Legislative
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STANDING COMMITTEE ON PUBLIC ACCOUNTS

BRAMPTON CIVIC HOSPITAL PUBLIC-PRIVATE PARTNERSHIP PROJECT

(Section 3.03, 2008 Annual Report of the Auditor General of Ontario)

2nd Session, 39th Parliament
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The Honourable Steve Peters, 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.

Norman W. Sterling, MPP
Chair

Queen's Park
May 2010

STANDING COMMITTEE ON PUBLIC ACCOUNTS
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LIST OF CHANGES TO COMMITTEE MEMBERSHIP

LAURA ALBANESE was replaced by DAVID RAMSAY on September 15, 2009.

ERNIE HARDEMAN was replaced by TED ARNOTT on September 15, 2009.

TED ARNOTT was replaced by PETER SHURMAN on February 24, 2010.

PHIL MCNEELY was replaced by AILEEN CARROLL on March 9, 2010.

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INTRODUCTION

In 2003 the William Osler Health Centre (WOHC) reached an agreement to build a new Brampton Civic Hospital under a public-private partnership (P3), following a decision by the government in 2001 that P3s had to be considered before the government would commit funding to new hospitals.* In his audit report on the Brampton Civic Hospital P3 Project, the Auditor General (Auditor) noted that the costs and benefits of alternative procurement processes for the new hospital, such as traditional procurement – where the government designs and builds – were not adequately assessed. The Auditor concluded that the all-in cost for the Brampton Civic Hospital could well have been lower had the hospital and related non-clinical services been procured under the traditional procurement approach in this case.

Developments since WOHC's 2003 agreement to build the Brampton Civic Hospital under the P3 model include the following:

- In 2004 Ontario released *Building a Better Tomorrow*, a framework that stipulates the fundamental principles regarding private sector involvement in public infrastructure development. The framework incorporates procurement principles.
- In November 2005, a Crown agency, Infrastructure Ontario, was established. Its mandate is to oversee delivery of all alternative financing and procurement (AFP) projects in Ontario. (The current P3 process in Ontario is called AFP.)
- Under the 2005 *ReNew Ontario* public infrastructure investment plan, AFP projects are to undergo a value-for-money analysis by independent consultants to ensure potential cost savings in comparison with a traditional procurement approach.

The Auditor shared the key findings and recommendations from his Brampton Civic Hospital Public-private Partnership Project report (section 3.03 of the Auditor's *2008 Annual Report*) with management of the William Osler Health Centre, Infrastructure Ontario, the Ministry of Energy and Infrastructure and the Ministry of Health and Long-Term Care (Ministry of Health). The Auditor noted that as with any new process there are initially lessons to be learned. Senior officials in these organizations acknowledged this and stated that the AFP process currently in place addresses the issues raised by the Auditor.

In March 2009 the Standing Committee on Public Accounts held a day of hearings on section 3.03 of the Auditor's *2008 Annual Report*. Senior officials of the above-mentioned ministries and the William Osler Health Centre appeared

* Public-private partnerships are generally contractual agreements between government and the private sector. Private-sector businesses provide assets and deliver services, and the various partners share the responsibilities and business risks. Governments enter into P3s because the agreements provide an opportunity to transfer risks to the private sector, allow both sectors to focus on what they do best, and accelerate investment to bridge the gap between the need for public infrastructure and the government's financial capacity.

before the Committee. (For a transcript of the hearings, see Committee *Hansard,* March 25, 2009.)

The Committee endorses the Auditor's findings and recommendations and would like to thank the Auditor and his team for drawing attention to important issues regarding private sector involvement in public sector infrastructure development.

In this report the Committee makes a number of recommendations and requests that the Ministries, Infrastructure Ontario and WOHC collectively provide the Committee Clerk with a written response to each Committee recommendation within 120 calendar days of the tabling of the Committee report with the Speaker of the Legislative Assembly, unless otherwise specified in a recommendation.

OVERVIEW

William Osler Health Centre, one of Ontario's largest hospital corporations, serves Etobicoke, and Brampton and the surrounding area, the latter being one of the fastest-growing regions in Ontario. The Health Services Restructuring Commission recognized in the late 1990s that Brampton region residents needed a new hospital. In 2003, WOHC reached a P3 agreement with partners to build Brampton Civic Hospital. The partners were the Ontario Municipal Employees Retirement System (OMERS) and The Healthcare Infrastructure Company of Canada – a consortium of Ellis Don (a private-sector construction contractor) and Carillion Canada Inc. (a private-sector non-clinical service contractor).

