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Wednesday 13 April 2016

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Mercredi 13 avril 2016

**Standing Committee on
Public Accounts**

2015 Annual Report,
Auditor General:

Treasury Board Secretariat

**Comité permanent des
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LEGISLATIVE ASSEMBLY OF ONTARIO

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE ON PUBLIC ACCOUNTS

COMITÉ PERMANENT DES COMPTES PUBLICS

Wednesday 13 April 2016

Mercredi 13 avril 2016

The committee met at 1231 in room 151, following a closed session.

2015 ANNUAL REPORT, AUDITOR GENERAL

TREASURY BOARD SECRETARIAT

Consideration of chapter 5, Toward Better Accountability.

The Chair (Mr. Ernie Hardeman): With that, we'll call the meeting to order. I see we have all three parties present so we'll carry on.

We're here this afternoon for the consideration of Towards Better Accountability, chapter 5 of the 2015 annual report of the Auditor General. We have with us the Treasury Board Secretariat and we'll let them introduce themselves for Hansard as they start to speak. That way, we'll have the right order as they're recorded.

We will have a 20-minute presentation from you collectively, and then we'll have 20-minute rotations, starting with the government side. The second time around, the time left will be divided equally for the three parties.

With that, we thank you very much for coming in this afternoon, and we look forward to your presentation.

Mr. Greg Orencsak: Great. Thank you very much, Mr. Chair, and members of the committee. My name is Greg Orencsak and I'm the Deputy Minister of the Treasury Board Secretariat. You will often hear me refer to my ministry by the acronym TBS.

We are pleased to have the opportunity to address the committee on chapter 5 of the Auditor General's 2015 annual report. We will also outline for you how the government is taking steps with leadership and guidance from the Treasury Board to achieve better accountability for Ontario's provincial agencies.

Before I begin, I'd like to introduce one of the members of TBS's senior executive team who is joining me here today: on my right, Scot Weeres, who is the director for agency governance. Scot has a breadth of knowledge and experience when it comes to agency accountability and governance. I would also like to thank the Auditor General and her staff for the recommendations put forth in the 2015 report which will help the government to achieve even greater transparency and accountability of Ontario's provincial agencies.

Ontario residents rely daily on a wide range of services provided by provincial agencies, from advising

on disease prevention and cancer screening to dispute resolution and creating transportation systems that enhance economic prosperity, environmental sustainability and quality of life. That is why transparency and accountability is important for all of Ontario's 185 provincial agencies. By strengthening agency governance and accountability practices, the government can help to ensure that these agencies deliver high-quality services to Ontarians in an efficient and fiscally responsible way.

I'd like to begin my presentation today by highlighting each of the Auditor General's recommendations regarding provincial agency transparency and accountability and then outlining the actions the government is taking to address them. Then I will speak more generally about how the government is strengthening the transparency and accountability of Ontario's provincial agencies.

As the Auditor General indicated, most provincial agencies are required to submit annual reports to their responsible ministers within a specific time frame. Ministers are then required to review the reports and make them public, either by tabling them in the Legislature or by approving them to be released on the agency or government website.

The Auditor General reviewed 57 agencies over three years, and found that only 5% of their annual reports were tabled within six months of fiscal year-end, and indicated that in many cases, ministries had received agency annual reports for review, but they did not make them public in a timely manner. This is obviously not acceptable, and there is more work to be done.

A new agencies and appointments directive, or AAD, came into effect on February 1, 2015. It should be noted that the auditor's findings, by and large, related to the time period prior to the new Agencies and Appointments Directive coming into force. The new directive effectively modernized and streamlined the agency governance framework by improving governance, oversight and transparency.

The AAD establishes important relationships between the agency and the minister responsible: for example, a memorandum of understanding between the agency chair and minister, a minister-approved three-year business plan and an annual report that tracks progress to agreed-upon goals.

I would like to take a look at the auditor's five recommendations in turn. First, the auditor recommended that the government ensure all agencies submit their annual

reports within legislated time frames or, as directed, within the 90-to-120-day time frame, depending on the agency.

As I mentioned briefly earlier, a key component in the government's drive to greater agency transparency and accountability is the enhancement of the agencies and appointments directive. In her report, the auditor noted that "Ontario has recently enhanced the governance, accountability and transparency of its provincial agencies." She also noted that, "The agencies and appointments directive has introduced several new accountability and transparency requirements." These new requirements go above and beyond the previous requirements that Ontario had in place to promote provincial agency transparency and accountability.

One of the new requirements in the directive is that agencies must publicly post all governance documents within 30 days of ministerial approval. This is expected to greatly increase the transparency and accountability of agencies and reduce the total time taken to publicly release annual reports.

In addition, starting in June this year, and as stated in the directive, chairs and CEOs of board-governed provincial agencies will be required each year to test compliance to the following core responsibilities: (1) that their agencies are complying with applicable legislation, regulations, directives and policies; and (2) that the system of internal controls supports the integrity and reliability of an agency's financial report.

To support implementation of these new compliance declarations, the Treasury Board Secretariat has developed comprehensive guidance material for provincial agencies and ministries. The material includes a guide, frequently asked questions and various other templates. The Treasury Board Secretariat also hosted two webinars, which were attended by nearly 150 staff from ministries and agencies across the Ontario public service, or OPS. In addition, one of the webinars was recorded and is now available to staff in agencies and ministries across the OPS 24/7 via the Treasury Board Secretariat web portal for ministry and agency resources.

The Auditor General's second recommendation was that the government specify a length of time that ministries have to approve annual reports once they receive them. We have communicated with our ministry partners that this is of utmost importance, and we have urged them to work collaboratively with their ministers to make the timely approval of agency governance documents a top priority going forward.

The government's responses to the Auditor General's third and fifth recommendations are related, so let's take a look at those together. The Auditor General recommended that the Treasury Board Secretariat advise the government on a process to ensure that all elected officials are notified when agencies publicly release their annual reports. In addition, the Auditor General recommended that TBS consult the Legislative Assembly of Ontario on how best to ensure the Standing Committee on Government Agencies is provided with all the annual reports of agencies when they are made public.

All elected officials, including members of the Standing Committee on Government Agencies, 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.

1240

By requiring that these documents be published online, the government is enabling all Ontarians to have access to this information. Making agency governance documents, including annual reports, accessible to all is an increase in accountability and transparency.

TBS is planning to consult with the Legislative Assembly on both of these recommendations as it puts in place an effective approach that will provide both elected officials and all Ontarians with access to important agency governance information.

Finally, the Auditor General recommended that the government amend legislation governing some agencies or introduce new legislation that would eliminate any inconsistencies related to the preparation and public reporting of annual reports. The government has undertaken an in-depth legislative review to identify all statutory references to the creation and tabling of agencies' annual reports.

TBS is continuing to explore opportunities to work with ministries and agencies to address any statutory inconsistencies that may exist. As you will probably appreciate from what I just told you, in the three months since the Auditor General delivered her report, the government has moved swiftly to address her recommendations.

What I want to do now is to spend my remaining time talking about some of the other changes that have been made to strengthen agency governance.

Reporting results for agency annual reports is just one component of the tools that are available to help ensure effective governance and accountability. Over the past six years, Ontario has taken important steps to enhance the governance, accountability and transparency of its provincial agencies. We continue that focus today to effectively increase agency oversight.

