June 7, 2018). Thirty-three of these submissions clearly fell within the revenue-generating or time-sensitive categories. These included Ontario Parks advertisements, notices of relocation of ServiceOntario offices, and international advertisements aimed at attracting investment to Ontario. One submission, on Ontario’s forthcoming rules regarding the legalization of cannabis, was withdrawn when our Office questioned the Ministry of the Attorney General’s representation to us that the ads were time-sensitive.

As well, we had concerns about a \$152,000 campaign whose advertisements would begin running just before the start of the blackout period. The Ministry of Government and Consumer Services (Ministry) planned a print campaign for ethnic newspapers in 19 languages that described a variety of available government services.

We advised the Ministry that “we believe that a primary objective of this campaign is to give the multi-ethnic communities it is targeting a positive impression of the governing party.” For this reason, the campaign would not have passed our review under the previous Act, although the amended Act required us to find the items in compliance.

Specifically, we noted that 44 of the 64 ads were to be published mostly in weekly newspapers, just two days before the start of the pre-writ advertising blackout. We advised the Ministry that “although the letter of the law may not be violated if the insertions occur then, we believe the spirit of it would be.” The campaign still went ahead as planned.

Advertising by Provincial Agencies

Government agencies have been exempt from the Act since its inception almost 15 years ago. In the past year, a ministry transferred an existing advertising campaign to a newly created agency, thus

exempting a significant portion of a \$3.98-million campaign from our review.

The then Ministry of Environment and Climate Change (Ministry) created an on-line video campaign called “Reduce Your Carbon Footprint,” which described the various rebate and incentive programs available for people wanting to make their homes or businesses more energy efficient.

The Ministry submitted the campaign for our review and we found it in compliance with the revised Act. However, we advised them that the digital versions of the ads would not have passed our review under the original Act because claims about rebates “appear overstated.”

In any case, the campaign was transferred from the Ministry to a new not-for-profit agency called the Green Ontario Fund (Fund). The Fund began running the videos on television as well, even though they had not been submitted for review as television advertisements.

Although advertising by government agencies is exempt from our review, a 2005 agreement with the government gives us the authority to review third-party advertising if all three of the following criteria apply:

- a government office provided the third party with funds intended to pay part or all of the cost of publishing, displaying, broadcasting or distributing the item;
- the government office approved the content of the item; and
- the government granted the third party permission to use the Ontario logo or another official provincial visual identifier in the item.

As the Ontario logo was removed from the original Ministry videos, these commercials did not meet the third-party rule and so did not have to be submitted for our review.

The Ministry reported spending \$806,500 on creative costs up to the time the campaign was transferred to the Fund. Since the Fund, as an agency, does not have to submit its ads for our review, the money spent on this advertising is not included in our tabulation of how much the govern-

ment spent on advertising. However, our audit of the agency’s financial statements show that it spent an additional \$596,000 in creative costs and \$2.57 million to purchase media time.

After the new government came to power in June 2018, it announced that agency would be winding down. The rebate and incentive programs available were closed.

Overview of Our Compliance Function

What Falls under the Act

The Act applies to advertisements that government offices—specifically, government ministries, Cabinet Office and the Office of the Premier—propose to pay to have published in a newspaper or magazine, displayed on a billboard, displayed digitally in a prescribed form or manner, or broadcast on radio or television, or in a cinema. It also applies to printed matter that a government office proposes to pay to have distributed to households in Ontario by unaddressed bulk mail or another method of bulk delivery. Advertisements meeting any of these definitions are known as “reviewable” items and must be submitted to our Office for review and approval under the amended Act before they can run.

In addition, all proposed television and cinema commercials, along with bulk-distributed printed materials (householders) must be submitted in early versions for preliminary review in each language the government intends to run them. After receiving a preliminary approval, these proposed advertisements must be resubmitted to our Office in their final form for approval. (Under the old Act, preliminary reviews were voluntary, and could be submitted in a single language. This was a more efficient process.)

The Act requires government offices to submit reviewable items to our Office. They cannot publish, display, broadcast, or distribute the submitted

item until the head of that office (usually the deputy minister) receives notice, or is deemed to have received notice, that the advertisement has been found in compliance with legislation.

If our Office does not render a compliance decision within the five business days set out in regulation, then the government office is deemed to have received notice that the item is in compliance with the Act, and may run it.

If our Office notifies the government office that the item is not in compliance with the Act, the item may not be used. However, the government office may submit a revised version of the rejected item for another review. Compliance approvals are valid for the life of the proposed media campaign.

The Act excludes from our review advertisements for specific government jobs (but not generic recruitment campaigns) and notices to the public required by law. Also exempt are advertisements on the provision of goods and services to a government office, and those regarding urgent matters affecting public health or safety.

Revised Criteria for Proposed Advertisements

In conducting its review, the Auditor General's Office now only determines whether the proposed advertisement is in compliance with the amended Act. The following are the areas with which the advertisement must be in compliance:

1. It must include a statement that it is paid for by the Government of Ontario.
2. It must not be partisan. The revised Act says an item is "partisan" only if it
 - includes the name, voice or image of a member of the Executive Council or of a member of the Assembly (unless the item's primary target audience is located outside of Ontario);
 - includes the name or logo of a recognized party; directly identifies and criticizes a recognized party or a member of the Assembly; and/or

- includes, to a significant degree, a colour associated with the governing party.

We have no authority to consider any other factors, such as factual accuracy, context or tone to determine whether an item is partisan.

Other Review Protocols

Since assuming responsibility for the review of government advertising in 2005, our Office has worked with the government to clarify procedures to cover areas where the Act is silent. What follows is a brief description of the significant areas that have required such clarification over the years.

Websites Used in Advertisements

Although government websites were not specifically reviewable in the original Act, we took the position that a website or similar linkage used in an advertisement is an extension of the advertisement. Following past discussions with the government, our Office came to an agreement soon after the legislation was passed that the first page, or "click," of a website cited in a reviewable item would be included in our review.

We continue to consider the content only of the first click, unless it is a gateway page or lacks meaningful content, in which case we review the next page. We examine this page for any content that may not meet the standards of the amended Act. For example, the page must not include a minister's name or photo.

Social Media Used in Advertisements

The government has significantly increased its presence on social-media platforms over the last decade. Our Office receives advertisements for approval that at times use icons leading the user to the government's presence on various social media, such as Facebook and Twitter.

Although the original Act was silent on the use of social media, we reached an agreement with

the government in 2012 that we would perform an initial scan of any social-media page cited in an ad to ensure that the standards of the Act are being followed, in the same way we examine websites referenced in ads. We recognize that content changes frequently and can be beyond the control of the government office, so our limited review focuses only on the content that the government office controls.

A government social-media account and any content that its administrators may post to it are not considered reviewable advertising under the Act.

The Future of Our Office's Role in Government Advertising

Amendments to the Act in 2015 did away with our Office's discretionary authority to determine what constitutes partisan advertising. These amendments weakened the Act and paved the way for publicly financed partisan advertising by government. We have identified such items in every one of our annual reports, including this one, since the amendments took effect.

RECOMMENDATION 1

We recommend that the previous version of the *Government Advertising Act, 2004* as it appeared on June 3, 2015, be reinstated, while leaving in the amendments that included digital advertisements to be included as a reviewable medium.

TREASURY BOARD SECRETARIAT RESPONSE

The government will endeavor to explore options for the review of government advertising. Expenditure management is a priority for this government. In support of this priority, the government will continually review advertising paid for by the government of Ontario to ensure it is delivered in the most efficient and effective manner, and delivers value for taxpayer dollars.

Appendix 1: Expenditures for Reviewable Advertisements under the Government Advertising Act, 2004, April 1, 2017–March 31, 2018*

Source of data: Ontario government ministries

Ministry ¹	# of		Production/ Agency Costs (\$)	Media Costs (\$)				Total (\$)	
	Submissions	# of Items		TV	Radio	Print	Digital		Out-of-Home ²
Accessibility	1	16	28	–	–	–	490,000	–	490,028
Advanced Education and Skills Development	9	104	697,125	2,233,638	–	27,940	761,540	896,365	4,616,608
Agriculture, Food and Rural Affairs	5	80	101,773	989,554	604,151	–	–	79,503	1,774,981
Attorney General	4	4	241	–	–	4,628	1,559	–	6,428
Citizenship and Immigration	7	119	113,534	387,574	91,361	118,696	93,437	–	804,602
Community Safety and Correctional Services	3	3	520	47,292	–	1,136	5,954	–	54,902
Economic Development and Growth	25	95	274,608	3,000	1,375	438,093	777,323	574,527	2,068,926
Education	16	114	1,026,973	4,023,277	–	1,500	1,974,510	–	7,026,260
Energy	6	99	860,227	657,591	891,905	–	253,300	–	2,663,023
Environment and Climate Change	3	44	806,500	–	–	–	–	–	806,500
Finance	6	136	255,458	–	605,818	325,424	381,572	–	1,568,272
Government and Consumer Services	16	176	829,286	–	–	108,128	2,046,892	–	2,984,306
Health and Long-Term Care	51	440	1,644,870	3,164,413	2,513,295	723,509	3,644,808	1,014,947	12,705,842
Housing	1	16	1,710	–	95,389	–	139,766	59,227	296,092
Infrastructure	5	343	999,268	124,280	93,797	–	3,659,731	–	4,877,076
International Trade	10	206	213,929	–	–	38,982	725,945	88,823	1,067,679
Labour	6	100	864,969	993,756	249,383	–	505,120	–	2,613,228
Municipal Affairs	1	1	1,857	–	–	5,154	–	–	7,011
Natural Resources and Forestry	33	146	13,550	12,096	68,087	162,092	93,971	19,553	369,349
Northern Development and Mines	2	3	220	–	–	317	1,225	–	1,762
Research and Innovation	1	2	–	–	27,912	23,315	–	–	51,227
Seniors Affairs	10	156	639,414	890,865	–	674,994	299,365	–	2,504,638

Ministry ¹	# of		Production/ Agency Costs (\$)	Media Costs (\$)					Total (\$)
	Submissions	Items		TV	Radio	Print	Digital	Out-of-Home ²	
Status of Women	2	3	268,071	653,748	—	—	304,034	—	1,225,853
Tourism, Culture and Sport	60	151	303,010	3,052,654	161,366	115,606	406,321	6,650	4,045,607
Transportation	9	38	13,554	—	118,221	28,850	104,780	67,003	332,408
Total	292	2,595	9,930,695	17,233,738	5,522,060	2,798,364	16,671,153	2,806,598	54,962,608

* The Auditor General/Act requires our Office to report annually on expenditures for advertising and printed matter reviewable under the *Government Advertising Act, 2004*. In order to verify completeness and accuracy, we may review selected payments and supporting documentation. We can also examine compliance relating to the sections of the Act dealing with submission requirements and use of ads during the Auditor General's review.

1. Name of ministry during the 2017/18 fiscal year. The ministries of Children and Youth Services, Community and Social Services, Indigenous Relations and Reconciliation, Francophone Affairs and Treasury Board Secretariat did not incur any advertising costs under the Act.

2. Includes billboards, transit posters, digital screens, etc. Media costs associated with cinema advertising are included in TV column.

Standing Committee on Public Accounts

Role of the Committee

The Standing Committee on Public Accounts (Committee) is empowered to review and report to the Legislative Assembly its observations, opinions and recommendations on reports from the Auditor General and on the Public Accounts. These reports are deemed to have been permanently referred to the Committee as they become available. The Committee examines, assesses and reports to the Legislative Assembly on a number of issues, including the economy and efficiency of government and broader-public-sector operations, and the effectiveness of government programs in achieving their objectives.

Under sections 16 and 17 of the *Auditor General Act*, the Committee may also request that the Auditor General examine any matter in respect of the Public Accounts or undertake a special assignment on its behalf.

The Committee typically holds hearings throughout the year when the Legislature is in session relating to matters raised in our Annual Report or in our special reports and may present its observations and recommendations to the Legislative Assembly.

Appointment and Composition of the Committee

Members of the Committee are typically appointed by a motion of the Legislature. The number of members from any given political party reflects that party's representation in the Legislative Assembly. All members except the Chair may vote on motions, while the Chair votes only to break a tie. The Committee is normally established for the duration of the Parliament, from the opening of its first session immediately following a general election to its dissolution.

In accordance with the Standing Orders of the Legislative Assembly and following the June 2018 election, Committee members were appointed on July 26, 2018. The Chair and Vice-Chair were elected on August 8, 2018, at the Committee's first meeting of the 42nd Parliament. The membership as of August 2018 is as follows:

- Catherine Fife, Chair, New Democrat
- Peggy Sattler, Vice-Chair, New Democrat
- Goldie Ghamari, Progressive Conservative
- Jim McDonell, Progressive Conservative
- Norman Miller, Progressive Conservative
- Suze Morrison, New Democrat
- Michael Parsa, Progressive Conservative
- Kinga Surma, Progressive Conservative
- Daisy Wai, Progressive Conservative

Prior to the June 2018 election, Committee members were appointed on July 16, 2014, following the June 2014 election. The Chair and Vice-Chair were elected on October 22, 2014, at the Committee's first meeting. The membership as of May 2018, prior to the June 2018 election, was as follows:

- Ernie Hardeman, Chair,
Progressive Conservative
- Lisa MacLeod, Vice-Chair,
Progressive Conservative
- Bob Delaney, Liberal
- Vic Dhillon, Liberal
- Han Dong, Liberal
- John Fraser, Liberal
- Percy Hatfield, New Democrat
- Randy Hillier, Progressive Conservative
- Liz Sandals, Liberal

Auditor General's Advisory Role with the Committee

In accordance with section 16 of the *Auditor General Act*, at the request of the Committee, the Auditor General, often accompanied by senior staff, attends Committee meetings to assist with its reviews and hearings relating to our Annual Report, Ontario's Public Accounts and any special reports issued by our Office.