Under the agreement the consortium would design, build and finance a new 608-bed hospital, provide certain non-clinical services and also maintain and service the facility over a 25-year period. The William Osler Health Centre agreed to a monthly payment over this 25-year period, beginning on the completion date of the hospital. WOHC also planned to redevelop Peel Memorial Hospital to provide an additional 112-bed capacity.

In October 2007, WOHC opened the new hospital. Over the three-year construction period, the cost totalled $614 million for design and construction, modifications and financing charges. The hospital had 479 beds in service. Bed expansion plans by fiscal year are as follows:

- 527 beds in 2009/10;
- 570 beds in 2010/11; and
- 608 beds by 2011/12.

At the time of the audit Peel Memorial Hospital provided no clinical services. The Ministry of Health, WOHC and the Local Health Integration Network (LHIN) were to determine the future plan for the Peel project.

Relationship between the Ministries and Infrastructure Ontario

The Ministry of Health oversees and promotes the health system for the physical and mental well-being of the people of Ontario. The Ministry of Energy and Infrastructure's mandate includes overseeing the delivery of major capital projects, such as hospitals, courthouses, roads, bridges, water systems and other public assets. Infrastructure Ontario is a Crown corporation that uses AFP to rebuild the province's infrastructure. It also provides Ontario's municipalities, universities and other eligible bodies with access to affordable loans to build and renew local public infrastructure.

The Ministry of Health and the Ministry of Energy and Infrastructure develop major capital projects together with hospitals. The Ministry of Health works with hospitals and the LHINs to determine the extent of programs and services as well as matters related to space and design, capital cost share, the local share plan, and post-construction operating funding. The Ministry of Energy and Infrastructure and Infrastructure Ontario oversee the delivery of the approved project.

OBJECTIVE OF THE AUDITOR'S AUDIT

The objective of the Auditor's audit was to assess whether

- the decision to use the P3 model was suitably supported by a competent analysis of alternatives;
- all significant risks and issues were considered and addressed appropriately in the final agreement; and
- public expenditures were incurred with due regard for economy.

ISSUES RAISED IN THE AUDIT AND BEFORE THE COMMITTEE

The Auditor noted that WOHC had invested much time and effort in planning and delivering the new hospital project. However, WOHC did not have the option of choosing which procurement to follow. Rather, it was the government of the day that decided to follow the public-private partnership (P3) approach. The Auditor noted that, before this decision was made, the costs and benefits of alternative procurement approaches, including traditional procurement, were not adequately assessed. This, along with a number of other issues the Auditor had with respect to this first P3 project at WOHC, led the Auditor to conclude that the all-in cost could well have been lower had the hospital and the related non-clinical services been procured under the traditional approach, rather than the P3 approach implemented in this case. However, as with any new process there are initially lessons to be learned. Senior officials in these organizations acknowledged this and stated that the AFP process currently in place addresses the issues raised by the Auditor.

On Time on Budget: Traditional versus AFP

The Ministry of Health said that AFP entrenches the obligation of the private sector to deliver hospital projects on time and on budget. The Committee asked whether the Ministry had ever conducted a review of traditionally procured hospital projects (for example, over the past 20 years) to determine how many of these were on time and on budget. The Ministry said that it did not believe that such a study existed.

Total Number of Hospital Projects in Ontario

According to the Ministry of Health there are about 117 hospital projects in Ontario. Thirty-nine are major projects that existed before the creation of ReNew Ontario (which works under the IO approach) and 78 are major projects that the government has announced and will span the period up to 2011-12.

Committee Recommendation

The Standing Committee on Public Accounts recommends that:

1. **Until the completion of the 117 hospital projects currently underway in Ontario, the Ministry of Health and Long-Term Care shall report back annually to the Standing Committee on Public Accounts on which projects were completed in the fiscal year, identifying those which were on time and on budget, as well as those which were not. The Ministry shall also specify the type of procurement used for each hospital project included in its report.**

AFP Process

In his audit of the Brampton Civic Hospital P3 project, the Auditor concluded that there was no formal assessment of the costs and benefits of all available procurement alternatives. He recommended that all feasible alternatives be evaluated and that consideration be given to expanding the involvement and expertise of Infrastructure Ontario to all infrastructure projects. The Ministry of Health indicated that the current AFP process addresses the Auditor's concern in that individual projects are, in effect, evaluated against policy priorities to ensure that they are consistent with those priorities. Investment decisions are made independently of the assessment of procurement alternatives.