Over the coming year, the province will be taking steps to ensure that provincial agencies remain aligned with the expectations of the government and Ontarians. For example, as noted in the 2016 budget, the government plans to introduce mandate letters for every board-governed provincial agency and make those mandate letters publicly available. By taking these steps, Ontarians will be able to clearly understand the service and performance expectations that government has for Ontario agencies that provide goods or services to the people of the province.

As part of the government's ongoing commitment to effectiveness and efficiency, all provincial agencies are now required to undergo a review of their mandate at least once every seven years. The intent of this review is to ensure that an agency's mandate, activities and services align with government priorities. To date, mandate

reviews for 20 provincial agencies have been completed and reported to Treasury Board. Another 36 reviews are under way. All agencies will have their mandates reviewed in the coming years.

As part of its commitment to improve accountability and find efficiencies, the government committed to reduce the number of agencies by 30% from the 2011 baseline level of 246. The government has met that commitment, dissolving 77 provincial agencies over the past five years. Eight of those provincial agencies were dissolved as a result of mandate reviews.

The government has also made it mandatory for all public appointees of provincial agencies to take orientation training that covers the principles of governance, fiduciary duty, ethics and the role of an appointee as a representative of the province. For those being appointed or reappointed to boards of provincial agencies, they must also complete a full-day, in-class training session. This training orients appointees on the principles of a public appointment; the principles of good public sector governance; the roles, responsibilities and relationships of government and provincial agencies; the accountability and transparency measures that impact provincial agencies and their appointees; ethics and conflict of interest with respect to appointee roles and responsibilities; and best practices for navigating the provincial agency environment.

The government has also established several inter-ministerial executive committees to discuss and inform staff from all ministries about agency priorities, issues and requirements. The government recognizes that provincial agencies require effective oversight.

Under the new agencies and appointments directive, provincial agencies are now required to submit their business plans to their responsible ministries three months before the end of their fiscal year, and to the minister within one month of the start of the next fiscal year.

On the operational side, the government is utilizing a risk-based approach when managing provincial agencies. Where an agency faces particular combinations of high risks, the Treasury Board invites the responsible minister and agency chair to appear in person at Treasury Board to discuss how they will be working together to mitigate the risks faced by the agency.

In addition to publicly posting expense information, effective this year, the Integrity Commissioner has expanded authority to review the expenses of designated persons at all provincial agencies. The Integrity Commissioner now has the ability to select which public entities must submit their expenses for review. The number of public entities covered has thus expanded from 19 a couple of years ago to 174 today.

The government is also in the process of establishing consistent compensation frameworks that will be applied to the compensation of designated executives, select agencies and broader public sector organizations. The practical implications of this mean the creation of a centralized mechanism with which the government may oversee executive compensation.

These are some of the key measures that the government has recently implemented as part of its commitment to strengthening provincial agency transparency, accountability and governance. We are always seeking opportunities to further strengthen provincial agency transparency and accountability, and the auditor's report has provided us with an opportunity to do just that.

In closing, I'd like to once again thank the Auditor General and her staff for her recommendations, and at this time, my colleague Scot and I would be delighted to answer any questions that the committee may have.

The Chair (Mr. Ernie Hardeman): Thank you very much for your presentation. Again, the first round of 20 minutes is to the government side. Mr. Fraser?

Mr. John Fraser: Thank you very much for being here today and for your presentation.

I've got a question around—I'll back up a little bit. Governance has always been something that's of great concern to me, not just in the agencies we have that are directly responsible to government, but just in general in our society. It's a particular challenge. You see failures of governance across all sectors.

You mentioned the agencies and appointments directive. What are the tools in that directive that are actually going to help improve and strengthen governance? Because that's obviously where a lot of risk lies.

Mr. Greg Orencsak: Yes, absolutely. I think effective governance is critically important in terms of oversight of agencies, and I think it's also important to balance the right governance mechanisms with the particular agency in question. Agencies deliver on a variety of different mandates, and that may pose different kinds of risks at different points in time.

Part of effective governance, in our view, is to have a good relationship management framework that exists between the agency and the ministry that's responsible for overseeing the mandate of the agency, and for that to be a continuous, ongoing process.

1250

There are various tools and requirements in the new agencies and appointments directive that help support the culture of good governance. That obviously needs to be continuously nurtured. Certainly, the public posting of documents is an important component of that. Having greater insight and availability of information that would otherwise not have been available quite as easily or not been as accessible—not only by members of the Legislature but also members of the public—is an important and useful component of that. It creates a demand for that information not just by the overseers but also by members of the public or businesses that might actually be using the services of a particular agency or that might be the clients of that particular agency.

Another aspect of good governance is an ongoing monitoring and reporting of risks. Risks, by their nature, can be complex; they can be shifting. So regular, quarterly monitoring of risks is an important feature of how we ask ministries to work with their agencies to keep track of issues and report on those risks to Treasury

Board. When those risks require more immediate attention or direct support, there are opportunities for the ministries and agencies to work together to try to mitigate those risks. Treasury Board can sometimes get involved in that as well.

Those are just a couple of the features of the directive that speak to ways in which we can strengthen governance.

Mr. John Fraser: The next part, more specifically, in terms of risk management and the approach to risk management: Obviously it varies because different agencies have different levels of risk and different complexities. From a governance structure perspective, are there expectations around that structure that enable those issues of risk to be addressed? Can you speak directly to that? I think that's a big challenge.

Mr. Greg Orencsak: Absolutely. The governance structure of agencies varies, as you know. Probably the most mature and most complex agencies are ones that are governed by boards. We have a number of significant agencies that are board-governed agencies. The role that those board members can play in terms of overseeing governance, working with the agency's management in terms of both governance and day-to-day delivery issues, is an important way in which governance issues get attention.

Probably the most complex and potentially highest-risk agencies are board-governed. It's really important for those board appointees to bring to bear a diverse set of skills to be able to discharge their accountabilities and functions when it comes to oversight. It's important for those board members and other appointees to benefit from effective tools and supports. That's why I spoke a little bit in my introductory remarks about the kind of training, for example, that's being provided to appointees, whether those are new appointees or folks who have been reappointed to a particular agency.

Mr. John Fraser: That training component is an incredibly important part of putting together a board of governors, because you can have a set of skills. In a lot of organizations, boards of governors are not remunerated. My father used to say that sometimes people would do things on a community board or agency—not specifically about this—that they'd never do at home or at work. Right? Their approaches are different. So I think that education piece is critical.

What I would just like to say off the top—and it doesn't necessarily require an answer, unless you want to give one—is that the relationship between the board of governors and the management is also critical. I know we've all seen that in different organizations throughout our community, where challenges come forth. I just believe that's a critical area.

Now, I have one more question. I don't know whether my colleagues have—

Mr. Chris Ballard: You go ahead. I've got one when you're done.

Mr. John Fraser: You've got one when I'm done? Okay.

It relates to the timely annual reporting to the Legislature, especially of annual reports. If you take a look across at what the compliance of the board of governors is, it presents a challenge for us. But I want to understand how the recent changes that you've talked about are actually going to help us, and are going to help us as legislators, as we go forward, to be the board of governors to a bunch of boards of governors in a really complex department.