Committee Procedures and Operations

The Committee may meet weekly when the Legislative Assembly is sitting and, with the approval of the House, at any other time of its choosing. All meetings are generally open to the public except for those dealing with the Committee's agenda and the preparation of its reports. All public Committee proceedings are recorded in Hansard, the official

verbatim report of debates, speeches and other Legislative Assembly proceedings.

The Committee identifies matters of interest from our Annual Report and our special reports and conducts hearings on them. It typically reviews reports from the value-for-money chapter, the Public Accounts chapter, and follow-up chapters of our Annual Report. Normally, each of the political parties annually selects a minimum of three audits or other sections from our Annual Report for Committee review.

At each hearing, the Auditor General, senior staff from her Office and a Research Officer from the Legislative Research Service brief the Committee on the applicable section from our Report. A briefing package is prepared by the Research Officer that includes the responses of the relevant ministry, Crown agency or broader-public-sector organization that was the subject of the audit or review. The Committee typically requests senior officials from the auditee(s) to appear at the hearings and respond to the Committee's questions. Because our Annual Report deals with operational, administrative and financial rather than policy matters, ministers are rarely asked to attend. Once the Committee's hearings are completed, the Research Officer may prepare a draft report pursuant to the Committee's instructions as the Committee typically reports its findings to the Legislative Assembly.

In addition, the Clerk, at the direction of the Committee, may also request those auditees that were not selected for hearings to provide the Committee with an update of the actions taken to address our recommendations and other concerns raised in our reports.

Meetings Held

The Committee held 14 meetings between September 2017 and October 2018. Topics addressed at these meetings included Government Advertising, Immunization, Metrolinx, Public Accounts, the

Independent Electricity System Operator, Settlement and Integration Services for Newcomers, Real Estate Services, Public Health: Chronic Disease Prevention and Cancer Treatment Services. Many of these meetings included hearings in which government and broader-public-sector witnesses were called to testify before the Committee and respond to questions regarding observations contained in our reports. Other meetings were spent on Committee business, writing the Committee's reports, or hearing briefings from the Auditor General.

Reports of the Committee

The Committee issues reports on its work for tabling in the Legislative Assembly. These reports summarize the information gathered by the Committee during its meetings and include the Committee's comments and recommendations. Once tabled, all committee reports are publicly available through the Clerk of the Committee or online at www.ola.org, as well as on our website at www.auditor.on.ca.

Committee reports typically include recommendations and a request that management of the ministry, agency or broader-public-sector organization provide the Committee Clerk with responses within a stipulated time frame. As of August 31, 2018, the Committee tabled the following 10 reports in the Legislature since our last report on its activities:

- December 6, 2017: Employment Ontario
- December 13, 2017: Ministry of Transportation
- December 13, 2017: Child and Youth Mental Health
- February 22, 2018: Physician Billing
- February 22, 2018: Large Community Hospital Operations
- April 24, 2018: Immunization
- May 1, 2018: Review of Government Advertising

- May 1, 2018: Independent Electricity System Operator—Market Oversight and Cybersecurity
- May 3, 2018: Public Accounts of the Province
- May 3, 2018: Metrolinx—Public Transit Construction Contract Awarding and Oversight

One of the 10 reports tabled by the Committee—Immunization—was based on a follow-up report completed by our Office in our *2016 Annual Report*. Five of the other reports tabled by the Committee addressed our 2016 value-for-money audits on Employment Ontario, the Ministry of Transportation, Child and Youth Mental Health, Physician Billing, and Large Community Hospital Operations. The four remaining reports tabled by the Committee addressed our Review of Government Advertising, Independent Electricity System Operator—Market Oversight and Cybersecurity, Public Accounts of the Province, and Metrolinx—Public Transit Construction Contract Awarding and Oversight from our *2017 Annual Report*.

Of the 10 reports tabled by the Committee, there were two reports that included a Dissenting Opinion of the Members of the Progressive Conservative Party. The Committee's reports on the Review of Government Advertising and the Public Accounts of the Province include an appendix at the end of the report to outline the areas in which they disagree with contents of the report of the Committee. The Committee met subsequent to the public hearings to write the Committee's reports on these audits; however, the Committee did not reach consensus on the contents and recommendations of the reports, which is why there are dissenting opinions appended to two of the reports.

In Volume 2 of our Annual Report, we included our follow-ups on the recommendations the Committee made in all of its reports. In each of these sections, you will find:

- the recommendations contained in the Committee's report;
- the auditee's responses to the Committee's recommendations; and

- a table summarizing the status of each action from the Committee's recommendations (for example, fully implemented, or in the process of being implemented).

Special Reports

Two sections of the *Auditor General Act* authorize the Auditor General to undertake additional special work. Under Section 16, the Standing Committee on Public Accounts may resolve that the Auditor General must examine and report on any matter respecting the Public Accounts. Under Section 17, the Legislative Assembly, the Standing Committee on Public Accounts or a minister of the Crown may request that the Auditor General undertake a special assignment. However, these special assignments are not to take precedence over the Auditor General's other duties, and the Auditor General can decline such an assignment requested by a minister if he or she believes that it conflicts with other duties.

In recent years when we have received a special request, our normal practice has been to obtain the requester's agreement that the special report will be tabled in the Legislature on completion and made public at that time.

On September 27, 2017, the Committee passed a motion for us to conduct an audit of the proposed Metrolinx GO stations at Kirby and Lawrence East. As well, on October 25, 2017, the Committee passed a motion for us to conduct an audit of

the Niagara Peninsula Conservation Authority (NPCA). Our special report on the NPCA was tabled in the Legislature on September 27, 2018, and our special report on Metrolinx was tabled as part of our *2018 Annual Report*.

In addition, on March 21, 2018, the Committee passed a motion for our Office to conduct an audit of the Taron Warranty Corp. This report will be tabled in 2019. On October 24, 2018, the Committee passed a motion for our Office to "conduct an audit of the costs associated with illegal border crossers as it relates to all services provided through the government of Ontario and its municipalities for the three years ending July 31, 2018." This audit will be conducted in 2019.

Canadian Council of Public Accounts Committees

The Canadian Council of Public Accounts Committees (CCPAC) consists of delegates from federal, provincial and territorial public accounts committees across Canada. CCPAC holds a joint annual conference with the Canadian Council of Legislative Auditors to discuss issues of mutual interest.

The 39th annual conference was hosted in Charlottetown, Prince Edward Island, from September 23 to 25, 2018. The 40th annual conference will be hosted in Niagara-on-the-Lake, Ontario, from August 18 to 20, 2019.

Office of the Auditor General of Ontario

The Office of the Auditor General of Ontario (Office) serves the Legislative Assembly and the citizens of Ontario by conducting value-for-money, financial, information technology, governance and special audits, reviews and investigations, and reporting on them. In so doing, the Office helps the Legislative Assembly hold the government, its administrators, government agencies and Crown-controlled corporations and grant recipients accountable for how prudently they spend public funds, and for the value they obtain for the money spent on behalf of Ontario taxpayers.

The work of the Office is performed under the authority of the *Auditor General Act*. In addition, under the amended *Government Advertising Act, 2004*, the Auditor General is responsible for reviewing and approving certain types of proposed government advertising for compliance with the amended *Government Advertising Act* (see **Chapter 4** for more details on the Office’s advertising-review function). Also, in a year that a regularly scheduled election is held, the Auditor General is required under the *Fiscal Transparency and Accountability Act, 2004* to review and deliver an opinion on the reasonableness of the government’s pre-election report on its expectations for the financial performance of the Province over the next three fiscal years.

All three Acts can be found at www.e-laws.gov.on.ca.

General Overview

Value-for-Money Audits

More than two-thirds of the Office’s work relates to value-for-money auditing, which assesses how well a given “auditee” (the entity that we audit) manages and administers its programs or activities. Value-for-money audits delve into the auditee’s underlying operations to assess the level of service being delivered to the public and the relative cost-effectiveness of the service. The Office has the authority to conduct value-for-money audits of the following entities:

- Ontario Government ministries;
- Crown agencies;
- Crown-controlled corporations; and
- organizations in the broader public sector that receive government grants (for example, agencies that provide mental-health services, children’s aid societies, community colleges, hospitals, long-term-care homes, school boards and universities).

The *Auditor General Act* (Act) [in subclauses 12(2)(f)(iv) and (v)] identifies the criteria to be considered in a value-for-money audit:

- Money should be spent with due regard for economy.
- Money should be spent with due regard for efficiency.

- Appropriate procedures should be in place to measure and report on the effectiveness of programs.

The Act requires that the Auditor General report on any instances she may have observed where these three value-for-money criteria have not been met. More specific criteria that relate directly to the operations of the particular ministry, program or organization being audited are also developed for each value-for-money audit.

The Act also requires that the Auditor General report on instances where the following was observed:

- Accounts were not properly kept or public money was not fully accounted for.
- Essential records were not maintained or the rules and procedures applied were not sufficient to:
 - safeguard and control public property;
 - effectively check the assessment, collection and proper allocation of revenue; or
 - ensure that expenditures were made only as authorized.
- Money was expended for purposes other than the ones for which it was appropriated.

Assessing the extent to which the auditee complies with the requirement to protect against these risks is generally incorporated into both value-for-money audits and “attest” audits (discussed in a later section). Other compliance work that is also typically included in value-for-money audits includes determining whether the auditee adheres to key provisions in legislation and the authorities that govern the auditee or the auditee’s programs and activities.

Government programs and activities are the result of government policy decisions. Thus, our value-for-money audits focus on how well management is administering and executing government policy decisions. It is important to note, however, that in doing so we do not comment on the merits of government policy. Rather, it is the Legislative Assembly that holds the government accountable for policy matters by continually monitoring and

challenging government policies through questions during legislative sessions and through reviews of legislation and expenditure estimates.

In planning, performing and reporting on our value-for-money work, we follow the relevant professional standards established by the Chartered Professional Accountants of Canada. These standards require that we have processes for ensuring the quality, integrity and value of our work. Some of the processes we use are described in the following sections.

Selecting What to Audit

The Office audits significant ministry programs and activities, organizations in the broader public sector, Crown agencies and Crown-controlled corporations. Audits are selected using a risk-based approach. Since our mandate expanded in 2004 to allow us to examine organizations in the broader public sector, our audits have covered a wide range of topics in sectors such as health (hospitals, long-term-care homes, Community Care Access Centres, and mental-health service providers), education (school boards, universities and colleges), and social services (children’s aid societies and social-service agencies), as well as several large Crown-controlled corporations.

In selecting what program, activity or organization to audit each year, we consider how great the risk is that an auditee is not meeting the three value-for-money criteria, resulting in potential negative consequences for the public it serves. The factors we consider include the following:

- the impact of the program, activity or organization on the public;
- the total revenues or expenditures involved;
- the complexity and diversity of the auditee’s operations;
- the results of previous audits and related follow-ups;
- recent significant changes in the auditee’s operations;

- the significance of the potential issues an audit might identify; and
- whether the benefits of conducting the audit justify its costs.

We also consider work that has been done by the auditee’s internal auditors, and may rely on, or reference, that work in the conduct of our audit. Depending on what that work consists of, we may defer an audit or change our audit’s scope to avoid duplication of effort. In cases where we do not reduce the scope of our audit, we still use and reference the results of internal audit work in our audit report.

Setting Audit Objectives, Audit Criteria and Assurance Levels

When we begin an audit, we set an objective for what the audit is to achieve. We then develop suitable audit criteria to evaluate the design and operating effectiveness of key systems, policies and procedures to address identified risks. Developing criteria involves extensive research on work done by recognized bodies of experts; other organizations or jurisdictions delivering similar programs and services; management’s own policies and procedures; applicable criteria used in other audits; and applicable laws, regulations and other authorities.

To further ensure their suitability, the criteria we develop are discussed with the auditee’s senior management at the planning stage of the audit.

The next step is to design and conduct tests so that we can reach a conclusion regarding our audit objective, and make relevant and meaningful observations and recommendations. Each audit report has a section titled “Audit Objective and Scope,” in which the audit objective is stated and the scope of our work is explained. As required under our Act, we also report on circumstances where information was either difficult to obtain or not available for our review.

We plan our work to be able to obtain and provide assurance at an “audit level”—the highest

reasonable level of assurance that we can obtain. Specifically, an audit level of assurance is obtained by interviewing management and analyzing information that management provides; examining and testing systems, procedures and transactions; confirming facts with independent sources; and, where necessary because we are examining a highly technical area, obtaining independent expert assistance and advice. We also use professional judgment in much of our work.