The Ministry described AFP as a method of delivering large, complex infrastructure projects that leverages private sector resources and expertise. All of the projects undertaken by Infrastructure Ontario using the AFP methodology are guided by five key principles:

- Public interest is paramount.
- Value-for-money must be demonstrable.
- Appropriate public control and ownership must be preserved.
- Accountability must be maintained.

- All processes must be fair, transparent and efficient.

The Ministry noted that all of the hospitals using AFP are publicly owned, publicly operated and publicly accountable.

Risk Transfer

In his report on the Brampton Civic Hospital project, the Auditor said that the extent to which a properly structured traditional procurement contract could have resulted in a lower all-in cost should have been more carefully considered before making the decision to follow the P3 approach. With respect to the provision of hospital non-clinical services, he also noted that the William Osler Health Centre estimated $95 million in risk transfer to private sector partners under the P3 agreement for the risk of price fluctuations from such issues as estimation errors and inflation. The Auditor said much of this $95 million in risk transfer may not be realizable, owing to re-pricing provisions in the project agreement. The Auditor recommended that in assigning transferable risks, that all relevant factors, including those that mitigate the risks, should be considered. He also recommended that actual experience from previous AFP projects should be applied wherever possible and said that the transfer of risk should be supported by the terms of the project agreement.

The Ministry of Energy and Infrastructure said that assessment of the amount of risk transfer is not scientific but "has been brought to some level of discipline." The Ministry of Health believes that the province is getting best-value bids by looking at options to transfer the risks associated with the building project itself. It said that under AFP projects substantial risks associated with design, building, financing, operation and maintenance are transferred to the private sector.

Risk Transfer and Size of Project

The Ministry of Energy and Infrastructure examines several risk criteria before determining whether a project should be included in an AFP structure. These include the following: the amount of effective risk transfer that can take place; opportunity for innovation; and, the size of the project. The Ministry determines whether there is a large enough volume or size of project that it will obtain financing interest and consortium interest.

Other Risks

The Ministry of Energy and Infrastructure noted that other criteria, including the types of risks associated with the project (e.g., environmental risk), the types of legislative and regulatory constraints that might apply that would not allow for an AFP, and other conditions are assessed. It said that the majority of infrastructure projects in Ontario are not AFPs, even though there are several underway now.

Infrastructure Ontario Process

The Ministry of Health said that since Brampton Civic Hospital was completed, there have been significant changes in the way that large infrastructure projects

are built and financed in Ontario. It added that most of the issues related to project procurement that were highlighted in the Auditor General's report are now being better handled by Infrastructure Ontario.

Value-for-money Assessment

The Auditor noted that the value-for-money assessment conducted for the Brampton Civic Hospital project was not based on a full analysis of all relevant factors and criteria and was carried out too late to allow improvements to be made to the procurement process. The Auditor recommended that value-for-money assessments should have relevant and clear criteria, and should be conducted at the earliest stage of the procurement process. The Auditor also noted that the value-for-money assessment of Brampton Civic Hospital could be perceived as biased, as the only way that the William Osler Health Centre could receive funding for a new hospital was to follow the P3 approach. He recommended that comparing costs under the traditional approach and the AFP approach should be an objective process to reduce the risk of any bias in comparison.

The Ministry of Health said that Infrastructure Ontario's value-for-money methodology has been reviewed and judged sound by major accounting firms and by the Ontario government internal auditor. The Government of Canada's public-private partnership screening guidelines list Infrastructure Ontario's value-for-money assessment guide as its preferred tool for determining value for money. The Ministry of Health said that the Ministry of Energy and Infrastructure conducts an initial assessment of projects to determine whether they are suitable for AFP and should be assigned to Infrastructure Ontario. When projects are referred to that agency, value-for-money assessments are conducted at three stages, with increasing specificity at each new stage.

The first assessment is prior to the release of the request-for-proposal (RFP). The engineering and architectural advisers to the hospital determine a cost estimate and therefore generate a value-for-money estimate. If that value-for-money is positive, Infrastructure Ontario will approve the issuance of the RFP. When bids are received, a value-for-money assessment is carried out on the lead bidder. The third value-for-money assessment occurs at financial close, when rates are set for capital costs and borrowing costs.

Infrastructure Ontario examines the cost of borrowing both for the (private sector) consortium and for the government. It also assesses the base costs of construction, which would be the same regardless of whether construction occurs under a traditional or AFP model. The amount of risk premium that is retained by government under a traditional design-bid-build versus an AFP model is also assessed.