Mr. Greg Orencsak: I can only concur with you in terms of the importance of an effective relationship between a governance board and management. Both of those groups play important roles in terms of accountability, oversight and delivery, and those roles are important to be effectively balanced.

In terms of your more specific question around reporting, I think the Auditor General and her staff have done very helpful work and have clearly pointed to some weaknesses in terms of the timeliness of that reporting standard. We're obviously concerned about that from a Treasury Board Secretariat perspective.

In terms of changes that were made to the directive, and in terms of requiring public posting of more documents, not only annual reports but other governance documents as well such as business plans and MOUs, hopefully it creates greater demand for these kinds of important information to be made available publicly. And hopefully that also creates a better incentive for agencies and ministries to make that information available in a more timely manner.

That kind of demand and involvement by citizens and the public is often an important impetus for raising the bar and raising expectations when it comes to accountability and transparency. People want to know, and in today's world it's so easy to get access to information. We all have one of these. Some of us were just checking our email messages before coming into this meeting. So it's very, very easy to put information in the hands of the public, and that's an important feature of the changes to the appointments directive.

The government has committed to reviewing that directive in light of some of the recommendations from the Auditor General. There may be things that 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. But the rules in and of themselves are not enough; you need to be able to make sure that folks follow the rules and that those rules can be readily implemented.

1300

Mr. John Fraser: Yes, I agree. There's no question that there's an issue of compliance, but I just go back to the transparency. We had some discussion amongst ourselves just about how, if you take a look at all that reporting and you plunk it down in front of 12 people, whoever they are, that's a lot of reporting. The more

transparent and open those processes are—we here, on all sides, are the people who represent the people who are on the board of governors. The more people who are looking at that and thinking about that—that transparency will drive those things that need change to change.

I may have some other questions in the next round, but I think Chris has some questions.

Mr. Chris Ballard: How much time do we have?

Mr. John Fraser: You have about six or seven minutes.

Mr. Chris Ballard: We can probably get that in in about six minutes.

Interjection.

Mr. John Fraser: Ernie is shaving you down.

Mr. Chris Ballard: He's shaving me down? Well, that's okay; I'll speak fast. I think, actually, some of the information has been covered off.

It's so important, the discussions we have about improving governance and improving transparency, especially in public agencies such as those we're addressing here today. But I know from a very practical perspective—and maybe you can speak at a high level for us—we can implement new policies and new rules and new regulations until the cows come home, as they say, but the people on the other side and the agencies who are going to be implementing them have to know about them.

I know we touched a little bit on this when you were discussing board governance. That's critical because it starts there. Just from a high-level perspective—because now we probably only have five minutes—what sort of things are we doing in terms of working with agencies to teach them about the new rules and the new policies and how to operate under those? How are we communicating this?

Mr. Greg Orencsak: Great question, and obviously an important question. There's no single answer to that. I think we have to be doing a variety of things. Again, a lot of it comes down to an effective relationship between all parts of government.

One of the things that we have done in Treasury Board Secretariat—and Treasury Board Secretariat advises Treasury Board; Treasury Board sets the rules. It's important for us as part of Treasury Board Secretariat to have an ongoing forum in which we engage with our ministry partners who are responsible for working with agencies that each individual ministry oversees.

We've set up a table of ministry executives who are involved in agency relations and agency oversight. It works as a collaborative community of practice, a CoP, which takes a very active role in that work. That's one way in which we share information. In turn, those ministry contacts are able to share information with agencies and share best practices. There might be something that works really well in one part of government or one particular agency that others may benefit from hearing about.

Obviously, as we share experiences and as rules are updated, there are formal communications that go out to

ministries and agencies. Obviously, everyone needs to be in the know about the rules themselves. There are also mechanisms embedded in the new agencies and appointments directive where the agencies that are responsible—so the chair and the CEO of an agency need to provide an attestation that they are following the rules that apply to them, and the policies that they are subject to.

That's a good approach in terms of making sure that there is also a formal accountability mechanism, not meant to be punitive but meant to be one where compliance is not only encouraged, but also required to be attested to. It is important for the internal governance of those agencies, knowing that at the end of the day, their highest-ranking officer has to provide that kind of attestation, and that attestation is at the appropriate level, given where the accountability lies.

Mr. Chris Ballard: Okay, good. I think it's—

The Chair (Mr. Ernie Hardeman): A minute and a half left.

Mr. Chris Ballard: A minute and a half left?

From what I hear, it's so important and I think it's very good that you've got that round table with the ministries all together at the same time so everyone gets the same message, they get it at the same time, they can share those best practices and then take them back.

Just from a reporting process—and I'm trying to wrap my mind around this. I'm new to this committee, so bear with me. We have the Treasury Board, we have the ministries and we have the agencies. Do you deal directly with the agencies on an ongoing basis as well?

Mr. Greg Orencsak: We wouldn't normally do that, other than agencies that the Treasury Board Secretariat is directly responsible for. But in our model of reporting and accountability, it is the responsible ministry and minister that would deal with that particular agency. That reflects the accountability that that minister has to the Legislature.

Mr. Chris Ballard: So for purposes of communication, you communicate with the ministry and then they move it along?

Mr. Greg Orencsak: That's right.

Mr. Chris Ballard: Okay. Thank you.

The Chair (Mr. Ernie Hardeman): That's it?

Mr. Chris Ballard: Yes, very good. Thank you.

The Chair (Mr. Ernie Hardeman): Thank you very much, and you're just under.

We will now go to the official opposition. Ms. Munro.

Mrs. Julia Munro: Thank you very much for coming here today. This is different than some of the other parts of the report that we generally look at, so it presents a different kind of perspective, as you would appreciate.

When the Auditor General indicated to us through her report that she had taken 57 crown agencies as a—

The Chair (Mr. Ernie Hardeman): Ms. Munro, could you move a little closer?

Mrs. Julia Munro: Oh, sorry.

Ms. Catherine Fife: Pull your mike closer to you.

Mrs. Julia Munro: Okay. Is that better?

The Chair (Mr. Ernie Hardeman): Yes.

Mrs. Julia Munro: All right. Now I have to remember where I was.

She took 57 crown agencies as a sampling. Quite frankly, I have to say that I was quite shocked when I looked at the compliance rate, when I looked at the graph that shows us how few were actually in compliance. My first question is: Do you think that there might have been a different compliance level if there was a different group in the sample? Does that have anything to do with the low compliance rate?

Mr. Greg Orencsak: It's hard for me to answer that, Ms. Munro. I think we would have to look at a different sample. I think 57 agencies makes up less than a third of the total number of agencies. But it's hard for me to comment on that because I just don't have that information available to me.

Mrs. Julia Munro: I just wondered if the rest of them were not compliant in the same kind of quantity percentage as this group—if there was any kind of difference that you would want to illustrate.

I guess the reason is because when I look at the chart that's provided to us on page 702 of the auditor's report, obviously it came as a bit of a shock to me to see the kind of compliance that we're looking at on this file. So that was the reason for my question.

The other reason for it is that as legislators, one of the most important elements of our task is to look at the question of accountability and transparency. We go home on Fridays and answer the phone, and the people are talking about, in many cases, crown agencies that are troublesome to them, as opposed to actual high-level initiation of legislation or something like that.