Standard audit procedures are designed to provide “a reasonable level of assurance” (rather than an “absolute level”) that the audit will identify significant matters and material deviations. Certain factors make it difficult for audit tests to identify all deviations. For example, we may conclude that the auditee had a control system in place for a process or procedure that was working effectively to prevent a particular problem from occurring, but that auditee management or staff might be able to circumvent such control systems, so we cannot guarantee that the problem will never arise.

With respect to the information that management provides, under the Act we are entitled to access all relevant information and records necessary to perform our duties.

The Office can access virtually all information contained in Cabinet submissions or decisions that we deem necessary to fulfill our responsibilities under the Act. However, out of respect for the principle of Cabinet privilege, we do not seek access to the deliberations of Cabinet.

Infrequently, the Office will perform a review rather than an audit. A review provides a moderate level of assurance, obtained primarily through inquiries and discussions with management; analyses of information provided by management; and only limited examination and testing of systems, procedures and transactions. We perform reviews when:

- it would be prohibitively expensive or unnecessary to provide a higher level of assurance; or

- other factors relating to the nature of the program or activity make it more appropriate to conduct a review instead of an audit.

Communicating with Management

To help ensure the factual accuracy of our observations and conclusions, staff from our Office communicate with the auditee’s senior management throughout the value-for-money audit or review. Early in the process, our staff meet with management to discuss the objective, criteria and focus of our work in general terms. During the audit or review, our staff meet with management to update them on our progress and ensure open lines of communication.

At the conclusion of on-site work, management is briefed on our preliminary results. A conditional draft report is then prepared and provided to and discussed with the auditee’s senior management, who provide written responses to our recommendations. These are discussed and incorporated into the draft report, which the Auditor General finalizes with the deputy minister or head of the agency, corporation or grant-recipient organization, after which the report is published in **Chapter 3 of Volume 1** of the Auditor General’s Annual Report. In compliance with CPA Canada Standards, letters of representation are signed by senior management confirming that they have provided and disclosed to our Office all relevant information pertaining to the audit.

Special Reports

As required by the Act, the Office reports on its audits in an Annual Report to the Legislative Assembly. In addition, under section 12(1), the Office may make a special report to the Legislature at any time, on any matter that, in the opinion of the Auditor General, should not be deferred until the Annual Report.

Two other sections of the Act authorize the Auditor General to undertake additional special work.

Under section 16, the Standing Committee on Public Accounts may resolve that the Auditor General must examine and report on any matter respecting the Public Accounts. Under section 17, the Legislative Assembly, the Standing Committee on Public Accounts or a minister of the Crown may request that the Auditor General undertake a special assignment. However, these special assignments are not to take precedence over the Auditor General’s other duties, and the Auditor General can decline such an assignment requested by a minister if he or she believes that it conflicts with other duties.

In recent years when we have received a special request under section 16 or 17, our normal practice has been to obtain the requester’s agreement that the special report will be tabled in the Legislature on completion and made public at that time.

On September 27, 2017, the Standing Committee on Public Accounts passed a motion for us to conduct an audit of the proposed Metrolinx GO stations at Kirby and Lawrence East. As well, on October 25, 2017, the Standing Committee on Public Accounts passed a motion for us to conduct an audit of the Niagara Peninsula Conservation Authority (NPCA). Our special report on the NPCA was tabled in the Legislature on September 28, 2018, and our special report on Metrolinx was tabled as part of our *2018 Annual Report*.

On March 21, 2018, the Committee passed a motion for our Office to conduct an audit of the Taron Warranty Corporation. That report will be tabled in 2019.

In addition, on October 24, 2018, the Committee passed a motion for our Office to “conduct an audit of the costs associated with illegal border crossers as it relates to all services provided through the government of Ontario and its municipalities for the three years ending July 31, 2018.” This audit will be conducted in 2019.

Attest Audits

Attest audits are examinations of an auditee’s financial statements. In such audits, the auditor

expresses his or her opinion on whether the financial statements present information on the auditee's operations and financial position in a way that is fair and that complies with certain accounting policies (in most cases, with Canadian generally accepted accounting principles). Compliance audit work is also often incorporated into attest-audit work. Specifically, we assess the controls for managing risks relating to improperly kept accounts; unaccounted-for public money; lack of record keeping; inadequate safeguarding of public property; deficient procedures for assessing, collecting and properly allocating revenue; unauthorized expenditures; and not spending money on what it was intended for.

The Auditees

Every year, we audit the financial statements of the Province and the accounts of many agencies of the Crown. Specifically, the Act [in subsections 9(1), (2), and (3)] requires that:

- the Auditor General audit the accounts and records of the receipt and disbursement of public money forming part of the Province's Consolidated Revenue Fund, whether held in trust or otherwise;
- the Auditor General audit the financial statements of those agencies of the Crown that are not audited by another auditor;
- public accounting firms appointed as auditors of certain agencies of the Crown perform their audits under the direction of the Auditor General and report their results to the Auditor General; and
- public accounting firms auditing Crown-controlled corporations deliver to the Auditor General a copy of the audited financial statements of the corporation and a copy of the accounting firm's report of its findings and recommendations to management (typically contained in a management letter).

Chapter 2 discusses this year's attest audit of the Province's consolidated financial statements.

We do not typically discuss the results of attest audits of agencies and Crown-controlled corporations in this report unless a significant issue arises and it would be appropriate for all Members of the Legislature to be aware of this issue. Agency legislation normally stipulates that the Auditor General's reporting responsibilities are to the agency's board and the minister(s) responsible for the agency. Our Office also provides copies of our independent auditors' reports and of the related agency financial statements to the deputy minister of the associated ministry, as well as to the Secretary of the Treasury Board.

We identify areas for improvement during the course of an attest audit of an agency and provide our recommendations to agency senior management in a draft report. We then discuss our recommendations with management and revise the report to reflect the results of our discussions. After the draft report is cleared and the agency's senior management have responded to it in writing, we prepare a final report, which is discussed with the agency's audit committee (if one exists). We bring significant matters to the attention of the Legislature by including them in our Annual Report.

Part 1 of **Exhibit 1** lists the agencies that were audited during the 2017/18 audit year. The Office contracts with public accounting firms to serve as our agents in auditing a number of these agencies. Part 2 of **Exhibit 1** and **Exhibit 2** list the agencies of the Crown and the Crown-controlled corporations, respectively, that were audited by public accounting firms during the 2017/18 audit year. **Exhibit 3** lists significant organizations in the broader public sector whose accounts are also audited by public accounting firms and included in the Province's consolidated financial statements.

Other Stipulations of the Auditor General Act

The *Auditor General Act* came about with the passage of the *Audit Statute Law Amendment Act* (Amendment Act) on November 22, 2004. The

Amendment Act received royal assent on November 30, 2004. The purpose of the Amendment Act was to make certain changes to the Audit Act to enhance our ability to serve the Legislative Assembly. The most significant of these changes was the expansion of our Office's value-for-money audit mandate to organizations in the broader public sector that receive government grants.

In June 2015, the *Building Ontario Up Act* (Budget Measures), 2015 received royal assent. Schedule 3 amended section 13(1) of our Act, removing our ability to conduct value-for-money audits of Hydro One Inc. However, as per sections 13(2) and 13(3), Hydro One Inc. must still provide us with the information we need for our audit of the Public Accounts of Ontario. Section 13(4) states that Hydro One Inc. is not required to provide us with information relating to a period for which Hydro One Inc. has not yet publicly disclosed its financial statements.

Appointment of the Auditor General

Under our Act, the Auditor General is appointed as an Officer of the Legislative Assembly by the Lieutenant Governor in Council. This means that the Lieutenant Governor appoints the Auditor General on the advice of the Executive Council (the Cabinet). The appointment is made “on the address of the Assembly,” meaning that the appointee must be approved by the Legislative Assembly. The Act also requires that the Chair of the Standing Committee on Public Accounts—who, under the Standing Orders of the Legislative Assembly, is a member of the official opposition—be consulted before the appointment is made (for more information about the Standing Committee on Public Accounts, see **Chapter 5**).

Independence

The Auditor General and staff of the Office are independent of the government and its administration. This independence is an essential safeguard

that enables the Office to fulfill its auditing and reporting responsibilities objectively and fairly.

The Auditor General is appointed to a 10-year, non-renewable term, and can be dismissed only for cause by the Legislative Assembly. Consequently, the Auditor General maintains an arm's-length distance from the government and the political parties in the Legislative Assembly and is thus free to fulfill the Office's legislated mandate without political pressure.

The Board of Internal Economy, an all-party legislative committee that is independent of the government's administrative process, reviews and approves the Office's budget, which is subsequently laid before the Legislative Assembly. As required by the Act, the Office's expenditures in the 2017/18 fiscal year have been audited by a firm of chartered professional accountants, and the audited financial statements of the Office have been submitted to the Board and subsequently must be tabled in the Legislative Assembly. The audited statements and related discussion of expenditures for the year are presented at the end of this chapter.

Confidentiality of Working Papers

In the course of our reporting activities, we prepare draft audit reports and findings reports that are considered an integral part of our audit working papers. Under section 19 of the Act, these working papers do not have to be laid before the Legislative Assembly or any of its committees. As well, our Office is exempt from the Freedom of Information and Protection of Privacy Act (FIPPA). This means that our draft reports and audit working papers, including all information obtained from an auditee during the course of an audit, are privileged, and cannot be accessed by anyone under FIPPA, thus further ensuring confidentiality.

Code of Professional Conduct

The Office has a Code of Professional Conduct to ensure that staff maintain high professional

standards and keep up a professional work environment. The Code is intended to be a general statement of philosophy, principles and rules regarding conduct for employees of the Office. Our employees have a duty to conduct themselves in a professional manner, and to strive to achieve in their work the highest standards of behaviour, competence and integrity.

The Code explains why these expectations exist, and further describes the Office's responsibilities to the Legislative Assembly, the public and our auditees. The Code also provides guidance on disclosure requirements and the steps to be taken to avoid conflicts of interest. All employees are required to complete an annual conflict-of-interest declaration and undergo a police security check upon being hired and every five years thereafter.

Office Organization and Personnel

The Office is organized into portfolio teams to align with related audit entities and to foster expertise in the various areas of audit activity. The portfolios, somewhat based on the government's own ministry organization, are each headed by a Director, who oversees and is responsible for the audits within the assigned portfolio. Directors report to Assistant Auditors General, who report to the Auditor General. Reporting to the Directors and rounding out the teams are Audit Managers and various other audit staff, as illustrated in **Figure 1**.

The Auditor General and the Assistant Auditors General make up the Office's Executive Committee. The Auditor General, the Assistant Auditors General, the Audit Directors, the Director of Human Resources and Office Services, the Manager of Communications and Government Advertising, and the Strategic and Operations Advisor to the Auditor General make up the Office's Senior Management Committee.

The Auditor General's Panel of Senior External Advisors

The Auditor General's Panel of Senior External Advisors (Panel) was established in early 2017 to provide strategic advice to the Auditor General on her Office's work. The Panel is governed by Terms of Reference that outline the Panel's mandate, objective, membership, scope of work, and other terms and conditions. The members of the Panel meet at least twice per year and may meet on other occasions when necessary. During 2018, the Panel met three times, reviewing material prior to those meetings.

The Panel comprises a broad cross-section of professionals and experts outside of the Office. Members are selected by the Auditor General based on their capacity to provide the Auditor General with the highest-quality advice in matters pertaining to the Panel's mandate. Members of the Panel are appointed for a term of three years and are eligible for reappointment at the discretion of the Auditor General. There are currently 10 members on the Panel:

- Tim Beauchamp, Retired Director, Public Sector Accounting Board
- Deborah Deller, Retired Clerk of the Legislative Assembly of Ontario
- Burkard Eberlein, Associate Professor, Public Policy, York University (Schulich)
- Sheila Fraser, Retired Auditor General of Canada
- Peter Mansbridge, Retired Chief Correspondent for CBC News and Anchor of The National
- David Marshall, Retired President, Workplace Safety and Insurance Board
- William Robson, President and CEO, C.D. Howe Institute
- Carmen Rossiter, Program Director, Centre for Governance, Risk Management and Control, York University (Schulich)

Figure 1: Office Organization, November 30, 2018

Auditor General Bonnie Lysyk	Communications and Government Advertising Review Christine Pedias Mariana Green Peggy Hill Tiina Randoja Rachel Tilner	Human Resources and Office Services Cindy MacDonald Padmini Govinda Sohani Myers Louise Pellerin Training Alla Volodina
External Senior Advisory Panel Tim Beauchamp David Marshall Deborah Deller William Robson Burkard Eberlein Carmen Rossiter Sheila Fraser Wayne Strelieff Peter Mansbridge Christopher Wirth	Audit Learning Network Jing Wang	Finance and Payroll Chris Krishnamurthy Vilma Juseviciene Sumayya Shaikh
Assistant Auditors General Gus Chagani Rudolph Chiu Susan Klein Nick Stavropoulos	Professional Practices Rebecca Yosipovich Jimmy Cao	Strategy and Research Vanessa Dupuis Bradley Merklinger George Boshnakis Christine Wu Sara Ditta
Financial Statement Audit Portfolios and Staff*		
Public Accounts Jeremy Blair Marcia DeSouza Audelyn Budihardjo Benjamin Leung David Catarino Taylor Lew Georgiana Shilton	Crown Agencies Teresa Carello Roger Munroe Cynthia Tso Nancy Wong Neil Ganatra	Crown Agencies Laura Bell Kandy Fletcher Mary Martino Shahir Kazemi Izabela Beben Adam Reuben Tom Chatzidimos Zachary Thomas
Value-for-Money Audit Portfolios and Staff*		
Economic Development, Environment, and Infrastructure Ariane Chan Jesse Dufour Dimitar Dimitrov Qais Ehsas Katrina Exaltacion Kristy May Anne Benaroya Jennifer Sisopha Daniel Du	Education, and Training, Colleges and Universities Vanna Gotsis Kundai Marume Tino Bove Alberta Tam Rashmeet Gill Ellen Tepelenas Paranika Balachandra Brian Wanchuk Sean Dasan	Information Technology Kartik Chadha Shariq Saeed Esther Yoon
Energy, Health, and Justice and Regulatory Sandy Chan Paul Bertucci Tony Liu Margaret Sciortino Vivan Sin Larry Chan Jane Lu Parth Shah Gigi Yip Brandon Cheung Mohak Malik Pasha Sidhu Naomi Herberg Thomas Fitzmaurice Julia Man Adam Vanderheyden Gurinder Parmar Montana Fung Wendy Ng Kimberly Winardi Fraser Rogers Jelena Grkovic Lisa Nguyen Jessica Wong Alice Stonell Emilia Gurgul Jayashree Rao Michael Yarmolinsky	Social Services and Transportation Bartosz Amerski Paul Mathew Kim Cho Zahid Muradzada Emanuel Tsikritsis Mamta Patel Kathryn Batty Romeo Segota Arjunan Balakrishnan Ronen Spivak Ahmed Elshebiny Victoria Szablowski Arie Lozinsky Dora Ulisse	
Cross-Ministry and Recommendations Follow-Up Wendy Cumbo Aman Deol Christine Sarkar Ali Hamza Denise Young Catherine Zhang Karina Bychkova		

* Staff below manager level shift between portfolios to address seasonal financial statement audit workload pressures.