Infrastructure Ontario uses industry experts, value-for-money advisers and historical data to quantify the probability of risk occurring and the related cost impact. The risk premium assessment is based on a risk register for hospitals that has been developed in conjunction with Altus Helyar, a cost consulting/property surveyor firm that advises the agency. Risk assessment is based on the probability

and severity of risk, which is then measured against capital costs, creating a value-for-risk transfer. An assessment is made risk category by risk category, for each specific project, determining who will retain the risk, and then looking at the probability and severity of that risk.

In order to determine the total cost, Infrastructure Ontario also includes transaction costs and advisers' costs associated with the project. It compares the traditional (government design-bid-build) method against AFP. If the cost of the latter is less than the former, the determination is that there is value-for-money in the AFP process.

Board and Infrastructure Ontario Expertise

The Committee asked how the Ministry of Energy and Infrastructure is able to create a level playing field in negotiations with, for example, huge multinational contractors involving financiers from investment banks who are highly skilled in negotiating deals and have a degree of knowledge those negotiating deals on behalf of the hospital may not have. The Ministry said not to underestimate the sophistication of hospital board members. Some, for example, are investment bankers, corporate bankers or heads of construction firms. In addition to this, Infrastructure Ontario finds individuals with expertise in such areas as engineering, construction project management, architecture, design, and project finance. The Ministry said that Infrastructure Ontario has done a good job in assembling a sophisticated team.

Advisers are also hired who have worked with some of the financiers in other transactions. The advisers are there to provide legal advice and have expertise in Canadian international law regarding deal structuring, transaction and financial advice with respect to credit risk, and financial evaluation. Some bureaucrats have worked in project finance and have experience in infrastructure projects.

The Ministry of Energy and Infrastructure noted that a hospital deal is a procurement process. The transaction and deal structure is set by Infrastructure Ontario with the hospital, and previous guidance from the Ministry of Health. Face-to-face negotiations are less of an issue in these transactions. The Ministry of Energy and Infrastructure believes the public interest is well protected.

Projects Rejected for AFP by Infrastructure Ontario

The Ministry of Energy and Infrastructure said that Infrastructure Ontario recently determined during value-for-money assessments that two projects for Quinte Health Care and a significant reconstruction at the Ottawa General Hospital were deemed not to have value-for-money and were therefore not appropriate projects for AFP.

Committee Recommendation

The Standing Committee on Public Accounts recommends that:

2. **In light of the fact that substantial project management expertise is now available through Infrastructure Ontario for projects procured under alternative financing and procurement (AFP), the Ministry of Health and Long-Term Care shall report to the Standing Committee on Public Accounts on how the Ministry is able to monitor whether a hospital undertaking the traditional design-build procurement is able to apply a similar level of project management expertise for overseeing those projects.**

Selection of P3 Contractor

In his report on the Brampton Civic Hospital project the Auditor said that in Ontario only a limited number of contractors had the capacity to undertake large institutional projects. He also said that the mingling of capital construction and operational support services in the Brampton Civic Hospital project might have further limited competition and reduced value for money. He recommended that before a decision is made to enter into an AFP arrangement that a comprehensive market assessment should be carried out.

Approach to Services

The Ministry of Health noted that the AFP approach to services is different from the former approach for P3 projects. In December 2006 the government decided to exclude hospital ancillary services, such as laundry, patient food services, linen, porter services, and housekeeping from AFP projects. The government decided against the inclusion of such ancillary services because of operating difficulties that can arise. Only the "hard facility" (the physical plant), such as building, maintenance and engineering, which would be managed by an external entity, is included in AFP projects. All the ongoing day-to-day management of the facility such as security and parking is allowable, but is not mandatory, under AFPs. The Ministry said that the decision to exclude hospital ancillary services reaffirmed the government's commitment that AFP hospital projects are about the design, construction and maintenance of hospital facilities. Services involving direct patient care are not part of AFP agreements.

Life Cycle

According to the Ministry of Health, life cycle is an innate part of AFP long term agreements. Under these agreements, the private sector partner is responsible both for day-to-day caretaking and for maintaining the standard of the physical plant over the period of the agreement. The Brampton Civic Hospital project included full life cycle costs, as well as ancillary services.

Mr. Ken White, supervisor, WOHC, said that the life cycle component can be a key element in securing investment. He noted that owing to inflationary pressures,

hospital maintenance has been "squeezed" and that maintenance deficiencies occur as infrastructure ages.

