

Legislative
Assembly of
Ontario



Assemblée
législative de
l'Ontario

STANDING COMMITTEE ON PUBLIC ACCOUNTS

TOWARD BETTER ACCOUNTABILITY

(Chapter 5, 2015 Annual Report of the
Office of the Auditor General of Ontario)

2nd Session, 41st Parliament
65 Elizabeth II

ISBN 978-1-4606-8869-4 (Print)
ISBN 978-1-4606-8871-7 [English] (PDF)
ISBN 978-1-4606-8873-1 [French] (PDF)
ISBN 978-1-4606-8870-0 [English] (HTML)
ISBN 978-1-4606-8872-4 [French] (HTML)

Legislative
Assembly of
Ontario



Assemblée
législative de
l'Ontario

The Honourable Dave Levac, MPP
Speaker of the Legislative Assembly

Sir,

Your Standing Committee on Public Accounts has the honour to present its Report and commends it to the House.

Ernie Hardeman, MPP
Chair of the Committee

Queen's Park
December 2016

STANDING COMMITTEE ON PUBLIC ACCOUNTS

MEMBERSHIP LIST

2nd Session, 41st Parliament

ERNIE HARDEMAN
Chair

LISA MACLEOD
Vice-Chair

JOHN FRASER

PERCY HATFIELD

*MONTE KWINTER

HARINDER MALHI

PETER MILCZYN

JULIA MUNRO

*ARTHUR POTTS

*CHRIS BALLARD and LOU RINALDI were replaced by MONTE KWINTER and ARTHUR POTTS on September 13, 2016.

CATHERINE FIFE regularly served as a substitute member of the Committee.

VALERIE QUIOC LIM
Clerk of the Committee

BEN ELLING
Research Officer

IAN MORRIS
Research Officer

CONTENTS

PREAMBLE	1
ACKNOWLEDGEMENTS	1
OVERVIEW	1
AUDIT OBJECTIVE AND SCOPE	1
ISSUES RAISED IN THE AUDIT AND BEFORE THE COMMITTEE	2
Delays in the Public Release of Annual Reports	2
Changes to the Agencies and Appointments Accountability Directive	3
Reporting Requirements	5
Agency Governance and Education	6
CONSOLIDATED LIST OF COMMITTEE RECOMMENDATIONS	8

PREAMBLE

On April 13, 2016 the Standing Committee on Public Accounts held public hearings on the new section of the Auditor General's annual report entitled "Toward Better Accountability" that highlights subjects related to accountability, governance, and transparency (Chapter 5, *2015 Annual Report* of the Auditor General of Ontario). In 2015 this section highlighted the timeliness of provincial agencies in publicly reporting through their annual reports.

The Committee endorses the Auditor's findings and recommendations, and presents its findings, views, and recommendations in this report. The Committee requests that Treasury Board Secretariat officials provide the Clerk of the Committee with written responses to the recommendations within 120 calendar days of the tabling of the report with the Speaker of the Legislative Assembly, unless otherwise specified.

ACKNOWLEDGEMENTS

The Committee extends its appreciation to officials from the Treasury Board Secretariat (TBS) who appeared before the Committee on April 13, 2016. The Committee also acknowledges the assistance provided during the hearings and report writing deliberations by the Office of the Auditor General, the Clerk of the Committee, and staff in the Legislative Research Service.

OVERVIEW

The Auditor's *Annual Report* focuses each year on issues of and ways to improve accountability. Chapter 5 of the *2015 Annual Report* examines the timeliness of provincial agencies in publicly reporting on their activities through their annual reports.

Thorough and accurate reporting is an important component of accountability, and the preparation of an annual report is frequently a requirement for provincial entities. The Auditor's report found that there is room for improvement by some provincial agencies and many responsible ministries in meeting the required timelines for reporting.

AUDIT OBJECTIVE AND SCOPE

The objective of the Auditor's review was to assess whether the provincial agencies sampled were complying with reporting timelines as required by the Agency Establishment and Accountability Directive. The Auditor reviewed the timeliness of reporting by 57 of the largest and more significant agencies over the past three years. Requirements set forth in the new Directive (effective February 2015) were also reviewed to see whether they were likely to increase the timeliness of annual reports being made publicly available.

ISSUES RAISED IN THE AUDIT AND BEFORE THE COMMITTEE

A number of issues were raised in the audit and before the Committee; it is noted that the TBS provided answers to many questions in advance of meeting with the Committee. The Committee considers the issues below to be of particular importance.

Delays in the Public Release of Annual Reports

Timelines required for submitting and tabling annual reports are not consistent. The annual reporting requirements for some agencies, but not all, are specified in the legislation, regulation, or Order-in-Council that established the agency, or in a memorandum of understanding (MOU) between the agency and its responsible minister.

Of the 57 provincial agencies examined by the Auditor, over the past three years only 5% had their annual reports tabled within six months of fiscal year-end, 68% were tabled more than 12 months after year-end, and 6% had not been tabled.