- Wayne Strelieff, Retired Auditor General of British Columbia and Former Provincial Auditor of Saskatchewan
- Christopher Wirth, Lawyer, Keel Cottrelle LLP

Quality Assurance Review Process

Professional standards require that auditors establish and maintain a system of quality controls to help ensure that professional and legal standards are met and that audit reports are appropriate in the circumstances. Quality assurance reviews form an essential component of this system by providing a basis for determining whether quality control policies are appropriately designed and applied. The Office has implemented a system of internal quality assurance reviews and is also subject to external quality assurance reviews both by the Chartered Professional Accountants (CPA) of Ontario and by the Canadian Council of Legislative Auditors.

The internal quality assurance review process consists of reviews of completed audit files on a cyclical basis by individuals within the Office. Individuals chosen for this role are conversant with and have up-to-date knowledge of the application of professional accounting and assurance standards and have no other involvement with the audit. The selection of audit files for quality assurance review is based on criteria designed to provide the Office with reasonable confidence that professional standards and Office policies are being met. The selection criteria include, but are not limited to, the risk associated with the engagement (such as complexity or public sensitivity) and the results of previous quality assurance reviews.

In addition to internal file reviews, the Office designates audit challengers for each value-for-money audit conducted. Challengers are at the Manager and Director levels. They review and question audit teams' audit planning reports and final reports.

The Office is also subject to review by CPA Ontario, which conducts a triennial practice inspection of our Office to assess whether, as practitioners of public accounting, we are adhering to the professional standards set out in the *CPA Canada Handbook* and CPA Ontario's *Member's Handbook*. Practice inspection involves an assessment of the Office's quality controls and a review of a sample of completed audit files selected by CPA Ontario.

As well, through our participation in the Canadian Council of Legislative Auditors, our Office undergoes external quality assurance reviews on a regular basis. These reviews are conducted by experienced professional auditors from other jurisdictions across Canada. In addition to providing assurance that quality control systems are well designed and effective, this process also facilitates the sharing and exchange of information and experience, and encourages and supports continued development of auditing methodology, practices, and professional development.

Canadian Council of Legislative Auditors

This year, Prince Edward Island hosted the 39th annual meeting of the Canadian Council of Legislative Auditors (CCOLA) in Charlottetown from September 23 to 25, 2018. This annual conference is held jointly with the annual meeting of the Canadian Council of Public Accounts Committees (CCPAC). It brings together legislative auditors and members of the Standing Committees on Public Accounts from the federal government, provinces and territories, and provides an excellent opportunity for sharing ideas, exchanging information and learning about best practices for Standing Committees on Public Accounts in Canada. In 2019, the 40th annual conference will be hosted in Niagara-on-the-Lake, Ontario, from August 18 to 20.

International Visitors

As an acknowledged leader in value-for-money auditing, the Office frequently receives requests to meet with visitors and delegations from abroad to discuss the roles and responsibilities of our Office, and to share our value-for-money and other audit experiences. During the period from October 1, 2017, to September 30, 2018, our Office hosted delegations from Australia, China and Peru.

Results Produced by the Office This Year

This was another productive year for the Office. In total, while operating within our budget, we completed 14 value-for-money audits, two special reports (one special report is included in our value-for-money **Chapter 3**), 15 follow-ups on previous value-for-money reports, one follow-up on a previous special report and eight follow-ups on reports issued by the Standing Committee on Public Accounts. We also expanded our tracking of the status of previous recommendations made by following up on the 898 actions we recommended in our annual reports of 2012, 2013, 2014 and 2015. The Audit Recommendations Follow-Up Team that did this work has put in place a system for ongoing follow-ups on our audit recommendations and those of the Standing Committee on Public Accounts.

We also issued our *Review of the 2018 Pre-Election Report on Ontario's Finances*, as required by the *Fiscal Transparency and Accountability Act, 2004*. This report was tabled on April 25, 2018, following the government's release of its 2018 Pre-Election Report on March 28, 2018.

As mentioned in the Attest Audits section earlier, we are responsible for auditing the Province's consolidated financial statements (further discussed in **Chapter 2**), as well as the statements of more than

40 Crown agencies. We met all of our key financial statement audit deadlines while continuing to invest in training to ensure adherence to accounting and assurance standards and methodology for conducting attest audits.

We successfully met our review responsibilities under the *Government Advertising Act, 2004*, as further discussed in **Chapter 4**.

The results produced by the Office this year would not have been possible without the hard work and dedication of our staff, as well as that of our agent auditors, contract staff and our Panel of Senior External Advisors.

Public Inquiries

The Office of the Auditor General receives inquiries from the public, Members of Provincial Parliament and the civil service through letter, fax, email and phone. Each inquiry is reviewed on a case-by-case basis and is logged to ensure that the information is recorded, and that we can track inquiries received and responses provided. The Office has one central intake of public inquiries. The Office conducts an annual overall review of public inquiries to assess actions taken and for consideration as part of the audit selection process. During the 2017/18 fiscal year, the Office received over 1,000 public inquiries. We also received over 2,000 letters of support for our work.

Financial Accountability

The following discussion and our financial statements present the Office's financial results for the 2017/18 fiscal year. Our financial statements have been prepared in accordance with Canadian Public-Sector Accounting Standards. In accordance with these standards, we have presented a breakdown of our expenses by the main activities our Office

Figure 2: Five-Year Comparison of Spending (Accrual Basis) (\$ 000)

Prepared by the Office of the Auditor General of Ontario

	2013/14	2014/15	2015/16	2016/17	2017/18
Approved budget	16,427	16,520	18,083	18,566	19,547
Actual expenses					
Salaries and benefits	11,342	11,201	11,504	12,830	13,568
Professional and other services	1,827	2,352	2,268	2,538	2,683
Rent	1,001	1,008	1,059	1,090	1,097
Travel and communications	276	336	354	312	374
Training, supplies and equipment	1,145	1,305	1,415	1,328	1,536
Total	15,591	16,202	16,600	18,098	19,258
Unused appropriations*	679	160	974	42	32

* These amounts are typically slightly different than the excess of appropriation over expenses as a result of non-cash expenses (such as amortization of capital assets, deferred lease inducements and employee future benefit accruals).

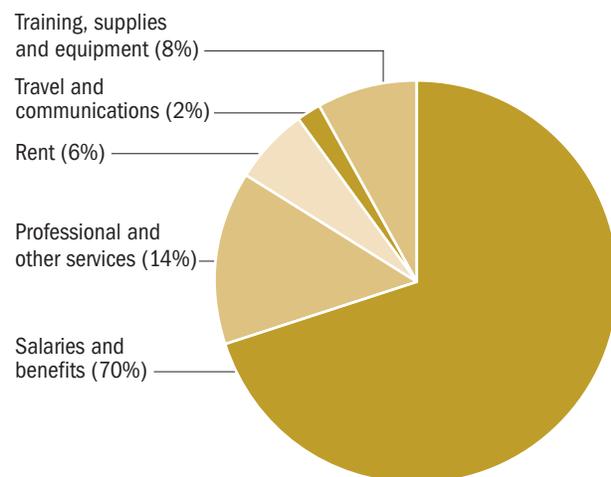
is responsible for: value-for-money and special audits, financial-statement audits, and the review of government advertising. This breakdown is provided in **Note 9** to the financial statements and indicates that 61% of our time was used to perform value-for-money and special audits, a stated priority of the Standing Committee on Public Accounts, and 38% to completing the audits of the annual financial statements of the Province and over 40 of its agencies. The remaining time was devoted to our statutory responsibilities under the *Government Advertising Act* and the *Fiscal Transparency and Accountability Act*.

Figure 2 provides a comparison of our approved budget and expenditures over the last five years. **Figure 3** presents the major components of our spending during the 2017/18 fiscal year, and shows that salary and benefit costs for staff accounted for 70% (71% in 2016/17), while professional and other services, along with rent, comprised most of the remainder. These proportions have been relatively stable in recent years. **Figure 4** presents the year-over-year percentage change of actual expenditures. Overall, our expenses increased by 6% in 2017/18 from the previous year.

Our salaries budget was frozen for five years, from 2010/11 to 2014/15. As a result, we were unable to fully staff up to our approved

Figure 3: Spending by Major Expenditure Category, 2017/18

Prepared by the Office of the Auditor General of Ontario



complement, and we faced challenges in hiring and retaining qualified professional staff in the competitive Toronto job market as our public-service salary ranges had not kept pace with compensation increases for such professionals in the private sector. In July 2015, the Board of Internal Economy of the Legislature approved our request for salary and benefits funding for the 2016/17 fiscal year in order for us to be able to fill our vacant positions and bring our staffing to our Board of Internal Economy-approved complement of 116. However,

Figure 4: Actual Expenses for 2017/18 and 2016/17 (\$ 000)

Prepared by the Office of the Auditor General of Ontario

Actual Expenses	2017/18	2016/17	% Change
Salaries and benefits	13,568	12,830	6
Professional and other services	2,683	2,538	6
Rent	1,097	1,090	1
Travel and communications	374	312	20
Training, supplies and equipment	876	856	2
Statutory expenses	660	472	40
Total expenses	19,258	18,098	
Average % change			6

we experienced timing challenges in filling these positions in 2016/17 and 2017/18. As of March 31, 2019, we expect to be close to our approved staffing complement.

A more detailed discussion of the changes in our expenses and some of the challenges we face follows.

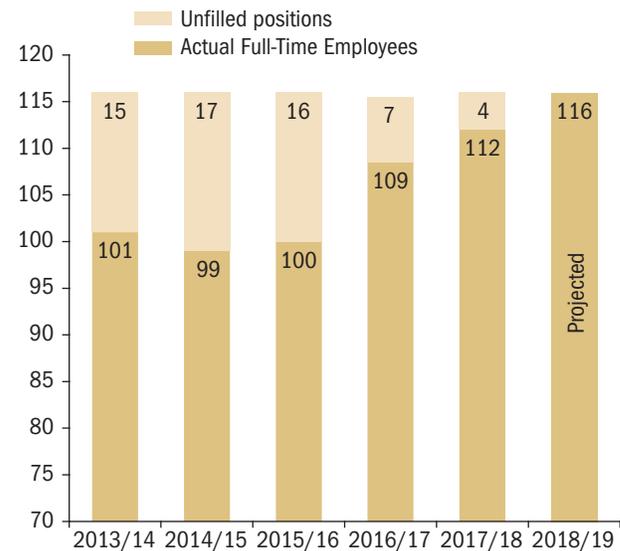
Salaries and Benefits

Our salary and benefit costs were 6% higher than in 2017/18. Salary increases were a result of the annualized cost of 2016/17 hires and implementing changes to staff compensation per a Cabinet Office letter dated December 15, 2015, that provided increases to those working in the Ontario Government. We applied similar increases in our Office. Benefit costs increased due to a combination of the annualized cost of 2016/17 new hires, the salary increases just mentioned and severance payments to retiring or terminated staff.

In 2017/18, our average staffing level increased by three, to 112 employees from 109 in 2016/17, as shown in **Figure 5**. Most students who earned their professional accounting designation during the year remained with us. Salaries for qualified accountants rise fairly quickly in the private sector in the first five

Figure 5: Staffing, 2013/14–2018/19

Prepared by the Office of the Auditor General of Ontario



years following qualification, so we also increased our salaries to our newly qualified staff in order to remain competitive. These increases are in line with the public-sector salary ranges.