1310

I'll take, for an example, Legal Aid Ontario. It's extraordinarily difficult for anyone to find their way through that process; in fact, so much so that it generally requires staff assistance. It's so complex that if someone says, "I'm applying for legal aid," someone else will say, "Well, don't bother, because you won't get it." Well, it might be that there is some kind of fractional difference between the two people, and in fact the second person could potentially get legal aid.

When you talk about these steps that you are planning on taking, I'd like you to keep in mind my constituents who are intimidated to go to legal aid. There are people who find themselves bumping up against the rules or the regulations or things like that, and they'll come in desperation and say, "Who's in charge of that? How do I find out what the processes are?" and things like that.

On the question of the mandate letters: While I believe in the approach of a mandate letter, I think it has to also take into account the role vis-à-vis the citizen, the taxpayer, because all of these have, as their end user, individuals.

I also want to ask you: What kind of confidence do you have that these changes will be met in a more timely way than the recording of the actual reports that we wait for?

Mr. Greg Orencsak: Point well taken, Ms. Munro, and I think those are very important observations on your

part. If you'll allow me to briefly comment to your earlier point—before I answer the more specific question—around the value of an annual report in terms of the accountability that you're looking for, and the accountability that that represents to citizens and constituents.

One of the changes that was made as part of the agencies and appointments directive relates to what's in an annual report, because the information and the way that that information is conveyed is also important in terms of accountability. You talk about how difficult it might be to navigate a certain process or service that's provided by an agency. Sometimes it's very difficult to navigate an annual report. If you look at page 701 of the auditor's report, for those of you who have it available to you, the auditor produced a very helpful and informative table about what the requirements are of the new agencies and appointments directive—kind of halfway through that page. The previous directive stated:

"The annual report must include:

"—the agency's financial statements, with actual results, variances and explanations of the variances against estimate."

That's it. So it could have just been a financial report, which may not make a whole lot of sense to the average person. The new requirements require an annual report to contain not only quantitative but also qualitative information. Just to give you some examples of that: a description of the activities that the agency was involved in in that particular year; a discussion of performance targets achieved; and actions to be taken when those targets are not being achieved. There's a longer list and I don't want to bore you with that list, but that is very much front and centre in terms of the actual accountability requirements.

In terms of your specific question about our expectations for the effectiveness of the new directive in terms of more timely reporting, our expectations are that it will help. Obviously a directive, in and of itself, is not sufficient. We've been working with ministries in terms of implementing the new features of that directive. Some of the things that I mentioned earlier in terms of attestation in response to Mr. Ballard's question are coming into effect this June. We want to make sure those are effectively implemented. We are also working with our colleagues and doing spot checks of our own. When things are not being done as expeditiously as we would hope for, we have a way to remind folks to get their act together.

The other thing that will help, frankly, is the attention that the auditor's report has brought to this particular issue. It is a new feature of the auditor's annual report that was added in the 2015 year. When we found out about it shortly before the report was finalized, when the auditor alerted us, we certainly welcomed it. My understanding is that the auditor intends to make this a bit of a continuing effort. That will bring additional incentives, if you will, for greater compliance.

Mrs. Julia Munro: One further question is the question of it also being laid on the table in the assembly. I think that this is a very important step that gives all

members the opportunity to recognize when these processes come along and be able to look online and provide the public with greater access to it. But I think it's extremely important that that particular process is maintained.

Mr. Greg Orencsak: In that regard, one of the things we're committed to doing is working with the Legislative Assembly in terms of finding the best way to notify legislators. That is something that we have to work with the Legislative Assembly on, given the role that the Legislative Assembly has.

I would like to reiterate, though, or remind us that there are 125 agencies that are required to prepare an annual report. All of those reports are being made available online. Of those 125 agencies that are required to prepare an annual report, currently 106 agencies still have a requirement to table those reports in the Legislature. So over 80% of agencies still are required to table their reports in the Legislature, and every agency has to make them available to the public. Like I said, we are in the process of consulting with the Legislative Assembly to make sure that even those reports that are not tabled in the Legislature—legislators have an effective way of knowing when those are available for review.

Mrs. Julia Munro: My next area: I wanted some comments on the issue of governance, because these are—would they all be people that—no, you don't have all boards.

Mr. Greg Orencsak: Yes. There are 78 board-governed agencies of the 185 agencies that we have.

Mrs. Julia Munro: So sort of half.

Mr. Greg Orencsak: More like a third.

1320

Mrs. Julia Munro: Math isn't my strong point. I just see these as wholes and halves.

Are there similarities in the board formation? Or are there specific areas of responsibility that are particularly different in terms of—you were talking about recognizing risk. I would like further identification of how that looks with board governance.

Mr. Greg Orencsak: Yes. The 78 board-governed agencies discharge a wide variety of functions and responsibilities. To give you an example of the breadth of responsibilities that these agencies have, the 78 range from the LCBO to the McMichael Canadian Art Collection to the Workplace Safety and Insurance Board to the OPS pension board. These agencies do a lot of stuff. As a result, boards for each particular agency may require different skill sets.

One of the practices that some boards follow, and it depends on the board and the board composition and the requirements that boards have, is that some boards have nominating committees. Some boards use those nominating committees to help advise government of the kind of skill sets and skill matrices that are required in terms of effectively discharging their responsibilities. One of the important relationships that exists between a board chair and a minister to whom the chair is accountable is for the board chair to advise on the strength of his or her team. A

balanced board should not only reflect the diversity of the province and the skill sets that are required to discharge some of those responsibilities, but there may well be some requirements for financial expertise. Often, boards have a finance and accounting committee that reviews the financial reports of the corporation, and some boards have sub-boards of accounting committees, and it's sometimes helpful to have those accounting committees be chaired by an accountant or an economist.

I think that's how we help ensure and agencies help ensure that there is not only a diverse skill set but also an appropriate and effective skill set that's represented on boards to discharge the varying responsibilities of each individual agency.

Mrs. Julia Munro: Okay. I'll let my colleague—

The Chair (Mr. Ernie Hardeman): There are about four and a half minutes left. Ms. MacLeod.

Ms. Lisa MacLeod: Thanks. I'll be quick, and then I'll attempt to do another question or two in the next round. Thank you very much to my colleague for her great round of questioning.

My question is more related to consultation with the Legislative Assembly. I guess this would be some form of consultation as a result of you speaking directly to several members of this committee, but we do have a government agencies committee as well that is responsible for all of these 622 government agencies, boards and commissions. I'm wondering what role they will play in that committee and, in essence, for the rest of us who are on this public accounts committee, in ensuring that there's an appropriate mechanism for keeping us as elected officials apprised of these reports and finding a suitable mechanism so that there is regular reporting.

When I look at the government and them bringing in several different pieces of legislation for greater accountability, this doesn't meet the sniff test, if you know what I'm saying. When there is public money being spent, it's one thing for the government to say, "We're bringing in Bill 8 and we're going to be more accountable, and MPPs are going to be posting their expenses online." These are bigger-ticket items, particularly given how many there are.

I'd like to know how you're going to consult with members of this committee, but in particular the government agencies committee, in order to find a more appropriate mechanism so that this doesn't happen again.

Mr. Greg Orencsak: Sure. I mean, one of the commitments the government has made is to work with the Legislative Assembly in terms of making sure that information and reports are widely disseminated, that all of the legislators have ready access to information, and that legislators are obviously able to discharge their responsibilities.