The review also assessed whether the delays were caused by agencies failing to submit annual reports to the ministries on time, or by the ministries failing to table annual reports on time.

In 58% of the cases sampled, agencies submitted annual reports to the ministries within 120 days (four months) of their fiscal year-end over the past three years. Yet, only 5% of reports were tabled by the ministry within six months of the agencies' fiscal year-end. This indicates that the delays in tabling annual reports were more likely due to delays within the ministries than delays by the agencies.

During the hearings the Committee heard the following relating to delays in the public posting of agency annual reports:

- Greg Orencsak, then Deputy Minister of the TBS, was asked about the value of having annual reports from agencies reported accurately and on time. Mr. Orencsak stated that the annual reporting mechanism is “an important accountability and transparency tool.”
- Mr. Orencsak noted that these delays are “not acceptable, and there is more work to be done.”
- Mr. Orencsak stated that the TBS has communicated with ministry partners that timely approval of annual reports is of the utmost importance, and has urged them to work collaboratively with their ministers to make the timely approval of agency governance documents a top priority going forward.
- Mr. Orencsak stated that, as it relates to reporting requirements, “accountability and monitoring of compliance . . . belong to the responsible ministry,” so the TBS would not necessarily have been aware of compliance levels prior to the Auditor’s review.

- Mr. Orencsak stated that the TBS has committed to proposing potential amendments to the Directive to government and is in the process of working through options that would be available for Treasury Board consideration in terms of any amendments to time frames.

The Committee believes the timely reporting of agencies' annual reports is of critical importance to all Members of the Legislature and the general public.

Committee Recommendations

The Standing Committee on Public Accounts recommends that Treasury Board Secretariat:

- 1. Provide the Committee with statistics on the timeliness of all agency submissions and public reporting of annual reports for agencies' 2015 fiscal year results.**
- 2. Provide the Committee with a summary of steps already taken to improve the timely ministerial approval of agency annual reports, as well as a detailed plan outlining what further steps will be taken to improve the timeliness of these approvals.**
- 3. Provide the Committee with a jurisdictional analysis of timelines and best practices for filing in other provincial governments. As well, provide the steps and associated time frames Treasury Board Secretariat will take to better align Ontario with best practices used in other Provinces for the timely release (or tabling) of annual reports.**

Changes to the Agencies and Appointments Accountability Directive

Before February 2015 the Agency Establishment and Accountability Directive required agencies (except advisory agencies and agencies with differing legislated requirements) to submit an annual report to the responsible minister within 120 days of the end of their fiscal year, or within 90 days if the agency did not have a governing board. Annual reports were required to include the agency's financial statements, with actual results, variances, and explanations of the variances against estimates.

In February 2015 a new Agencies and Appointments Directive was approved by Management Board of Cabinet and took effect immediately, replacing the previous directive's annual reporting requirements. The new Directive stipulates what must be included in the agencies' annual reports, and includes new reporting requirements beyond those outlined previously. For example, in addition to the financial reporting formerly required, annual reports under the new Directive must also contain a description of activities that took place over the year, an analysis of operational and financial performance, and a discussion of performance targets achieved and of action(s) to be taken when targets were not met.

However, the February 2015 Directive eliminated time frames for ministers to approve annual reports for most agencies. It also eliminated the requirement for annual reports to be tabled in the Legislature (unless specified by the law that established the relevant agency or the MOU with their responsible minister). However, it added a requirement for annual reports to be posted on a public website within 30 days of the minister's approval or tabling in the Legislative Assembly, where tabling is required.

The July 2016 update to the Directive re-established a time frame for ministers to approve annual reports. It stipulates that ministers must approve and, where required by statute, table in the Legislative Assembly an agency's annual report within 60 days of the ministry's receipt of the report from the agency.

The Committee is concerned with how the Legislature will be notified of annual reports becoming available if an agency is not required to table the report before the Legislature.

During the hearings the Committee heard the following relating to changes to the directive:

- The Auditor, providing a point of clarification, stated that “the new directive of February 2015 currently indicates . . . that there is no deadline for when a ministry needs to table [an annual report] in the Legislative Assembly.”
- Mr. Orencsak stated that of the 125 agencies that are required to prepare an annual report, 106 are required to table the report in the Legislature.
- Mr. Orencsak noted that the TBS is committed to working with the Legislative Assembly to determine the best way to notify legislators when a report has been released.
- Mr. Orencsak also noted that all elected officials continue to have immediate access to agency annual reports, business plans, and MOUs for 125 provincial agencies and expenses for all provincial agencies as soon as they are published online.
- Mr. Orencsak noted that there “may be things the government would be willing to do to make the directive even more effective in terms of bringing more consistency to, for example, the requirements, how those requirements are applied and where the information resides when it comes to particular requirements to bring greater consistency, and frankly, simplicity to the rules.”

Committee Recommendation

The Standing Committee on Public Accounts recommends that Treasury Board Secretariat:

- 4. Provide the Committee with a plan to engage the Clerk of the Legislative Assembly to ensure legislators are notified when a report has been released, including timelines.**

Reporting Requirements

Reporting requirements for provincial agencies can vary.