Staff departures were experienced due both to the market for professional accountants remaining fairly robust and to the retirement of a number of long-term staff. Our hiring continues to be primarily at levels where our salaries and benefits are competitive. The growing complexity of our audits requires highly qualified, experienced staff.

Professional and Other Services

These services include both contracted CPA firms and contract specialists that assisted in our value-for-money audits, pre-election report and one-time projects. These services account for about 14% of total expenses and increased by 6% compared with the previous year to accommodate additional work requirements during peak work periods.

Given the more complex work and peak period deadlines for finalizing the financial statement audits of Crown agencies and the Province, we continue to rely on contract professionals to assist us in meeting our legislated responsibilities. As

such, we prudently engage contract staff when necessary to cover for special assignments and parental or unexpected leaves, as well as to help us manage peak workloads during the late spring and summer months.

Contract costs for the CPA firms with which we work remain high because of the higher salaries they pay their staff. We continue to competitively test the market for such services as contracts expire.

Rent

Our costs for accommodation increased by 1% compared with last year, due to an increase in utility costs billed under our 10-year lease.

Travel and Communications

Our travel and communications costs increased by 20% as the audits selected required increased travel compared with last year.

Training, Supplies and Equipment

Our training, supplies and equipment costs increased by 2% compared with last year, due to higher amortization expense as a result of increased capital expenditures.

Statutory Expenses

These expenses include the Auditor General's salary and fees for contracted experts. Statutory expenses were 40% higher than last year, as specialized accounting advisory services were required for our special report on the Fair Hydro Plan, the special audit of the Niagara Peninsula Conservation Authority, and the Review of the 2018 Pre-Election Report on Ontario's Finances.

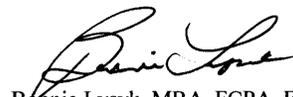
Financial Statements

MANAGEMENT'S RESPONSIBILITY FOR FINANCIAL STATEMENTS

The accompanying financial statements of the Office of the Auditor General of Ontario are the responsibility of management of the Office. Management has prepared the financial statements to comply with the *Auditor General Act* and with Canadian public sector accounting principles.

Management maintains a system of internal controls that provides reasonable assurance that transactions are appropriately authorized, assets are adequately safeguarded, appropriations are not exceeded, and the financial information contained in these financial statements is reliable and accurate.

The financial statements have been audited by the firm of Adams & Miles LLP, Chartered Professional Accountants. Their report to the Board of Internal Economy, stating the scope of their examination and opinion on the financial statements, appears on the following page.



Bonnie Lysyk, MBA, FCPA, FCA, LPA
Auditor General
September 21, 2018



Gus Chagani, CPA, CA
Assistant Auditor General
September 21, 2018



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INDEPENDENT AUDITOR'S REPORT

To the Board of Internal Economy of
Legislative Assembly of Ontario

We have audited the accompanying financial statements of the Office of the Auditor General of Ontario, which comprise the statement of financial position as at March 31, 2018 and the statements of operations and accumulated deficit, changes in net financial debt and cash flows for the year then ended, and a summary of significant accounting policies and other explanatory information.

Management's Responsibility for the Financial Statements

Management is responsible for the preparation and fair presentation of these financial statements in accordance with Canadian public sector accounting standards, and for such internal control as management determines is necessary to enable the preparation of financial statements that are free from material misstatement, whether due to fraud or error.

Auditor's Responsibility

Our responsibility is to express an opinion on these financial statements based on our audit. We conducted our audit in accordance with Canadian generally accepted auditing standards. Those standards require that we comply with ethical requirements and plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement.

An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the financial statements. The procedures selected depend on our judgment, including the assessment of the risks of material misstatement of the financial statements, whether due to fraud or error. In making those risk assessments, we consider internal control relevant to the preparation and fair presentation of the Office of the Auditor General of Ontario's financial statements in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the Office of the Auditor General of Ontario's internal control. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of accounting estimates made by management, as well as evaluating the overall presentation of the financial statements.

We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our audit opinion.

Opinion

In our opinion, the financial statements present fairly, in all material respects, the financial position of the Office of the Auditor General of Ontario as at March 31, 2018 and the results of its operations and its cash flows for the year then ended in accordance with Canadian public sector accounting standards.

Adams & Miles LLP

Chartered Professional Accountants
Licensed Public Accountants

Toronto, Canada
September 21, 2018

www.adamsmiles.com

An independent firm associated
with AGN International Ltd.

Office of the Auditor General of Ontario

Statement of Financial Position

As at March 31, 2018

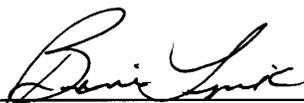
	2018 \$	2017 \$
Financial assets		
Cash	2,100,303	1,249,274
Harmonized sales taxes recoverable	176,167	174,681
	<u>2,276,470</u>	<u>1,423,955</u>
Financial liabilities		
Accounts payable and accrued liabilities (Notes 4 and 5(B))	2,748,021	2,023,392
Accrued employee benefits obligation [Note 5(B)]	1,763,000	1,837,000
Due to Consolidated Revenue Fund	209,118	177,591
Deferred lease inducement (Note 10)	115,463	147,686
	<u>4,835,602</u>	<u>4,185,669</u>
Net financial debt	(2,559,132)	(2,761,714)
Non-financial assets		
Tangible capital assets (Note 3)	1,383,654	1,328,779
Accumulated deficit	<u>(1,175,478)</u>	<u>(1,432,935)</u>

Commitments (Note 6)

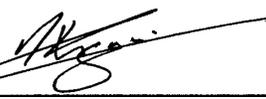
Measurement uncertainty [Note 2(F)]

See accompanying notes to financial statements.

Approved by the Office of the Auditor General of Ontario:



Bonnie Lysyk, MBA, FCPA, FCA, LPA
Auditor General



Gus Chagani, CPA, CA
Assistant Auditor General

Office of the Auditor General of Ontario

Statement of Operations and Accumulated Deficit For the Year Ended March 31, 2018

	2018 Budget (Note 12) \$	2018 Actual \$	2017 Actual \$
Expenses			
Salaries and wages	11,631,000	10,735,203	10,155,568
Employee benefits (Note 5)	3,207,700	2,833,195	2,674,172
Professional and other services	2,043,445	2,683,033	2,537,487
Office rent	1,130,000	1,097,261	1,090,269
Amortization of tangible capital assets	—	566,467	440,938
Travel and communication	409,100	373,636	312,168
Training and development	123,855	123,168	145,634
Supplies and equipment	504,800	185,622	269,509
Statutory expenses: <i>Auditor General Act</i>	315,400	316,636	311,220
<i>Government Advertising Act</i>	10,000	—	325
<i>Statutory services</i>	171,700	343,794	160,276
Total expenses (Notes 8 and 9)	19,547,000	19,258,015	18,097,566
Revenue			
Consolidated Revenue Fund – Voted appropriations [Note 2(B)]	19,547,000	19,547,000	18,565,600
Excess of revenue over expenses		288,985	468,034
Less: returned to the Province [Notes 2(B) and 11]		31,528	42,477
Net operations surplus		257,457	425,557
Accumulated deficit, beginning of year		(1,432,935)	(1,858,492)
Accumulated deficit, end of year		(1,175,478)	(1,432,935)

See accompanying notes to financial statements.

Office of the Auditor General of Ontario
Statement of Changes in Net Financial Debt
For the Year Ended March 31, 2018

	2018	2017
	\$	\$
Net operations surplus	257,457	425,557
Purchase of tangible capital assets	(621,342)	(567,496)
Amortization of tangible capital assets	566,467	440,938
Decrease in net financial debt	202,582	298,999
Net financial debt, beginning of year	(2,761,714)	(3,060,713)
Net financial debt, end of year	<u>(2,559,132)</u>	<u>(2,761,714)</u>

See accompanying notes to financial statements.

Office of the Auditor General of Ontario

Statement of Cash Flows For the Year Ended March 31, 2018

	2018	2017
	\$	\$
Operating transactions		
Net operations surplus	257,457	425,557
Amortization of tangible capital assets	566,467	440,938
Amortization of deferred lease inducement	(32,223)	(32,223)
Accrued employee benefits expense	4,000	(299,000)
	<u>795,701</u>	<u>535,272</u>
Changes in non-cash working capital		
Decrease (increase) in harmonized sales taxes recoverable	(1,486)	4,195
Increase in due to Consolidated Revenue Fund	31,527	467,188
Increase in accounts payable and accrued salaries and benefits (Note 4)	646,629	189,492
	<u>676,670</u>	<u>660,875</u>
Cash provided by operating transactions	<u>1,472,371</u>	<u>1,196,147</u>
Capital transactions		
Purchase of tangible capital assets	(621,342)	(567,496)
Increase in cash	851,029	628,651
Cash, beginning of year	<u>1,249,274</u>	<u>620,623</u>
Cash, end of year	<u><u>2,100,303</u></u>	<u><u>1,249,274</u></u>

See accompanying notes to financial statements.

Office of the Auditor General of Ontario

Notes to Financial Statements For the Year Ended March 31, 2018

1. Nature of Operations

In accordance with the provisions of the *Auditor General Act* and various other statutes and authorities, the Auditor General, through the Office of the Auditor General of Ontario (the Office), conducts independent audits of government programs, of institutions in the broader public sector that receive government grants, and of the fairness of the financial statements of the Province and numerous agencies of the Crown. In doing so, the Office promotes accountability and value-for-money in government operations and in broader public sector organizations.

Additionally, under the *Government Advertising Act, 2004*, the Office is required to review specified types of advertising, printed matter or reviewable messages proposed by government offices to determine whether they meet the standards required by the Act.

Under both Acts, the Auditor General reports directly to the Legislative Assembly.

As required by the *Fiscal Transparency and Accountability Act, 2004*, in an election year the Office is also required to report on the reasonableness of a Pre-Election Report prepared by the Ministry of Finance.

2. Summary of Significant Accounting Policies

The financial statements have been prepared in accordance with Canadian public sector accounting standards. The significant accounting policies are as follows:

(A) ACCRUAL BASIS

These financial statements are accounted for on an accrual basis whereby expenses are recognized in the fiscal year that the events giving rise to the expense occur and resources are consumed.

(B) VOTED APPROPRIATIONS

The Office is funded through annual voted appropriations from the Province of Ontario. Unspent appropriations are returned to the Province's Consolidated Revenue Fund each year. As the voted appropriation is prepared on a modified cash basis, an excess or deficiency of revenue over expenses arises from the application of accrual accounting, including the capitalization and amortization of tangible capital assets, the deferral and amortization of the lease inducement and the recognition of employee benefits expenses earned to date but that will be funded from future appropriations.

The voted appropriation for statutory expenses is intended to cover the salary of the Auditor General as well as the costs of any expert advice or assistance required to help the Office meet its responsibilities under the *Government Advertising Act* and the *Fiscal Transparency and Accountability Act*, or to conduct special assignments under Section 17 of the *Auditor General Act*.

Office of the Auditor General of Ontario

Notes to Financial Statements For the Year Ended March 31, 2018

2. Summary of Significant Accounting Policies (Continued)

(C) TANGIBLE CAPITAL ASSETS

Tangible capital assets are recorded at historical cost less accumulated amortization. Amortization of tangible capital assets is recorded on the straight-line method over the estimated useful lives of the assets as follows:

Computer hardware	3 years
Computer software	3 years
Furniture and fixtures	5 years
Leasehold improvements	The remaining term of the lease

(D) FINANCIAL INSTRUMENTS

The Office's financial assets and financial liabilities are accounted for as follows:

- Cash is subject to an insignificant risk of change in value so carrying value approximates fair value.
- Due from Consolidated Revenue Fund is recorded at cost.
- Accounts payable and accrued liabilities are recorded at cost.
- Accrued employee benefits obligation is recorded at cost based on the entitlements earned by employees up to March 31, 2018. A fair value estimate based on actuarial assumptions about when these benefits will actually be paid has not been made as it is not expected that there would be a significant difference from the recorded amount.

It is management's opinion that the Office is not exposed to any interest rate, currency, liquidity or credit risk arising from its financial instruments due to their nature.

(E) DEFERRED LEASE INDUCEMENT

The deferred lease inducement is being amortized as a reduction of rent expense on a straight-line basis over the 10-year lease period that commenced November 1, 2011.

(F) MEASUREMENT UNCERTAINTY

The preparation of financial statements in accordance with Canadian public sector accounting standards requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities at the date of the financial statements, and the reported amounts of revenue and expenses during the reporting period. Items requiring the use of significant estimates include: useful life of capital assets and accrued employee benefits obligation.

Estimates are based on the best information available at the time of preparation of the financial statements and are reviewed annually to reflect new information as it becomes available. Measurement uncertainty exists in these financial statements. Actual results could differ from these estimates. These estimates and assumptions are reviewed periodically, and adjustments are reported in the Statement of Operations and Accumulated Deficit in the year in which they become known.