I can't necessarily speak to the mandate of the Standing Committee on Government Agencies. I don't think that's something that I am in the best position to do. I think the committee has a distinct mandate in the Legislative Assembly, and that committee has tools available to it to discharge that mandate. As the auditor has pointed

out, that committee has met over the last number of years to review some of the bigger agencies, from what I recall, in terms of reading the Auditor General's report.

Ms. Lisa MacLeod: If I could just interrupt—and I do apologize, but with the small amount of time—have any of these consultations actually taken place? And if they have, with individual members of the assembly, what are the recommendations, or when do you know if it will be completed? Or is this something that the government has made a commitment on and just simply isn't going to act upon?

Mr. Greg Orensak: To be clear, Treasury Board Secretariat staff would not consult with individual members of the assembly. Our consultation partner would be the Clerk of the Legislative Assembly and her staff. Our consultations would take place at the staff level. So we wouldn't directly engage politicians in that consultative role.

The Chair (Mr. Ernie Hardeman): With that, you'll have to hold that thought until the next round because the time is up.

We'll go to the third party. Ms. Fife.

Ms. Catherine Fife: Thank you for the presentation. I sort of got dropped into this committee. I mean, I was very familiar with the Auditor General's report, one of the more scathing reports that this province has ever seen about any government.

I wanted to talk about the context of these annual reports, because I think the context is important. As the deputy minister for the Treasury Board Secretariat—and perhaps, Scot, you may want to talk about this as well—what is the value to having annual reports from these 184 government agencies reported on time and accurately? Where do you see the value for that?

Mr. Greg Orensak: Obviously, the annual reporting mechanism is an important accountability and transparency tool. These agencies, and there are 185 agencies—of those, 125 are required to produce annual reports. These agencies provide important services and discharge functions to the public.

Ms. Catherine Fife: Like what?

Mr. Greg Orensak: The LCBO, the WSIB; I used other examples in terms of the McMichael art gallery.

From a governance perspective, these agencies are accountable to the public.

Ms. Catherine Fife: Are they less accountable, then, if the annual reports are not filed on time?

Mr. Greg Orensak: I think annual reports are one part of how these agencies are accountable. There are many other ways in which these agencies are also held accountable.

What is important from a policy perspective for us in the Treasury Board Secretariat is to make sure that we have a comprehensive and balanced set of tools and practices, where we can, frankly, continue to raise the bar on agency accountability, writ large.

1330

Ms. Catherine Fife: Okay. The compliance on filing, either tabling or posting, of annual reports: Were you

aware, before the Auditor General came in to investigate, how poor the compliance levels were?

Mr. Greg Orensak: Accountability and monitoring of compliance, in terms of the requirements that the agencies have, belong to the responsible ministry—

Ms. Catherine Fife: I know, but you have oversight for this piece. It's just a simple question. What we heard this morning is that the agencies were often filing their reports to their respective ministries on time, but then it was getting stuck at the ministry level. So were you, as the deputy minister for the Treasury Board Secretariat, aware that there was a problem there at the ministry level?

Mr. Greg Orensak: As I was saying, the accountability lies at the ministry level for ensuring and working with agencies that report to a particular ministry. That is where that accountability lies. It is not the Treasury Board Secretariat's role to either monitor or ensure that compliance.

Ms. Catherine Fife: Is that a problem, do you think? Shouldn't somebody in government have a comprehensive view of the reporting of annual reports of these government agencies? This is a lot of money at stake.

The fact that you've just acknowledged that it's the ministry's responsibility—we saw that only 5% of the 57 agencies examined had their annual reports tabled within six months. We saw that 68% were only tabled within a year, and 6% were never tabled.

For us, in the context of a government that has said that they want to open and they want to be transparent and all of those buzzwords, can you comment on the fact that this has clearly been an ongoing situation when you look at the history back to 2006 around the reporting of annual reports?

Mr. Greg Orensak: What the Treasury Board Secretariat has done is, we've been working with the government to help increase and improve effective accountability practices. That is what the new agencies and appointments directive helps to foster.

Our role, from a policy perspective, is to help set effective rules and work with people and ministries in terms of having effective practices when it comes to appropriate accountability mechanisms.

The direct accountability that agencies have is to their responsible minister. It does not make sense to have every agency report in to the Treasury Board Secretariat. That is not something that I would suggest or support. There is a reason that individual ministries are responsible for agencies that deliver services or discharge functions somewhat at arm's length from a ministry in their particular areas of responsibility. Given that, it makes sense for those agencies to continue to report through their responsible ministers.

Ms. Catherine Fife: So you don't see a problem with the inconsistency in the reporting—either by tabling or posting—of reports? Because we learned through the auditor's report that the directive, of course, no longer requires annual reports to be tabled in the Legislature. You've already said, though, that 106 of the 125 are still

tabled. But we, as MPPs, don't have a vehicle or a mechanism to track and to follow the reporting of those annual reports. For me, and for the New Democrats, that's a bit of a gap in the accountability.

Now, are you or the new secretary going to be working with the Legislative Assembly to address that gap?

Mr. Greg Orencsak: We are committed to working with the Legislative Assembly in terms of making sure that legislators have the information they need.

One thing that I think is important, in terms of accountability, Ms. Fife, is to think about, obviously, the contents of an annual report. I spoke to that a little bit earlier in response to Mrs. Munro's question. An annual report, by its very nature, is backward looking, right? An annual report tells you what happened in the year that's just passed. That is important, because that is how you measure performance, just like the public accounts report, which this committee is charged with reviewing and overseeing, on the financial results of the province for the past year.

Part of holding agencies accountable is not only for what they have done but also for what they're intending to do in the future.

Ms. Catherine Fife: That's right. I agree.

Mr. Greg Orencsak: Part of how we've strengthened accountability, going forward, is making sure that the business plans of these agencies are required to be posted online, because it's an important feature of accountability for legislators—for citizens—to know what agencies' plans are in terms of how they intend to—

Ms. Catherine Fife: Absolutely. So those business plans should be informed by the work that agency has already done, right? But if that agency has not posted or tabled the work they already have done—you call it “backward looking”—then there's definitely a gap in informing that business plan, and there's definitely a gap for us as legislators to hold that agency accountable for the work they've been tasked to do.

I was just trying to get to the point of the value of having these annual reports tabled in a timely manner. You have somewhat answered my question, but when you look through the agencies that took their time—actually, I don't even think that's fair. We did hear, and maybe the auditor can confirm this: If you look through the LHINs in the province of Ontario, on page 707 of the Auditor General's report, figure 6—it doesn't have a table number. When you look at the length of time it took the LHINs' annual reports to be tabled and posted, what we don't know as legislators is, did the LHINs do their work in a timely manner, and did those boards and agencies actually file their annual reports and then did they get stuck at the ministry? If the problem is at the local level, then that's a different conversation. If it's at the ministry, it's a whole other problem.

Could you comment, please, Auditor?

Ms. Bonnie Lysyk: Yes, I can comment that the LHINs were required, under the MOU, to have their submissions in by 90 days, and they did have their submission in by 90 days. On the LHIN side, it was the

decision as to when to table their report, so it was a ministry issue in terms of the length of time it took, once the ministry received the report, to have the report tabled. I believe it's about 286 days after receipt of the annual report.