Nature of Brampton Civic Hospital Contract, Including Lease

Mr. Ian Marshall, vice-president and general counsel, WOHC, said there is a primary project agreement between the hospital corporation and a special-purpose project company. This is the overarching agreement covering the design, build, finance, maintain and ancillary service provision aspects of the project. A number of underlying agreements between various entities facilitate the transaction. One of these is a lease between the hospital corporation and the project company, with a leaseback to the hospital corporation. The leaseback provides the hospital corporation with the right to occupy the premises, short of its own default. Mr. Marshall said that the hospital, being the owner of the fee simple and the land, is the owner of the fixture built on the premises – the facility. (He also noted that this is a matter of legal opinion.) The lease was provided because it gives the project company (for the lender's satisfaction) an interest in the facility. The lender will not receive final payment until the end of the 25 year payment period. Instead of transferring the ownership to the private corporation and then buying it back for $1 after 25 years, the same result has in effect been achieved with a lease and leaseback.

Financing Costs

In his report on the Brampton Civic Hospital P3 project, the Auditor noted that in comparing the design and construction costs of the traditional procurement approach and the P3 approach, the hospital assumed that there would be no financing under the traditional approach but that the design and construction costs under the P3 approach would be financed. The Auditor recommended that in order to ensure that all options are adequately considered, the decision to build and the decision to finance should be evaluated separately. The Auditor also noted that for the Brampton Civic Hospital project additional costs of following the P3 approach, including interest rate differentials between private-sector and government borrowing and other transaction costs, should have been included in the decision-making process. The Auditor recommended that all significant costs of AFP should be assessed in the decision-making process.

Mr. Marshall said that the private corporation receives a monthly lump sum called the unitary charge/unitary payment that was calculated in accordance with a 200 page financial model. There are a number of line items in the model breaking out components that comprise the unitary charge. These relate to such factors as construction of the facility, financing costs and day-to-day services. There is a financing charge in that agreement on the capital. The senior debt interest rate under the project agreement – the benchmark bond rate used – was 4.95%. The credit spread was 1.35% for a total senior debt coupon rate of 6.3%.

At the time that the private sector bids were submitted, those submitting had to provide a benchmark interpolated rate on Government of Canada bonds and a

specified 1.35% credit spread.[**] If the bidder could not meet the credit spread, there was an opportunity to walk away from the deal. The private sector bidders were under an obligation to raise financing as initially promised and to not exceed that cost.

Capital Cost Allowance

The Committee wanted to know whether capital cost allowance was taken into account in contract negotiations. The Ministry of Energy and Infrastructure said that the debate is not about the cost of capital, it is about risk and under P3s (during the time of the Brampton Civic Hospital procurement) it was about transfer of risk. The Ministry noted that if there is a capital cost allowance opportunity for the private sector consortium or for a member within the consortium that could be a gain share opportunity for the province.[***] However, it said that this deal was a procurement that examined certain specific criteria, such as the consortium's committed financing and its total cost of the project. The Ministry believes that such factors were of greater interest and applicability to the province than considerations of the consortium's tax treatment and where it was domiciled; how the consortium chose to structure itself and to take advantage of tax treatment in Delaware was not something that the province could affect.

The Committee said this could be affected by negotiating for a better rate if the consortium did have a capital cost allowance advantage. The Ministry of Energy and Infrastructure said that the issue would be where to stop with negotiations.

Mr. Marshall said that the hospital wanted to be insulated from considerations of tax treatment. The hospital did not want to be affected if the consortium could not realize its tax treatment expectations. How the bidding consortia structured themselves was considered proprietary, confidential information because not all consortia structured themselves the same way.

Committee Recommendation

The Standing Committee on Public Accounts recommends that:

3. **Infrastructure Ontario shall report to the Committee on whether it includes as part of its value-for-money assessment an estimate of the potential tax benefits resulting from capital cost allowances and other items included in the proposed alternative financing and procurement (AFP) arrangement that will accrue to its private sector partners.**

Disclosure and Cost of Financing for Specific Projects

The Committee asked why the Ministry of Energy and Infrastructure does not reveal the cost of financing for specific projects. The Ministry said that the cost of

[**] Interpolating a rate is the process of calculating a rate for a forward date, which does not fall on a fixed date.

[***] A gain share means that if the actual cost is lower than the target cost, then the contractor will share the gain with the purchaser.

financing is both project-specific and consortium-member-specific. The rate will vary from consortium to consortium depending on such factors as a consortium's credit rating, its structure, its ability to finance a project, and how it is able to obtain committed financing. Conditions vary over time. The borrowing rate is proprietary information of the consortium. The disclosure policy referred to above by the Ministry of Health makes information available to allow for as much transparency as possible without impacting the bidder's proprietary information.