Office of the Auditor General of Ontario

Notes to Financial Statements For the Year Ended March 31, 2018

3. Tangible Capital Assets

	Computer hardware \$	Computer software \$	Furniture and fixtures \$	Leasehold improvements \$	2018 Total \$
Cost					
Balance, beginning of year	857,637	271,198	308,429	986,863	2,424,127
Additions	426,035	101,995	93,312	-	621,342
Write-off of fully amortized assets	(195,447)	(8,481)	(9,711)	-	(213,639)
Balance, end of year	1,088,225	364,712	392,030	986,863	2,831,830
Accumulated amortization					
Balance, beginning of year	468,793	78,919	144,136	403,500	1,095,348
Amortization	270,363	97,908	68,561	129,635	566,467
Write-off of fully amortized assets	(195,447)	(8,481)	(9,711)	-	(213,639)
Balance, end of year	543,709	168,346	202,986	533,135	1,448,176
Net Book Value, March 31, 2018	544,516	196,366	189,044	453,728	1,383,654

	Computer hardware \$	Computer software \$	Furniture and fixtures \$	Leasehold improvements \$	2017 Total \$
Cost					
Balance, beginning of year	721,668	147,022	278,986	986,863	2,134,539
Additions	301,488	222,740	43,268	-	567,496
Write-off of fully amortized assets	(165,519)	(98,564)	(13,825)	-	(277,908)
Balance, end of year	857,637	271,198	308,429	986,863	2,424,127
Accumulated amortization					
Balance, beginning of year	431,259	125,623	101,571	273,865	932,318
Amortization	203,053	51,860	56,390	129,635	440,938
Write-off of fully amortized assets	(165,519)	(98,564)	(13,825)	-	(277,908)
Balance, end of year	468,793	78,919	144,136	403,500	1,095,348
Net Book Value, March 31, 2017	388,844	192,279	164,293	583,363	1,328,779

Office of the Auditor General of Ontario

Notes to Financial Statements For the Year Ended March 31, 2018

4. Accounts Payable and Accrued Liabilities

	2018	2017
	\$	\$
Accounts payable	916,116	540,538
Accrued salaries and benefits	1,098,905	827,854
Accrued employee benefits obligation	733,000	655,000
	<u>2,748,021</u>	<u>2,023,392</u>

Accounts payable relates largely to normal business transactions with third-party vendors and is subject to standard commercial terms. Accruals for salaries and benefits and employee benefits obligation are recorded based on employment arrangements and legislated entitlements.

5. Obligation for Employee Future Benefits

Although the Office's employees are not members of the Ontario Public Service, under provisions in the *Auditor General Act*, the Office's employees are entitled to the same benefits as Ontario Public Service employees. The future liability for benefits earned by the Office's employees is included in the estimated liability for all provincial employees that have earned these benefits and is recognized in the Province's consolidated financial statements. In the Office's financial statements, these benefits are accounted for as follows:

(A) PENSION BENEFITS

The Office's employees participate in the Public Service Pension Fund (PSPF) which is a defined benefit pension plan for employees of the Province and many provincial agencies. The Province of Ontario, which is the sole sponsor of the PSPF, determines the Office's annual payments to the fund. As the sponsor is responsible for ensuring that the pension funds are financially viable, any surpluses or unfunded liabilities arising from statutory actuarial funding valuations are not assets or obligations of the Office. The Office's required annual payment of \$881,061 (2017 - \$839,029), is included in employee benefits expense in the Statement of Operations and Accumulated Deficit.

(B) ACCRUED EMPLOYEE BENEFITS OBLIGATION

The costs of legislated severance, compensated absences and unused vacation entitlements earned by employees during the year amounted to \$601,000 (2017 - \$564,000) and are included in employee benefits in the Statement of Operations and Accumulated Deficit. The total liability for these costs is reflected in the accrued employee benefits obligation, less any amounts payable within one year, which are included in accounts payable and accrued liabilities, as follows:

Office of the Auditor General of Ontario

Notes to Financial Statements
For the Year Ended March 31, 2018

5. Obligation for Future Employee Benefits (Continued)

(B) ACCRUED EMPLOYEE BENEFITS OBLIGATION

	2018 \$	2017 \$
Total liability for severance and vacation credits	2,496,000	2,492,000
Less: Due within one year and included in accounts payable and accrued liabilities	733,000	655,000
Accrued employee benefits obligation	<u>1,763,000</u>	<u>1,837,000</u>

(C) OTHER NON-PENSION POST-EMPLOYMENT BENEFITS

The cost of other non-pension post-retirement benefits is determined and funded on an ongoing basis by the Ontario Ministry of Government Services and accordingly is not included in these financial statements.

6. Commitments

The Office has an operating lease to rent premises which expires on October 31, 2021. The minimum rental commitment for the remaining term of the lease is as follows:

	\$
2018–19	521,700
2019–20	527,100
2020–21	534,600
2021–22	314,400

The Office is also committed to pay its proportionate share of realty taxes and operating expenses for the premises amounting to approximately \$632,000 during 2018 (2017 - \$628,000).

The Office entered into negotiation with its landlord to potentially relocate in order to accommodate the landlord's building expansion project, which is scheduled to commence in fiscal 2019. Should the relocation materialize for an extended period, the rental commitment stated above may vary and the net book value of the leasehold improvements may need to be written off.

7. Public Sector Salary Disclosure Act, 1996

Section 3(5) of this Act requires disclosure of the salary and benefits paid to all Ontario public-sector employees earning an annual salary in excess of \$100,000. This disclosure for the 2017 calendar year is as follows:

Name	Position	Salary \$	Taxable Benefits \$
Lysyk, Bonnie	Auditor General	313,114	4,206
Chagani, Gus	Assistant Auditor General	180,676	271
Chiu, Rudolph	Assistant Auditor General	180,676	271

Office of the Auditor General of Ontario

Notes to Financial Statements

For the Year Ended March 31, 2018

7. Public Sector Salary Disclosure Act, 1996 (Continued)

Name	Position	Salary \$	Taxable Benefits \$
Klein, Susan	Assistant Auditor General	180,676	271
Stavropoulos, Nick	Assistant Auditor General	167,301	251
Bell, Laura	Director	154,931	232
Blair, Jeremy	Director	118,466	170
Carello, Teresa	Director	132,834	199
Chan, Ariane	Director	112,942	167
Chan, Sandy	Director	143,459	215
Cho, Kim	Director	143,463	215
Cumbo, Wendy	Director	132,836	199
Gotsis, Vanna	Director	154,931	232
Pelow, William	Director	154,929	232
Sin, Vivian	Director	132,836	199
Tsikritsis, Emanuel	Director	120,783	175
Yip, Gigi	Director	155,780	203
MacDonald, Cindy	Director, Human Resources	142,908	208
Yosipovich, Rebecca	Director, Professional Practices	122,137	175
Bove, Tino	Audit Manager	119,550	170
Budihardjo, Audelyn	Audit Manager	113,890	166
Catarino, David	Audit Manager	108,932	155
Dimitrov, Dimitar	Audit Manager	100,995	143
D'Mello, Marian	Audit Manager	108,548	149
Exaltacion, Katrina	Audit Manager	106,076	156
Gill, Rashmeet	Audit Manager	106,081	156
Herberg, Naomi	Audit Manager	128,091	191
Martino, Mary	Audit Manager	115,707	162
Muhammad, Shariq	Audit Manager	116,028	167
Rogers, Fraser	Audit Manager	116,321	169
Shah, Shreya	Audit Manager	104,613	154
Shilton, Georgegiana	Audit Manager	110,350	162
Stonell, Alice	Audit Manager	106,076	156
Wang, Jing	Audit Manager	104,613	154
Yarmolinsky, Michael	Audit Manager	104,611	154
Young, Denise	Audit Manager	119,542	170
Krishnamurphy, Varkala	Manager, Financial Accounting and Reporting	111,683	91
Pedias, Christine	Manager, Corporate Communications and Government Advertising Review	119,549	170
Randoja, Tina	Editorial and Communications Coordinator	117,653	159
Beben, Izabela	Audit Supervisor	116,502	159
Chatzidimos, Tom	Audit Supervisor	116,502	159
DeSouza, Marcia	Audit Supervisor	111,827	157
Liang Fletcher, Kandy	Audit Supervisor	100,744	142

Office of the Auditor General of Ontario

Notes to Financial Statements
For the Year Ended March 31, 2018

7. Public Sector Salary Disclosure Act, 1996 (Continued)

Name	Position	Salary \$	Taxable Benefits \$
Mohammad, Shuaib	Audit Supervisor	106,944	152
Munroe, Roger	Audit Supervisor	107,178	151
Sidhu, Pasha	Audit Supervisor	117,654	159
Tepelenas, Ellen	Audit Supervisor	116,499	159
Thomas, Zachary	Audit Supervisor	100,746	142
Tso, Cynthia	Audit Supervisor	104,636	147
Ulisse, Dora	Audit Supervisor	116,503	159
Wanchuk, Brian	Audit Supervisor	116,499	159

8. Reconciliation to Public Accounts Volume 1 Basis of Presentation

The Office's Statement of Expenses presented in Volume 1 of the Public Accounts of Ontario was prepared on a basis consistent with the accounting policies followed for the preparation of the Estimates submitted for approval to the Board of Internal Economy, under which purchases of computers and software are expensed in the year of acquisition rather than being capitalized and amortized over their useful lives. Volume 1 also excludes the accrued obligation for employee future benefits and deferred lease inducement recognized in these financial statements. A reconciliation of total expenses reported in Volume 1 to the total expenses reported in these financial statements is as follows:

	2018 \$	2017 \$
Total expenses per Public Accounts Volume 1	19,341,113	18,555,347
purchase of tangible capital assets	(621,342)	(567,496)
amortization of tangible capital assets	566,467	440,938
change in accrued future employee benefit costs	4,000	(299,000)
amortization of deferred lease inducement	(32,223)	(32,223)
	(83,098)	(457,781)
Total expenses per the Statement of Operations and Accumulated Deficit	19,258,015	18,097,566

Office of the Auditor General of Ontario

Notes to Financial Statements For the Year Ended March 31, 2018

9. Expenses by Activity

	2018				%
	Salaries and benefits	Other operating expenses	Statutory expenses	Total	
Value for money and special audits	8,833,027	2,748,221	264,758	11,846,006	61.5
Financial statement audits	4,653,961	2,262,658	354,395	7,271,014	37.8
Pre-Election Report	13,568	2,719	25,445	41,732	0.2
Government advertising	67,842	15,589	15,832	99,263	0.5
	<u>13,568,398</u>	<u>5,029,187</u>	<u>660,430</u>	<u>19,258,015</u>	<u>100.0</u>
%	70.5	26.1	3.4	100.0	

	2017				%
	Salaries and benefits	Other operating Expenses	Statutory expenses	Total	
Value for money and special audits	8,711,393	2,872,057	358,105	11,941,555	66.0
Financial statement audits	4,041,368	1,899,290	97,831	6,038,489	33.4
Government advertising	76,978	24,658	15,886	117,522	0.6
	<u>12,829,739</u>	<u>4,796,005</u>	<u>471,822</u>	<u>18,097,566</u>	<u>100.0</u>
%	70.9	26.5	2.6	100.0	

Expenses have been allocated to the Office's four (2017 – three) main activities based primarily on the hours charged to each activity as recorded by staff in the Office's time accounting system, including administrative time and overhead costs that could not otherwise be identified with a specific activity. Expenses incurred for only one activity, such as most travel costs and professional services, are allocated to that activity based on actual billings.

Office of the Auditor General of Ontario

Notes to Financial Statements For the Year Ended March 31, 2018

10. Deferred Lease Inducement

As part of the lease arrangements for its office premises, the Office negotiated a lease inducement of \$322,225 to be applied to future accommodation costs. This deferred lease inducement is being amortized as a reduction of rent expense on a straight-line basis over the 10-year lease period that commenced November 1, 2011. The Office received payment for the lease inducement in 2015.

11. Unused Appropriations

	2018 \$	2017 \$
Consolidated Revenue Fund – Voted appropriations [Note 2(B)]	19,547,000	18,565,600
Less: Appropriations received from the Province	19,515,472	18,523,123
Unused Appropriations	<u>31,528</u>	<u>42,477</u>
Funding not requested	—	7,022
Cash returned to the Province	205,887	3,232
Adjustment for deferred lease inducement	<u>(174,359)</u>	<u>32,223</u>
	<u>31,528</u>	<u>42,477</u>

12. Budgeted Figures

Budgeted figures were approved by the Board of Internal Economy and were prepared on a modified cash basis of accounting for presentation in Volume 1 of the Public Accounts of Ontario. This differs from Public Sector Accounting Standards, as discussed in Note 8.