Ms. Catherine Fife: Do you know why this happened at the Ministry of Health? Is anybody looking into why it took 286 days to review an annual report from a LHIN? We know that there are huge issues with the LHIN system, and the government has filed their white paper and they're going to be looking at LHINs and CCACs, so this would be good information to have in a timely manner. Would you agree?

Mr. Greg Orencsak: I think there is obviously great value in having information in a timely manner. The LHINs report through to the Ministry of Health, and the results of the auditor's review are available to the Ministry of Health, so I'm sure that they're looking into that.

Ms. Catherine Fife: Just to be clear, though: You don't know why it took so long for the Ministry of Health to review the annual reports of these LHINs?

Mr. Greg Orencsak: The Ministry of Health is accountable and responsible for the LHINs, so that is a question you obviously have to ask the Ministry of Health.

1340

Ms. Catherine Fife: So I would have to have the Ministry of Health come here and ask them, specifically, this question? Is it possible to have the Minister of Health come here and explain why it took so long?

The Chair (Mr. Ernie Hardeman): It's possible, yes.

Ms. Catherine Fife: It is possible? Well, that is amazing, isn't it? Okay, Thank you for that.

How much more time do I have, Chair?

The Chair (Mr. Ernie Hardeman): You have about seven and a half minutes more.

Ms. Catherine Fife: Okay. I just want to go through some of the recommendations, please. Recommendation 1: “To ensure agencies effectively demonstrate their accountability.” The time frame is listed here as a recommendation of the Auditor General. The original response has it that CEOs and chairs of boards of directors now have to attest around agency compliance. They have to have the certificate of assurance. Then they say that the new directive is expected to improve timelines of posting; ministries will be encouraged to work with the ministers.

If this is a directive and if it's an issue of compliance, why does it say that ministries are going to be “encouraged” to do their job? I mean, it's not a question of encouraging them to do their job. This is an accountability process. It shouldn't be encouraged; it should be mandated.

I don't know if you know where I am, but I'm just under recommendation 1. I was surprised to see that response, that we're encouraging people to do their job and not asking them to follow the compliance regulations.

Mr. Greg Orencsak: I'm sorry; I don't have the document that you're looking at, Ms. Fife, so obviously I can't comment on what's in it.

Part of our role and part of what Treasury Board Secretariat does is work with ministries to help them ensure they can implement the requirements that apply to them. The directive is a directive of the Treasury Board. Obviously, directives carry the weight and force of government policy.

What we do is work with ministries to ensure that they are aware of the content of the directives and that they're aware of the policy intent behind those directives. But, as I think I've tried to explain to you, it is ultimately the ministry that's responsible that has to work with its agencies in terms of ensuring that the appropriate accountability frameworks are enforced and that they are followed.

Ms. Catherine Fife: Okay. I should have been clearer. This is your response—the secretariat's response—under recommendation 1. It's in the Auditor General's report; it's on page 703. This is your response to the auditor's recommendation. You say, "Ministries will be encouraged to work with their ministers to table and/or publicly post...."

It's not a small thing, language. It's not. It's important, when you're responding to the Auditor General, that we know that at least the secretariat is going to ensure—because you also say that you're going to support these ministries to be compliant. I just want to be clear that I take issue with this "encouraging." Compliance is not a voluntary thing. This is a lot of money at stake. These are agencies where we do not have a clear picture of the financing, especially with the WSIB, and a longstanding one would be Metrolinx. These are current political issues that we, as legislators, are grappling with, and I think that this information would strengthen our position to make better decisions. That's what I would say.

If we go to recommendation 2, the recommendation is "To ensure that the annual reports of provincial agencies are released promptly, Treasury Board Secretariat should advise the government to consider revising the agencies and appointments directive to specify" around timing. Your secretariat went on to say that you are assessing these opportunities and the potential to clarify time frames.

What further clarification do you need around timelines? I guess my question is, what is a reasonable time frame that you would expect ministries, like the Ministry of Health, for instance, to come forward in and table or post the annual reports?

Mr. Greg Orencsak: That is work that we are undertaking right now. What we've committed to do is to propose potential amendments to the directive to government. Obviously, those are decisions that the Treasury Board has to take. We're in the process of working through options that would be available for Treasury Board consideration in terms of any amendments to time frames.

Ms. Catherine Fife: Okay, thanks. Recommendation 3 is, "To increase the accountability of publicly funded provincial agencies after the directive was changed so that annual reports are no longer required to be

tabled...." We had a discussion amongst ourselves this morning around the value of tabling reports or just posting. Where is the secretariat on this discussion? Do you think that all annual reports should be tabled in the Legislature? Is there a discussion ongoing right now in the secretariat about that process?

Mr. Greg Orencsak: Our job, Ms. Fife, is to help the government and provide advice on the directives that the Treasury Board makes. Ultimately, this is not a matter of my opinion or the secretariat's opinion; it is a matter of government policy. A Treasury Board directive is made by Treasury Board. I've been able to talk to you about and explain to you what's included in the new directive and what is the policy intent of the new directive. I've also explained to you that the policy intent is to make sure that not only annual reports but other accountability documents are made broadly available to the public through posting them online. There's a requirement to post all of these documents online, which forms the basis of the government's current policy.

Ms. Catherine Fife: Okay, thank you. In your response—

The Chair (Mr. Ernie Hardeman): You'll have to save that one for the next round.

We will start the second round with the government side. We have about 18 and a half to 19 minutes per caucus, so we'll go with that.

Mr. Lou Rinaldi: Welcome. Good to have you here today.

My question revolves around some of the other questions that have already been asked. We know, from time to time, that we have some issues with agencies. I could even go back to my own riding—some issues on some agencies. But we also know that these agencies are very important because that's who actually takes the goal of delivering those services. Because of sometimes having those challenges with some agencies—and I understand the broad scope that some of them have; they're not that simple, right? I try to keep an open mind. My fear, I guess, is that if we don't have processes in place to remedy some of these issues that come up from time to time—or a protocol, or whatever you want to call it—then we end up in a state where a questionable way that we do things impacts the value of the service.

In a broad sense, if you can, are we making any headway in trying to tackle these issues? We have lots of agencies, and I know there's no one way to fix all the issues, but maybe, in a broad way—because of the responsibility—are we making an attempt? I guess that's the point I'm trying to raise.

Interjection.

Mr. Lou Rinaldi: Oh, no. We're in trouble now.

The Vice-Chair (Ms. Lisa MacLeod): Yes, I was going to cut you off.

Mr. Greg Orencsak: Thanks for your question. I think, absolutely, the government has made this a priority. I'd like to concur that headway is being made. I think there's a recognition that there are circumstances where some agencies require specialized oversight.

1350

On the operational side, the government and Treasury Board have been taking a risk-based approach to managing provincial agencies. Part of that risk-based approach is ensuring that there are risk registers and that risks are reported on a quarterly basis to Treasury Board—that not only are those reported, but the nature of the risks is also being assessed.

As I mentioned earlier, some of these risks may shift at any one point in time. If there is a combination of high risks that arise, there are opportunities to escalate how those risks are being managed. That could be at the level of the ministry working with a particular agency; that could be between the chair and the responsible ministry; or, in some instances, that could be with the involvement of Treasury Board, where the minister and the agency chair appear before the Treasury Board to discuss how they will be working together to mitigate that risk.