The Committee asked whether it could obtain the average cost of financing for P3 and AFP projects. The Ministry of Energy and Infrastructure said that such information would be a data point taken out of context. Providing an average for differing projects that would vary according to such factors as design-build-finance versus design-build-finance-maintain, size of project, consortium membership, ability to borrow, and differing covenants would create disinformation. The Ministry also said that Infrastructure Ontario's policy is to not provide this information. The Committee said that it understood that Infrastructure Ontario does not disclose financing for specific projects. The Committee requested the Ministry to provide an average cost of financing, based on a grouping of projects that it felt was appropriate, in order to arrive at some determination of how much the people of Ontario are paying for financing the projects. The Ministry said it would take this under consideration.

Committee Recommendation

The Standing Committee on Public Accounts recommends that:

4. **The Ministry of Energy and Infrastructure shall report to the Standing Committee on Public Accounts on the average cost of financing of the alternative financing and procurement (AFP) hospital project agreements that have so far been signed.**

Cost Increases Subsequent to Selection of Preferred Bidder

Project Costs Defined Upfront, Including Equipment Installation Specifications

The Auditor noted in his report that WOHC paid an additional $63 million, primarily for modifications to accommodate the installation of medical equipment and questioned whether some of these costs could have been avoided with better upfront planning. WOHC acknowledged part of the cost could have been avoided with better planning. According to the Ministry of Health the AFP process was corrected so that all specifications related, for example, to equipment installation, are part of the upfront consideration.

The Ministry of Health and the hospital determine these specifications before the RFP is issued in order to limit scope changes during construction, to keep the costs on budget, and to allow the contractor to meet deadlines. This means that the major equipment decisions have already been made and are incorporated into the agreement before a building is built. The Ministry of Energy and Infrastructure said that the project specifications that the hospital is required to have in place are

critical upfront because they determine what elements will be required of the bidder, and this is integrated into the RFP documents. This means that the bidders clearly understand what they are bidding on and there is a very limited opportunity to subsequently change the scope of the project.

The Ministry of Health noted that in the case of Brampton Civic Hospital there was "some drift." It said that one of the lessons learned from the Brampton project related to pre-planning. According to the Ministry, now that the program specifications, the volumes, the size and the scope of the project are specified at the beginning, and integrated into the RFP process and the tendering, those decisions are fixed from the perspective of a clear understanding of the size and scope of the project. There will always be cost escalations over time based on money costs, construction costs, and issues related to the general economy. However, that is not only an issue for AFP, it is an issue for all Ministry of Health construction projects.

Infrastructure Ontario's project management responsibility, once the consortium has been chosen, is to represent the client (the hospital and the Ministry of Health) and to protect the client's interests. The Ministry of Energy and Infrastructure cited one example of protection of a client's interests that occurred, relating to geotechnical concerns in a project. Infrastructure Ontario argued that the client had transferred geotechnical risk to those building and that those building should have been properly prepared by understanding such matters as soil conditions. The Ministry of Energy and Infrastructure also said that once a contract has been struck, effort is required to reopen the contract, which imposes a certain degree of discipline in preventing the alteration of agreed upon specifications. The financiers introduce an additional level of discipline. The financiers want to ensure that the money they have invested will not be (adversely) affected as the financiers will not be paid until the hospital deems the project complete.

Generic Output Specifications

The Ministry of Health, in conjunction with colleagues, has been developing "generic output specifications." In cases of a new-build hospital, there are generic specifications that apply consistently and save time in the consulting and design phases. These are now built into the specifications of all like projects.

Committee Recommendation

5. **The Standing Committee on Public Accounts is encouraged by the potential for value for money in applying generic hospital design specifications and therefore requests that the Ministry of Health and Long-Term Care report on whether all hospital capital projects are required to utilize these specifications.**

Local Share of Capital and Equipment Costs

In his report, the Auditor said that WOHC initially had a significant funding shortfall for its share of the cost of the hospital's design and construction and the equipment, noting that the government will have to cover the shortfall. He

recommended that before granting approval for a new hospital, the government should carry out a more comprehensive assessment of whether the hospital has a realistic plan for raising its agreed-to local share of the funding.