Exhibit 1

Agencies of the Crown

1. Agencies and Offices of the Legislature whose accounts are audited by the Auditor General

Agricorp
Algonquin Forestry Authority
Cancer Care Ontario
Centennial Centre of Science and Technology (Ontario Science Centre)
Chief Electoral Officer, Election Finances Act
Election Fees and Expenses, Election Act
Financial Accountability Office of Ontario
Financial Services Commission of Ontario
Financial Services Regulatory Authority of Ontario
Grain Financial Protection Board, Funds for Producers of Grain Corn, Soybeans, Wheat and Canola
Legal Aid Ontario
Liquor Control Board of Ontario
Livestock Financial Protection Board, Fund for Livestock Producers
Motor Vehicle Accident Claims Fund, Financial Services Commission of Ontario
Northern Ontario Heritage Fund Corporation
Office of the Assembly
Office of the Children's Lawyer
Office of the Environmental Commissioner
Office of the French Language Services Commissioner
Office of the Information and Privacy Commissioner
Office of the Ombudsman
Ontario Cannabis Retail Corporation
Ontario Clean Water Agency (December 31)*

Ontario Climate Change Solutions Deployment Corporation (Green Ontario Fund)
Ontario Educational Communications Authority (TVO)
Ontario Electricity Financial Corporation
Ontario Energy Board
Ontario Financing Authority
Ontario Food Terminal Board
Ontario Heritage Trust
Ontario Immigrant Investor Corporation
Ontario Media Development Corporation
Ontario Mortgage and Housing Corporation
Ontario Northland Transportation Commission
Ontario Place Corporation (December 31)*
Ontario Securities Commission
Pension Benefits Guarantee Fund, Financial Services Commission of Ontario
Province of Ontario Council for the Arts (Ontario Arts Council)
Provincial Advocate for Children and Youth
Provincial Judges Pension Fund, Provincial Judges Pension Board
Public Guardian and Trustee for the Province of Ontario

2. Agencies whose accounts are audited by another auditor under the direction of the Auditor General

Niagara Parks Commission
St. Lawrence Parks Commission
Workplace Safety and Insurance Board (December 31)*

* Dates in parentheses indicate fiscal years ending on a date other than March 31.

Exhibit 2

Crown-Controlled Corporations

Corporations whose accounts are audited by an auditor other than the Auditor General, with full access by the Auditor General to audit reports, working papers and other related documents as required

Alcohol and Gaming Commission of Ontario	North West Local Health Integration Network
Agricultural Research Institute of Ontario	Ontario Capital Growth Corporation
Brampton Distribution Holdco Inc. (December 31)*	Ontario College of Trades
Central East Local Health Integration Network	Ontario French-language Educational Communications Authority
Central Local Health Integration Network	Ontario Health Quality Council
Central West Local Health Integration Network	Ontario Infrastructure and Lands Corporation (Infrastructure Ontario)
Champlain Local Health Integration Network	Ontario Lottery and Gaming Corporation
Deposit Insurance Corporation of Ontario (December 31)*	Ontario Mortgage and Housing Corporation
Education Quality and Accountability Office	Ontario Pension Board (December 31)*
eHealth Ontario	Ontario Power Generation Inc. (December 31)*
Erie St. Clair Local Health Integration Network	Ontario Tourism Marketing Partnership Corporation
Forest Renewal Trust	Ontario Trillium Foundation
Hamilton Niagara Haldimand Brant Local Health Integration Network	Ottawa Convention Centre Corporation
HealthForceOntario Marketing and Recruitment Agency	Owen Sound Transportation Company Limited
Health Shared Services Ontario (HSSOntario)	Ontario Agency for Health Protection and Promotion (Public Health Ontario)
Higher Education Quality Council of Ontario	Royal Ontario Museum
Human Rights Legal Support Centre	Science North
Hydro One Inc. (December 31)*	South East Local Health Integration Network
Independent Electricity System Operator (December 31)*	South West Local Health Integration Network
McMichael Canadian Art Collection	Toronto Central Local Health Integration Network
Metrolinx	Toronto Islands Residential Community Trust Corporation
Metropolitan Toronto Convention Centre Corporation	Toronto Waterfront Revitalization Corporation (Waterfront Toronto)
Mississauga Halton Local Health Integration Network	Trillium Gift of Life Network
Municipal Property Assessment Corporation	Walkerton Clean Water Centre
North East Local Health Integration Network	Waterloo Wellington Local Health Integration Network
North Simcoe Muskoka Local Health Integration Network	Waterfront Regeneration Trust Agency

* Dates in parentheses indicate fiscal years ending on a date other than March 31.

Exhibit 3

Organizations in the Broader Public Sector

Broader-public-sector organizations whose accounts are audited by an auditor other than the Auditor General, with full access by the Auditor General to audit reports, working papers and other related documents as required*

PUBLIC HOSPITALS (MINISTRY OF HEALTH AND LONG-TERM CARE)

Alexandra Hospital Ingersoll	Georgian Bay General Hospital
Alexandra Marine & General Hospital	Geraldton District Hospital
Almonte General Hospital	Grand River Hospital
Anson General Hospital	Grey Bruce Health Services
Arnprior Regional Health	Groves Memorial Community Hospital
Atikokan General Hospital	Guelph General Hospital
Baycrest Centre for Geriatric Care	Haldimand War Memorial Hospital
Bingham Memorial Hospital	Haliburton Highlands Health Services Corporation
Bluewater Health	Halton Healthcare Services Corporation
Brant Community Healthcare System	Hamilton Health Sciences Corporation
Brockville General Hospital	Hanover and District Hospital
Bruyère Continuing Care Inc.	Headwaters Health Care Centre
Cambridge Memorial Hospital	Health Sciences North
Campbellford Memorial Hospital	Holland Bloorview Kids Rehabilitation Hospital
Carleton Place and District Memorial Hospital	Hôpital Général de Hawkesbury and District General Hospital Inc.
Casey House Hospice	Hôpital Glengarry Memorial Hospital
Chatham-Kent Health Alliance	Hôpital Montfort
Children's Hospital of Eastern Ontario—Ottawa Children's Treatment Centre	Hôpital Notre Dame Hospital (Hearst)
Clinton Public Hospital	Hornepayne Community Hospital
Collingwood General and Marine Hospital	Hospital for Sick Children
Cornwall Community Hospital	Hôtel-Dieu Grace Healthcare
Deep River and District Hospital Corporation	Hôtel-Dieu Hospital, Cornwall
Dryden Regional Health Centre	Humber River Regional Hospital
Englehart and District Hospital Inc.	Joseph Brant Hospital
Erie Shores Healthcare	Kemptville District Hospital
Espanola General Hospital	Kingston Health Sciences Centre
Four Counties Health Services	Kirkland and District Hospital

* This exhibit only includes the more financially significant organizations in the broader public sector.

Lady Dunn Health Centre
Lady Minto Hospital at Cochrane
Lake of the Woods District Hospital
Lakeridge Health
Lennox and Addington County General Hospital
Listowel Memorial Hospital
London Health Sciences Centre
Mackenzie Health
Manitoulin Health Centre
Manitouwadge General Hospital
Markham Stouffville Hospital
Mattawa General Hospital
Muskoka Algonquin Healthcare
Niagara Health System
Nipigon District Memorial Hospital
Norfolk General Hospital
North Bay Regional Health Centre
North Shore Health Network
North of Superior Healthcare Group
North Wellington Health Care Corporation
North York General Hospital
Northumberland Hills Hospital
Orillia Soldiers' Memorial Hospital
Ottawa Hospital
Pembroke Regional Hospital Inc.
Perth and Smiths Falls District Hospital
Peterborough Regional Health Centre
Providence Care Centre (Kingston)
Providence Healthcare
Queensway-Carleton Hospital
Quinte Healthcare Corporation
Red Lake Margaret Cochenour Memorial Hospital Corporation
Religious Hospitallers of St. Joseph of the Hotel Dieu of St. Catharines
Renfrew Victoria Hospital
Riverside Health Care Facilities Inc.
Ross Memorial Hospital
Royal Victoria Regional Health Centre
Runnymede Healthcare Centre
Salvation Army Toronto Grace Health Centre
Sault Area Hospital
Scarborough and Rouge Hospital
Seaforth Community Hospital
Sensenbrenner Hospital
Services de santé de Chapleau Health Services
Sinai Health System
Sioux Lookout Meno-Ya-Win Health Centre
Smooth Rock Falls Hospital
South Bruce Grey Health Centre
South Huron Hospital Association
Southlake Regional Health Centre
St. Francis Memorial Hospital
St. Joseph's Care Group
St. Joseph's Continuing Care Centre of Sudbury
St. Joseph's General Hospital, Elliot Lake
St. Joseph's Health Care, London
St. Joseph's Health Centre (Guelph)
St. Joseph's Health Centre (Toronto)
St. Joseph's Healthcare Hamilton
St. Mary's General Hospital
St. Marys Memorial Hospital
St. Michael's Hospital
St. Thomas-Elgin General Hospital
Stevenson Memorial Hospital
Stratford General Hospital
Strathroy Middlesex General Hospital
Sunnybrook Health Sciences Centre
Temiskaming Hospital
Thunder Bay Regional Health Sciences Centre
Tillsonburg District Memorial Hospital
Timmins and District Hospital
Toronto East Health Network
Trillium Health Partners
University Health Network
University of Ottawa Heart Institute
Weeneebayko Area Health Authority
West Haldimand General Hospital
West Nipissing General Hospital
West Park Healthcare Centre
West Parry Sound Health Centre
William Osler Health System
Winchester District Memorial Hospital
Windsor Regional Hospital
Wingham and District Hospital
Women's College Hospital
Woodstock General Hospital Trust

SPECIALTY PSYCHIATRIC HOSPITALS (MINISTRY OF HEALTH AND LONG-TERM CARE)

Centre for Addiction and Mental Health	Royal Ottawa Health Care Group
Ontario Shores Centre for Mental Health Sciences	Waypoint Centre for Mental Health Care

CHILDREN'S AID SOCIETIES (MINISTRY OF CHILDREN AND YOUTH SERVICES)

Bruce Grey Child and Family Services	Family and Children's Services of Lanark Leeds and Grenville
Catholic Children's Aid Society of Hamilton	Family And Children's Services of Renfrew County
Catholic Children's Aid Society Toronto	Family and Children's Services of the Waterloo Region
Chatham-Kent Children's Services	Highland Shores Children's Aid Society
Children and Family Services for York Region	Huron-Perth Children's Aid Society
Children's Aid Society of Algoma	Jewish Family and Child Service of Greater Toronto
Children's Aid Society of Hamilton	Kawartha-Haliburton Children's Aid Society
Children's Aid Society of London and Middlesex	Kenora-Rainy River Districts Child and Family Services
Children's Aid Society of Ottawa	North Eastern Ontario Family and Children's Services
Children's Aid Society of Oxford County	Simcoe Muskoka Child, Youth and Family Services
Children's Aid Society of the City of Sarnia and the County of Lambton	The Children's Aid Society of Brant
Children's Aid Society of the District of Nipissing and Parry Sound	The Children's Aid Society of Haldimand and Norfolk
Children's Aid Society of the District of Sudbury-Manitoulin	The Children's Aid Society of the Niagara Region
Children's Aid Society of the Region of Peel	Valoris Pour Enfants Et Adultes De Prescott-Russell/Valoris for Children and Adults of Prescott-Russell
Children's Aid Society of the Regional Municipality of Halton	Windsor-Essex Children's Aid Society
Children's Aid Society of the United Counties of Stormont-Dundas-Glengarry	Akwesasne Child and Family Services
Children's Aid Society of Thunder Bay	Anishinaabe Abinoojii Family Services
Children's Aid Society of Toronto	Dilico Anishinabek Family Care
Dufferin Child and Family Services	Kina Gbezhgomi Child and Family Services
Durham Children's Aid Society	Kunuwanimano Child and Family Services
Family and Children's Services of St Thomas and Elgin	Native Child And Family Services of Toronto
Family and Children's Services of Frontenac Lennox and Addington	Nogdawindamin Family and Community Services
Family and Children's Services of Guelph and Wellington	Payukotayno James and Hudson Bay Family Services
	Six Nations of the Grand River
	Tikinagan Child and Family Services
	Weechi-it-te-Win Family Services

SCHOOL BOARDS (MINISTRY OF EDUCATION)

Algoma District School Board	Bluewater District School Board
Algonquin and Lakeshore Catholic District School Board	Brant Haldimand Norfolk Catholic District School Board
Avon Maitland District School Board	Bruce-Grey Catholic District School Board
Bloorview MacMillan School Authority	Campbell Children's School Authority

Catholic District School Board of Eastern Ontario	London District Catholic School Board
Conseil des écoles publiques de l'Est de l'Ontario	Moose Factory Island District School Area Board
Conseil scolaire catholique Providence	Moosonee District School Area Board
Conseil scolaire catholique MonAvenir	Near North District School Board
Conseil scolaire de district catholique de l'Est ontarien	Niagara Catholic District School Board
Conseil scolaire de district catholique des Aurores boréales	Niagara Peninsula Children's Centre School Authority
Conseil scolaire de district catholique des Grandes Rivières	Nipissing-Parry Sound Catholic District School Board
Conseil scolaire de district catholique du Centre-Est de l'Ontario	Northeastern Catholic District School Board
Conseil scolaire de district catholique du Nouvel-Ontario	Northwest Catholic District School Board
Conseil scolaire de district catholique Franco-Nord	Ottawa Catholic District School Board
Conseil scolaire de district du Nord-Est de l'Ontario	Ottawa-Carleton District School Board
Conseil scolaire public du Grand Nord de l'Ontario	Peel District School Board
Conseil scolaire Viamonde	Penetanguishene Protestant Separate School Board
District School Board of Niagara	Peterborough Victoria Northumberland and Clarington Catholic District School Board
District School Board Ontario North East	Rainbow District School Board
Dufferin-Peel Catholic District School Board	Rainy River District School Board
Durham Catholic District School Board	Renfrew County Catholic District School Board
Durham District School Board	Renfrew County District School Board
Grand Erie District School Board	Simcoe County District School Board
Greater Essex County District School Board	Simcoe Muskoka Catholic District School Board
Halton Catholic District School Board	St. Clair Catholic District School Board
Halton District School Board	Sudbury Catholic District School Board
Hamilton-Wentworth Catholic District School Board	Superior North Catholic District School Board
Hamilton-Wentworth District School Board	Superior-Greenstone District School Board
Hastings and Prince Edward District School Board	Thames Valley District School Board
Huron-Perth Catholic District School Board	Thunder Bay Catholic District School Board
Huron-Superior Catholic District School Board	Toronto Catholic District School Board
James Bay Lowlands Secondary School Board	Toronto District School Board
John McGivney Children's Centre School Authority	Trillium Lakelands District School Board
Kawartha Pine Ridge District School Board	Upper Canada District School Board
Keewatin-Patricia District School Board	Upper Grand District School Board
Kenora Catholic District School Board	Waterloo Catholic District School Board
KidsAbility School Authority	Waterloo Region District School Board
Lakehead District School Board	Wellington Catholic District School Board
Lambton Kent District School Board	Windsor-Essex Catholic District School Board
Limestone District School Board	York Catholic District School Board
	York Region District School Board