Part of the management over those risks also lies in agencies following guidance, rules and policies. In that regard, the new requirement of the Agencies and Appointments Directive, in terms of requiring the chair of the board of directors to provide an attestation that agencies are in compliance with applicable legislation, regulations, directives and policies, is an important feature.

The last thing that I'll mention that I think is relevant is around the ongoing relevance of agencies, in terms of delivering on specific mandates and services. We don't want agencies to suffer from benign neglect. In that regard, having regular reviews of agency mandates and having every agency be put through a mandate review cycle every seven years will help ensure that there is ongoing relevance to the functions that an agency discharges, and that their activities and services can stay aligned with the government's priorities.

Mr. Lou Rinaldi: Thank you, Chair. I think some of my colleagues—

The Vice-Chair (Ms. Lisa MacLeod): Any further speakers? Mr. Milczyn.

Mr. Peter Z. Milczyn: Thank you, Madam Chair. Through you, maybe just to elaborate further on the point that you were starting to touch on: The reporting-out of the annual reports of these various agencies is a window, as you said, on past performance. But the issue is certainly one of also looking forward and ensuring that the mandates that have been given to different agencies are actually being fulfilled: that progress is being made on government initiatives and government policy, and that progress is being made on their particular area of activity, whether it's a regulatory area or, like the Workmen's Compensation Board, whether their performance is meeting their stated objectives and what they say they're doing.

In terms of the alignment of the reporting out on past performance and looking forward on the ongoing issue, I'm still not entirely clear on the Treasury Board's role in ensuring that the linkage is there. My view—perhaps still being relatively new at Queen's Park—is that the

Treasury Board has that general oversight of ensuring that funds are disbursed and programs are being implemented effectively. But then you're somewhat saying that reporting out isn't your issue; it's the individual ministries' issue. You're saying you're looking at providing further advice on how to strengthen the directive. How do you see Treasury Board's role in ensuring there's that linkage between past performance and fulfilling the mandate and moving forward?

Mr. Greg Orencsak: It's a very good question. The Treasury Board Secretariat plays the role of a central agency in government. Think of that as the body in government that helps set priorities in terms of how funds are allocated across government programs. In doing so, Treasury Board would consider appropriate business cases so that it can allocate money in a way that's consistent for the government's priorities, for example, and in a way that the government can help ensure value for money. But ultimately those programs, be it health care, education or social assistance, are delivered by individual ministries. Those ministries, with their minister, are accountable to the Legislature.

When it comes to agency oversight and accountability, the role of Treasury Board is to set consistent rules and expectations that apply across a wide spectrum of agencies. Part of what we have done is that we've tailored some of our rules to make sure that it's consistent and appropriate to the mandate, scope and risk that an agency might have.

In that regard, to give you one very concrete example, we have 185 agencies. Of those, 125 agencies have to prepare annual reports and make them available to the public. The other 60 agencies are advisory agencies. From the perspective of an advisory agency, an annual report is not as relevant an accountability tool. But certainly, terms of reference are important and relevant from the perspective of an advisory agency in terms of what advice a particular advisory body is being asked to bring to bear in terms of their responsibilities.

Really, what we're trying to do is make sure that there are effective rules in place. But the rules are not enough. Rules are important, but practices are just as important. That's what has been motivating us to make sure that we have effective training, for example, in terms of agency appointees. It's the appointees who are exercising a lot of that direct day-to-day oversight role of a particular agency. They need to be able to have the tools available to them in terms of making them be as effective in discharging their duties and responsibilities as they can be.

We've also looked at other rules and tools and supports that, based on research and evidence and best practices in other jurisdictions, can help ensure effective accountability and oversight.

1400

Certainly, the annual report is a backward-looking document. The business plan is a forward-looking document. There's a requirement for agencies to submit their business plans for review prior to the start of the fiscal year, so that the responsible ministry has a chance to look

at it, review it, comment on it and work with the agency on informing the business plan as it gets finalized and gets submitted to the minister who is responsible for approval, also requiring that the business plan, in addition to the annual report as well as other documents, be made public so that when the annual report comes out after the fiscal year is over, the public has a chance to see, well before the fiscal year is over, what the plans of a particular agency are at any one point in time.

Mr. Peter Z. Milczyn: Just to go further along that line: The process of communication and cooperation back and forth between the ministries and Treasury Board is fundamental to formulation of the budget and government spending plans and so on. On the issue of reporting out of these various agencies, boards and commissions through their ministries, what improvements are you suggesting to ensure that that is actually being done in a timely way to better inform the work you are doing around the development of business plans and providing advice on future spending when there appears, at times, to be a lag or a gap in that very crucial piece of communication?

Mr. Greg Orencsak: Good question. Just to give you some indication of the kinds of things that Treasury Board would be responsible for: When it comes to any kind of spending decision, Treasury Board would be looking to be informed by a business case from a sponsoring ministry. That business case would have to entail the reason for expending public funds, how that ties into the government's priorities and the government's legislative responsibilities, and how the money is being allocated based on evidence and outcomes in terms of what a particular investment may be in support of. Those are very important considerations that go into developing and framing a business case. Treasury Board, by its very nature, looks at lots and lots of business cases, because ultimately the asks, taken together, often outnumber the available resources, so trade-offs necessarily have to be made.

In terms of the work with agencies, it is really critical, in our view, for there to be effective relationships between a responsible ministry and the agencies that report through that particular ministry. Annual reports, as I said, are backward-looking documents, and through effective ongoing relationships, organizations have a way of continuing to stay in touch and keeping tabs on how things are going. You don't necessarily want surprises in that kind of relationship.

Effective agency accountability and governance, in addition to all the good things that are included in an accountability framework that can be measured for compliance, whether that's publishing reports or publishing performance metrics, also requires effective day-to-day interactions. So when a risk emerges or a figurative fire is burning in one particular area, there are appropriate steps being taken by an agency to address those concerns and to understand why that particular issue and situation occurred, and how to prevent that kind of situation from occurring in the future.

Those might be relationships that are nurtured at the staff level; those are certainly nurtured at the level of executives for agencies that report to Treasury Board Secretariat. I would have an opportunity to talk to the CEOs and the senior leadership within those agencies on a regular basis to understand and talk through issues, just like ministers would have an opportunity to do that with the chairs of agencies that are responsible to them.

The Chair (Mr. Ernie Hardeman): Thank you very much. That concludes your time. We will move on to the opposition.

Ms. Lisa MacLeod: Thank you very much, Chair. I appreciate that.

I just want to go back to this process for consultation with members of the assembly, because I don't think we had enough time. Before we get into each specific agency, particularly the 57 crown agencies surveyed, I actually think there needs to be a realistic process in place for members to understand exactly what is going on at each one of these agencies, boards and commissions.

I look at the auditor's recommendation 3: "To increase the accountability of publicly funded provincial agencies after the directive was changed so that annual reports are no longer required to be tabled, Treasury Board Secretariat should advise the government to establish a process to ensure that all elected officials are notified when agencies publicly release their annual reports."

I appreciate that you are working with the Clerk's office but I think, with 107 members here, there needs to be a bit more direct outreach to members of the assembly and I think there needs to be a process in place that deals directly with the government agencies standing committee. Myself and others here, Chair, I believe—and my colleague, Ms. Munro—have all served on that committee. I think there needs to be a very robust consultation approach with them but also with the rest of us, and I'm not convinced that I've heard that.