The Ministry of Health said that the current funding ratio for capital projects is that the province pays for 90% of the capital costs and the local community pays for 10%. Over a number of years the Ministry has had different ratios for capital projects as well as a funding policy for furnishings and equipment. The ratio has varied from 50-50 to 80-20 and in some cases the Ministry has paid for 100% of costs, mostly related to mental health or very specialized facilities. The hospital, and hence its local community, has always been tasked with fund raising for the smaller portion of the ratio.

Since 2006 the ratio has been 90-10. The rationale for this was that as the size of projects grew, the costs associated with the full rebuild of hospitals and the replacement of total infrastructure grew. The ability of local communities to raise a large amount, such as 20%, 30% or 40% of the cost, became difficult. The government decided that it was more important to replace the infrastructure and to reconsider the funding share model, hence the change to 90-10. The Ministry of Health said that the fundraising burden on a local community is substantially less as a result of the current ratio.

An additional change related to equipment purchases. Previously the Ministry of Health paid for a significant portion of new equipment. Now hospitals pay for 100% of equipment purchases.

The Committee raised the issue of the community's difficulty in gauging and responding to an increased local share cost as project costs increase over the duration of the project. The Ministry of Health said that the planning cycle is long, lasting for years, not months. As time passes technology can change resulting in project cost increases by the end of the planning process. Costs may increase again during the RFP process and construction period owing to construction cost increases. In cases where the local share of the capital cost was 50%, these cost increases could have a significant impact on local communities. This is why the government decided to shift a significant portion of construction costs to the province.

Credit Crisis

The Ministry of Energy and Infrastructure commented on dramatic changes that have occurred in the credit markets since the fall of 2008. It said that private equity and infrastructure funds have tightened credit but that there has been a flight to quality projects that are defined by the nature and sponsor of the projects. The Ministry referred specifically to government infrastructure sponsors; these projects are attracting capital and capital interest from a wide array of financiers and financing institutions. Three projects have closed successfully since the fall for Infrastructure Ontario.

The Ministry of Energy and Infrastructure noted that under the AFP model committed financing must be provided at commercial close. Moving from commercial close to financial close can take a number of weeks or sometimes a number of months, as is the case in the tightened credit market. The Ministry said that its projects had all come to closure based on the ability of the proponents involved to secure financing. It added that it is Infrastructure Ontario's job to monitor credit availability. Infrastructure Ontario examines weekly credit conditions and also assesses how it evaluates financing and committed financing in its project agreements and RFP processes.

Project Agreement and Performance Monitoring

Brampton Civic Hospital Contractual Agreement for Non-Clinical Services

The Auditor noted in his report on the Brampton Civic Hospital that WOHC had yet to establish procedures for monitoring the performance of the private-sector partner (with regards to non-clinical services provision). He recommended that hospitals should have adequate procedures in place to verify the performance of contractors and that any resulting adjustments to the unitary payment should be made on a timely basis.

The Ministry of Health said that the service agreement for Brampton Civic hospital is large. Each area of service provision, such as housekeeping and laundry, requires lengthy contractual provisions in order to obtain continued value for money. Mr. White described these contractual agreements as detailed documents that are difficult to understand, adding that it is hard to determine what measures to use to ensure that the required level of service is obtained. The Ministry of Health said that the 2006 decision to leave non-clinical services out of AFP agreements substantially simplifies the contractual arrangements.

Mr. White noted that simplification is necessary to ensure that implementation of the agreements results in the achievement of goals and not just "a whole lot of people maintaining metrics." At Brampton Civic Hospital, any variance between 95% and 105% in, for example, volumes of housekeeping services or porter services, is adjusted every month on the bill. The hospital only pays for what it receives. There are additional metrics for such issues as satisfaction levels. These are complex, but the intention is that the hospital only pay for services received.

The Committee asked about a comment from Mr. White's predecessor that the expectation was that Brampton Civic Hospital would receive more non-clinical services as a result of the agreement. Mr. White said that the perception is that people put a good deal of effort into striking a complex but very detailed agreement, with rigorous targets. He believes this constitutes the basis for his predecessor's comment. However, he said that what is now required is to simplify matters and focus on what is required in terms of service, as opposed to some of the expectations "that I think are maybe not reasonable."