- For some agencies, the statute, regulation, or Order-in-Council that established the agency directs the agency to complete its annual report and submit it to the responsible minister within a set number of days after the end of the agency's fiscal year.
- In some cases, if the statute establishing the agency has not specified when the annual report is to be submitted, a Memorandum of Understanding (MOU) between the agency and its responsible minister may do so.
- Some of the statutes that established an agency or MOUs between the agency and the responsible minister further stipulate that the minister table the annual report in the Legislature within a set time period.

The review found that less than one-quarter of the agencies sampled had specific time frames legislated for submitting and/or tabling their annual reports and those legislated time frames were often not met. Similarly, required time frames set out in MOUs (for agencies without legislated time frames) were often not met.

For example, annual reports were not tabled in the Legislature in accordance with their Act for eHealth Ontario, Metrolinx, and the Ontario Energy Board.

During the hearings the Committee heard the following relating to agency reporting requirements:

- Mr. Orencsak stated that agencies are now required to provide an annual report that contains quantitative financial information, as well as qualitative information such as what activities an agency has been involved with over the year.
- Mr. Orencsak stated that agencies are now required to publicly post all governance documents within 30 days of ministerial approval.
- Mr. Orencsak noted that in the 2016 budget, the government plans to introduce mandate letters for every board-governed provincial agency and make those mandate letters publicly available. A review of this mandate will be required at least once every seven years.

To date, mandate reviews for 20 provincial agencies have been completed, with another 36 reviews underway.

- Mr. Orencsak stated that the TBS has undertaken a legislative review of all legislation applicable to the 185 agencies to identify all annual-report-related references. The review identified

130 references in 64 statutes, 10 regulations, and five orders-in-council affecting 19 ministries and 120 agencies.

- Mr. Orencsak stated that TBS has been working with ministries to encourage them to consider updates to legislation regarding annual reporting requirements.

Committee Recommendations

The Standing Committee on Public Accounts recommends that Treasury Board Secretariat:

- 5. Provide the Committee with a summary of the results of the legislative review that has been undertaken, including the identification of opportunities to**
 - a) coordinate legislative amendments to help eliminate inconsistencies in reporting requirements between the Agencies and Appointments Directive, applicable legislation, and agencies' MOUs; and**
 - b) create a more consistent way to publicly report all annual reports.**
- 6. In consultation with the Clerk of the Legislative Assembly, develop a mechanism for tracking the public release of annual reports and determine how best to make this information available to the Members of the Legislative Assembly. This tracking mechanism should include required time frames for the public release/tabling of each agency's annual report and the actual release date.**

Agency Governance and Education

The Committee supports ongoing efforts to improve the governance of agencies and provide opportunities to educate agency board members, especially as it relates to new rules and directives.

During the hearings the Committee heard the following relating to agency governance and education:

- Mr. Orencsak noted that the TBS has developed comprehensive guidance material for provincial agencies and ministries to support new compliance requirements.
- Mr. Orencsak noted that the TBS has set up a table of ministry executives who are involved in agency relations and agency oversight. This group works as a collaborative community of practice to help communicate important information to agencies, as well as share best practices.

- Mr. Orencsak stated that there are mechanisms in the new Agencies and Appointments Directive that require the chair and the CEO of an agency to provide an attestation that they are following the rules that apply to them, and the policies that they are subject to.

CONSOLIDATED LIST OF COMMITTEE RECOMMENDATIONS

The Standing Committee on Public Accounts recommends that Treasury Board Secretariat:

- 1. Provide the Committee with statistics on the timeliness of all agency submissions and public reporting of annual reports for agencies' 2015 fiscal year results.**
- 2. Provide the Committee with a summary of steps already taken to improve the timely ministerial approval of agency annual reports, as well as a detailed plan outlining what further steps will be taken to improve the timeliness of these approvals.**
- 3. Provide the Committee with a jurisdictional analysis of timelines and best practices for filing in other provincial governments. As well, provide the steps and associated time frames Treasury Board Secretariat will take to better align Ontario with best practices used in other Provinces for the timely release (or tabling) of annual reports.**
- 4. Provide the Committee with a plan to engage the Clerk of the Legislative Assembly to ensure legislators are notified when a report has been released, including timelines.**
- 5. Provide the Committee with a summary of the results of the legislative review that has been undertaken, including the identification of opportunities to**
 - a) coordinate legislative amendments to help eliminate inconsistencies in reporting requirements between the Agencies and Appointments Directive, applicable legislation, and agencies' MOUs; and**
 - b) create a more consistent way to publicly report all annual reports.**
- 6. In consultation with the Clerk of the Legislative Assembly, develop a mechanism for tracking the public release of annual reports and determine how best to make this information available to the Members of the Legislative Assembly. This tracking mechanism should include required time frames for the public release/tabling of each agency's annual report and the actual release date.**