COLLEGES (MINISTRY OF TRAINING, COLLEGES AND UNIVERSITIES)

Algonquin College of Applied Arts and Technology	Humber College Institute of Technology and Advanced Learning
Cambrian College of Applied Arts and Technology	Lambton College of Applied Arts and Technology
Canadore College of Applied Arts and Technology	Loyalist College of Applied Arts and Technology
Centennial College of Applied Arts and Technology	Mohawk College of Applied Arts and Technology
Collège Boréal d'arts appliqués et de technologie	Niagara College of Applied Arts and Technology
Collège d'arts appliqués et de technologie La Cité collégiale	Northern College of Applied Arts and Technology
Conestoga College Institute of Technology and Advanced Learning	Sault College of Applied Arts and Technology
Confederation College of Applied Arts and Technology	Seneca College of Applied Arts and Technology
Durham College of Applied Arts and Technology	Sheridan College Institute of Technology and Advanced Learning
Fanshawe College of Applied Arts and Technology	Sir Sandford Fleming College of Applied Arts and Technology
George Brown College of Applied Arts and Technology	St. Clair College of Applied Arts and Technology
Georgian College of Applied Arts and Technology	St. Lawrence College of Applied Arts and Technology

Exhibit 4

Treasury Board Orders

Under subsection 12(2)(e) of the *Auditor General Act*, the Auditor General is required to annually report all orders of the Treasury Board made to authorize payments in excess of appropriations, stating the date of each order, the amount authorized and the amount expended. These are outlined

in the following table. Although ministries may track expenditures related to these orders in more detail by creating accounts at the sub-vote and item level, this schedule summarizes such expenditures at the vote and item level.

Ministry	Date of Order	Authorized (\$)	Expended (\$)
Accessibility Directorate of Ontario	Jun 6, 2017	100,000	—
		100,000	—
Advanced Education and Skills Development	May 18, 2017	500,000	—
	Jun 13, 2017	1,100,000	—
	Nov 14, 2017	118,000,000	118,000,000
	Nov 28, 2017	20,000,000	20,000,000
	Feb 15, 2018	5,234,900	4,399,700
	Feb 27, 2018	85,000,000	63,544,423
	Mar 8, 2018	10,000,000	221,521
	Mar 20, 2018	24,492,600	—
	Mar 27, 2018	14,550,000	2,120,399
	Apr 5, 2018	12,300,000	—
		291,177,500	208,286,043
Agriculture, Food and Rural Affairs	Sep 25, 2017	237,500	237,500
	Nov 28, 2017	24,901,700	15,029,396
	Dec 12, 2017	38,000,000	26,821,926
	Mar 20, 2018	7,500,000	6,815,943
		70,639,200	48,904,765
Attorney General	Aug 16, 2017	131,000	131,000
	Sep 25, 2017	10,000,000	10,000,000
	Dec 12, 2017	4,858,700	4,855,289
	Dec 19, 2017	65,200	—
	Feb 27, 2018	54,444,700	47,111,541
	Mar 20, 2018	1,478,000	1,478,000
	Apr 12, 2018	3,950,000	3,331,132
		74,927,600	66,906,962

Ministry	Date of Order	Authorized (\$)	Expended (\$)
Cabinet Office	May 30, 2017	500,000	500,000
	Jun 06, 2017	2,500,000	2,500,000
	Jul 18, 2017	250,000	250,000
	Aug 16, 2017	805,700	805,700
	Sep 12, 2017	1,089,900	752,239
	Sep 13, 2017	150,000	—
	Sep 27, 2017	100,000	—
	Oct 25, 2017	1,000,000	—
	Mar 20, 2018	628,600	628,305
		7,024,200	5,436,244
Children and Youth Services	May 18, 2017	250,000	—
	Jun 06, 2017	300,000	300,000
	Aug 09, 2017	1,000,000	1,000,000
	Nov 28, 2017	27,700,000	22,152,810
	Dec 19, 2017	7,321,900	5,041,400
	Mar 20, 2018	7,235,400	6,937,066
	Mar 20, 2018	45,376,600	40,307,538
		89,183,900	75,738,814
Citizenship and Immigration	Jun 06, 2017	50,000	—
	Feb 15, 2018	942,400	—
	Mar 14, 2018	1,420,000	332,505
		2,412,400	332,505
Community and Social Services	Jul 25, 2017	2,175,800	—
	Jul 25, 2017	75,000	75,000
	Sep 12, 2017	5,000,000	4,756,171
	Oct 31, 2017	800,000	—
	Dec 19, 2017	12,171,100	—
	Mar 20, 2018	10,066,900	1,780,269
	Apr 12, 2018	3,000,000	2,387,192
		33,288,800	8,998,632
Community Safety and Correctional Services	Aug 16, 2017	1,650,800	—
	Oct 17, 2017	679,200	679,200
	Nov 28, 2017	1,928,700	943,600
	Nov 28, 2017	1,410,300	1,410,300
	Nov 30, 2017	2,500,000	1,707,025
	Mar 20, 2018	70,240,400	64,222,866
		78,409,400	68,962,991
Economic Development and Growth/ Research, Innovation and Science	Jul 25, 2017	5,000,000	—
	Dec 12, 2017	900,000	—
	Mar 20, 2018	2,000,000	—
	Mar 20, 2018	1,000,000	1,000,000
	Mar 20, 2018	18,591,900	11,676,544
	Apr 10, 2018	1,193,000	959,586
		28,684,900	13,636,130

Ministry	Date of Order	Authorized (\$)	Expended (\$)
Education	May 18, 2017	8,280,000	—
	Jun 06, 2017	1,000,000	—
	Dec 12, 2017	146,481,500	98,990,742
	Feb 15, 2018	8,145,300	3,682,503
	Mar 09, 2018	50,750,000	27,706,417
	Mar 20, 2018	30,771,900	2,507,881
		245,428,700	132,887,543
Energy	Dec 12, 2017	2,000,000	—
	Feb 15, 2018	2,646,000	1,386,917
	Sep 12, 2018	1,639,000,000	1,370,177,410
		1,643,646,000	1,371,564,327
Environment and Climate Change	Jun 27, 2017	2,743,700	2,743,700
	Jul 25, 2017	3,000,000	1,723,815
	Sep 20, 2017	600,000	—
	Dec 13, 2017	4,000,000	—
	Feb 15, 2018	806,500	—
	Feb 27, 2018	11,232,000	10,714,379
		22,382,200	15,181,894
Finance	Jun 13, 2017	38,275,000	3,488,216
	Jun 27, 2017	210,000	—
	Dec 19, 2017	500,000	148,050
	Feb 26, 2018	4,586,800	582,977
	Jul 24, 2018	305,000,000	304,681,700
		348,571,800	308,900,943
Francophone Affairs	Jun 06, 2017	300,000	300,000
	Jul 25, 2017	1,118,900	1,075,409
		1,418,900	1,375,409
Government and Consumer Services	Nov 28, 2017	4,161,800	2,917,996
	Feb 06, 2018	19,979,400	19,979,400
	Feb 15, 2018	1,793,300	—
	Feb 27, 2018	680,500	680,500
	Mar 06, 2018	151,200	—
	Mar 20, 2018	11,633,600	9,158,600
		38,399,800	32,736,496
Health and Long-Term Care	Aug 16, 2017	28,274,100	28,274,100
	Dec 07, 2017	1,000,000	—
	Mar 06, 2018	17,199,000	8,747,021
	Mar 20, 2018	395,324,100	314,384,822
	Jul 24, 2018	42,426,100	10,060,487
	Sep 12, 2018	713,475,000	631,231,782
		1,197,698,300	992,698,212

Ministry	Date of Order	Authorized (\$)	Expended (\$)
Indigenous Relations and Reconciliation	May 18, 2017	14,803,800	14,803,800
	Jun 06, 2017	440,000	440,000
	Aug 16, 2017	1,312,700	1,290,572
	Oct 17, 2017	1,118,900	1,118,900
	Oct 17, 2017	1,800,000	1,800,000
	Nov 28, 2017	600,000	600,000
	Feb 06, 2018	1,091,500	500,000
	Apr 09, 2018	433,900	433,900
	Apr 10, 2018	102,500,000	102,500,000
	Apr 10, 2018	5,198,600	5,198,600
	Jul 24, 2018	11,850,000	10,258,441
	Jul 31, 2018	444,000,000	444,000,000
	Sep 12, 2018	536,608,000	536,607,433
		1,121,757,400	1,119,551,646
Infrastructure	Aug 16, 2017	43,700,000	34,867,054
	Oct 17, 2017	8,950,000	8,950,000
	Jan 23, 2018	2,116,000	2,116,000
	Mar 06, 2018	3,303,400	2,934,938
	Mar 20, 2018	14,900,000	6,264,000
		72,969,400	55,131,992
International Trade	Jun 06, 2017	600,000	—
	Sep 25, 2017	2,542,100	2,542,100
	Mar 20, 2018	546,000	147,565
		3,688,100	2,689,665
Labour	Jun 13, 2017	688,300	597,087
	Aug 16, 2017	1,403,100	—
	Aug 16, 2017	6,742,300	5,469,225
	Dec 07, 2017	1,050,000	1,050,000
	Feb 15, 2018	2,171,000	2,171,000
	Feb 27, 2018	3,566,000	1,089,682
	Mar 14, 2018	660,000	—
		16,280,700	10,376,994
Municipal Affairs/Housing	Jul 25, 2017	1,252,200	46,800
	Sep 25, 2017	383,300	297,727
	Nov 28, 2017	12,876,000	10,288,087
	Feb 27, 2018	3,650,000	1,034,937
	Mar 06, 2018	400,000	—
	Apr 04, 2018	2,399,700	—
		20,961,200	11,667,551
Natural Resources and Forestry	Aug 16, 2017	466,200	272,200
	Sep 12, 2017	20,000,000	20,000,000
	Sep 25, 2017	30,000,000	30,000,000
	Dec 12, 2017	17,500,000	17,500,000
	Feb 15, 2018	202,100	202,100
	Feb 27, 2018	15,253,900	13,392,266
		83,422,200	81,366,566

Ministry	Date of Order	Authorized (\$)	Expended (\$)
Northern Development and Mines	Jun 06, 2017	25,000	—
	Oct 31, 2017	3,900,000	—
	Mar 20, 2018	2,721,700	—
	Mar 20, 2018	8,200,000	7,473,125
		14,846,700	7,473,125
Seniors Affairs	Jun 06, 2017	300,000	—
	Oct 31, 2017	335,000	—
	Feb 06, 2018	537,000	416,255
	Feb 15, 2018	2,870,000	—
		4,042,000	416,255
Status of Women	Nov 06, 2017	100,000	100,000
	Nov 28, 2017	917,500	706,948
	Mar 06, 2018	1,162,600	—
		2,180,100	806,948
Tourism, Culture and Sport	Jun 06, 2017	5,000,000	5,000,000
	Jun 13, 2017	1,000,000	—
	Oct 31, 2017	500,000	500,000
	Nov 06, 2017	780,000	780,000
	Dec 19, 2017	216,100	216,100
	Mar 20, 2018	1,850,000	1,082,036
	Mar 20, 2018	169,744,800	169,744,721
		179,090,900	177,322,857
Transportation	Aug 16, 2017	7,800,000	—
	Aug 16, 2017	3,255,000	—
	Feb 27, 2018	72,900,000	30,654,022
		83,955,000	30,654,022
Treasury Board Secretariat	Aug 16, 2017	1,000,000	—
	Aug 16, 2017	99,409,300	—
	Sep 12, 2017	198,317,900	—
	Nov 14, 2017	3,300,000	—
	Nov 28, 2017	99,145,000	—
	Nov 28, 2017	9,536,000	—
	Feb 06, 2018	3,000,000	2,869,914
	Feb 27, 2018	478,324,300	—
	Mar 08, 2018	43,156,500	34,226,556
	Mar 20, 2018	20,808,300	—
	Mar 20, 2018	19,000,000	—
	Aug 14, 2018	447,299,500	—
	Sep 12, 2018	2,388,718,000	—
	3,811,014,800	37,096,470	
Total Treasury Board Orders		9,587,602,100	4,887,102,001



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