According to Mr. White the hospital's operating budget is comprised of the global budget and the post-construction operating plan (PCOP), which includes details

related to the agreement for non-clinical service provision and anticipates standard costs regarding increasing patient levels. If non-clinical service levels increase, then a larger portion of the operating budget is used for non-clinical services. However, Mr. White noted that this cost increase is covered by the Ministry of Health. The Committee asked what impetus exists to keep costs down if the Ministry covers the cost increases. Mr. White said that he is currently working with the Ministry on this matter. The goal is to determine how to make the non-clinical service provision agreement a simpler agreement and how to create the right incentives to reduce costs. Mr. White is pleased by the government's 2006 decision to exclude ancillary services from AFP agreements.

Transparency and Accountability

In his report on the Brampton Civic Hospital the Auditor said that there was no standard policy on disclosure practices specific to P3 arrangements. He recommended that in order to ensure transparency, Infrastructure Ontario should establish and communicate a policy on disclosure of AFP information.

The Ministry of Health responded to this recommendation by noting that Infrastructure Ontario is committed to transparency and follows a disclosure policy consistently on all projects. Request for qualifications are posted on MERX, which is the government's electronic tendering service, and all requests for proposals, project agreements and value-for-money reports are posted on Infrastructure Ontario's website. Methodologies related to value for money and risk transfer are also freely available.

Future Approach for Hospitals: Moving from Old to New Facilities

The Ministry of Health said that part of the rationale for the appointment of a WOHC supervisor in the Brampton Civic Hospital project related to the complexity of finishing a very large construction project and moving into a new facility, while maintaining quality patient services. The Ministry is formulating a process to manage these issues in the future. Mr. White said that he sits on the Ministry's committee that is examining how to deal with such transitions.

The Ministry said that at Brampton Civic, hospital operating changes were required because staff was not familiar with the new facility, which differed from the old facility. Populating the hospital, taking it over and designing changes in operation to accommodate the new premises have all been important issues. The Ministry is developing a more consistent approach to assist hospitals in moving from old to new facilities.

The Committee commented on past protests by local community members over the quality of services provided by Brampton Civic Hospital. Mr. White said that Brampton Civic is a state-of-the-art hospital in Ontario that, with its technology and team, is leading-edge. However, he also noted that the transition to this type of facility was dramatic and at the time, the hospital faced a number of internal issues. Mr. White said that it is necessary to anticipate such issues going forward as these can jeopardize stability and safe patient care. He said that he believes

most issues have been addressed in connection with Brampton Civic Hospital. He noted that the community had different expectations regarding where the hospital would be located and what would happen to the old hospital. He said the hospital has worked extensively with the community and has made some major gains.

Committee Recommendation

The Standing Committee on Public Accounts recommends that:

6. **The Ministry of Health and Long-Term Care shall report to the Standing Committee on Public Accounts on any guidelines that it has to facilitate the transition from old hospital facilities to new hospital facilities. If the Ministry does have such guidelines, it should also comment on how the experience of the Brampton Civic Hospital project influenced the content of the guidelines.**

LIST OF RECOMMENDATIONS

The Standing Committee on Public Accounts recommends that:

1. **Until the completion of the 117 hospital projects currently underway in Ontario, the Ministry of Health and Long-Term Care shall report back annually to the Standing Committee on Public Accounts on which projects were completed in the fiscal year, identifying those which were on time and on budget, as well as those which were not. The Ministry shall also specify the type of procurement used for each hospital project included in its report.**

2. **In light of the fact that substantial project management expertise is now available through Infrastructure Ontario for projects procured under alternative financing and procurement (AFP), the Ministry of Health and Long-Term Care shall report to the Standing Committee on Public Accounts on how the Ministry is able to monitor whether a hospital undertaking the traditional design-build procurement is able to apply a similar level of project management expertise for overseeing those projects.**

3. **Infrastructure Ontario shall report to the Committee on whether it includes as part of its value-for-money assessment an estimate of the potential tax benefits resulting from capital cost allowances and other items included in the proposed alternative financing and procurement (AFP) arrangement that will accrue to its private sector partners.**

4. **The Ministry of Energy and Infrastructure shall report to the Standing Committee on Public Accounts on the average cost of financing of the alternative financing and procurement (AFP) hospital project agreements that have so far been signed.**

5. **The Standing Committee on Public Accounts is encouraged by the potential for value for money in applying generic hospital design specifications and therefore requests that the Ministry of Health and Long-Term Care report on whether all hospital capital projects are required to utilize these specifications.**

6. **The Ministry of Health and Long-Term Care shall report to the Standing Committee on Public Accounts on any guidelines that it has to facilitate the transition from old hospital facilities to new hospital facilities. If the Ministry does have such guidelines, it should also comment on how the experience of the Brampton Civic Hospital project influenced the content of the guidelines.**