Perhaps we could take another kick at this can and we could really talk about a process that may be drafted, or may not be. We could talk about a set of timelines so that we can appropriately respond to the auditor's recommendations.

Third, we can talk about what the government is going to do in order to ensure that these agencies actually meet the timelines and the criteria so that members are adequately informed of what is contained within these reports.

I am just shocked that there has been limited oversight and accountability and virtually no transparency with a lot of these agencies.

Mr. Greg Orencsak: First and foremost, we are here and we'd certainly welcome your views in terms of what you think is most helpful to you as legislators in that regard. I would imagine that even if it relates to the mandate of another standing committee—it's completely inappropriate for me to speak for the Chair, but I would imagine that those views would be shared through the Chair or Legislative Assembly staff when it comes to areas that may be, perhaps, beyond the scope of the mandate of this legislative committee.

I think the third recommendation from the auditor relates specifically to tabling annual reports in the Legislature. In the previous directive, there was a requirement for all 125 agencies to table annual reports in the Legislature, both those that have a statutory responsibility to do so—i.e. there is a requirement in their constituting legislation—and those that don't. What the new directive did—and I think this is what prompted this recommendation from the auditor—is that it removed the direct requirement for tabling in the Legislature of those annual reports where there wasn't a statutory obligation to do so.

1410

Of the 125 agencies that have to prepare annual reports, 106 still have a statutory legal obligation to table their reports in the Legislature, so nothing has really changed for those agency annual reports. For the other 19, there is no longer a requirement to table in the Legislature, but there is a requirement, obviously, to make those reports available publicly.

What we've committed to do in response to this recommendation is to look at ways in which we can ensure, working with the Legislative Assembly, that for those 19 agencies' annual reports, we can have an effective process in place that works for you as legislators, to make sure you know when an annual report is available, even if it's not tabled in the Legislature.

The reason we need to work with the Clerk on that is that the Clerk obviously works with the Speaker, but helps set the rules around how the Legislature works, and it is actually the Clerk's office that annual reports get tabled with when there is a requirement for an annual report to be tabled. That is the process of consultation that we are currently engaging in with the Legislative Assembly.

Ms. Lisa MacLeod: So in terms of the auditor's recommendations 4 and 5 then, let's talk a little bit about the statutes. Do you want me to read recommendations 4 and 5 into the record or—

Mr. Greg Orenszak: I have the report here.

Ms. Lisa MacLeod: I guess I will, for the record.

Recommendation 4: "To ensure that provincial agencies are consistent in following the agencies and appointments directive, Treasury Board Secretariat, in conjunction with Management Board of Cabinet, should consider amending the legislation governing some agencies to eliminate any inconsistencies with the directive, or introducing legislation applicable to all agencies that covers the preparation and tabling date or public release date for all annual reports."

The auditor's recommendation 5 states: "To ensure the ongoing accountability and transparency of the operations of provincial agencies, Treasury Board Secretariat should consult the Legislative Assembly of Ontario on how best to ensure the Standing Committee on Government Agencies is provided with all agencies' annual reports when they are made public, as the annual reports can assist the standing committee in determining which

agencies it considers for review." I think that's important. It's consistent with my concern.

The secretariat stated that it "will advise ministries to consider updates to the constituting of statutes of their provincial agencies to eliminate inconsistencies in requirements regarding tabling and/or public posting dates for governance documents ... to ensure alignment with the agencies and appointments directive."

I guess that lead-on and preamble gets to this point: Can the secretariat do more than simply advise the ministries instead and consider updating to constituting statutes, so that the government agencies committee and, by extension, the entire assembly is getting these annual reports? I guess that's the same question for both recommendations.

Mr. Greg Orenszak: Yes. We're working on doing just that or something like that. We've undertaken a legislative review of all legislation applicable to the 185 agencies. So you can imagine that's a lot of legislation. To give you some numbers that my staff helpfully prepared for me in anticipation that someone might ask—

Ms. Lisa MacLeod: Smart—just like our researcher helps us.

Mr. Greg Orenszak: There you go; there you go. So we've undertaken a legislative review of all legislation applicable to all 185 provincial agencies to identify all annual-report-related references. We found 130 references in 64 affected statutes, 10 regulations and five orders in council affecting 19 ministries and 120 agencies. It's a very extensive landscape of laws and regulations where there are references and rules.

Part of our encouragement function in the Treasury Board Secretariat is to work with ministries as a matter of course, if they are updating their statutes, to consider these kinds of updates. Obviously, all statutes pertaining to a particular minister's responsibility in front of the Legislature are assigned to that minister. It's difficult for the Treasury Board Secretariat to take that responsibility away from that minister. But we've been working with ministries to encourage them to consider updates as they are looking at their legislation.

The other thing, and the other avenue that's available to us is that, at times in the past, there have been things like good government bills, where the government may be able to make more technical, routine amendments to clarify legislative requirements and to ensure consistency between different statutes that govern similar things. That's another opportunity that we're exploring, Ms. MacLeod.

The auditor also offers helpful advice to us. If you'll allow me to just point to another part of her report that is not necessarily referenced in a recommendation but points to a possible path forward in terms of how these statutes might be amended in a consistent way, on the bottom of page 706 of her report, it reads:

"In our view, the current situation in Ontario lends itself to confusion. The fact that the reporting timelines for an agency and its responsible minister may be found in one of three different places—the establishing legisla-

tion, an MOU or the directive—creates needless complications. This could contribute to unnecessary delays in the finalizing and tabling of annual reports, or to reports being submitted or released according to the wrong timelines, such as if the directive is followed rather than the relevant legislation or MOU.

“Presumably, the directive constitutes what the Management Board of Cabinet deems to be the most desirable practice with respect to timelines for reporting. In view of that, it would make sense for the system to be simplified so that all agencies follow the directive.”

In order to do that, we have to amend all those pieces of legislation so that we clarify, in legislative language, that the directive would take precedence.

Ms. Lisa MacLeod: Deputy—

The Chair (Mr. Ernie Hardeman): If I could just stop you for a moment.

Ms. Lisa MacLeod: Okay, sure.

The Chair (Mr. Ernie Hardeman): The auditor would like to ask a question.

Ms. Bonnie Lysyk: I'd like to clarify something. The one key message in this report is not so much that the directive may be considered correct, but the point is that when annual reports are completed by an agency and submitted to a minister's office, there be clarity and consistency as to what public expectations should be for a tabling of that report.

The major finding that we had in the report was that annual reports, although, in some cases, they're not submitted by agencies, in 57% of the cases that we looked at of board-governed agencies, their financial statements were not tabled in the Legislative Assembly within a reasonable period of time.

The new directive of February 2015 currently indicates, if it stands as it is, that there is no deadline for when a ministry needs to table that report in the Legislative Assembly. That is the biggest concern out of our report: that there is no accountability, under the current new directive, that that report needs to be tabled by a certain period of time, only that, once a minister approves it, it is tabled within 30 days. But that doesn't add clarity to a deadline as to when an annual report should be tabled when it hits a ministry's office.

So I want to clarify that because that is probably one of the fundamental issues in our report. I just want to put it on record that we think that is an important issue.

1420

Ms. Lisa MacLeod: I share the auditor's concern, which was my next question—and I'll be very brief. When you talk about good government bills—and we saw one, which was Bill 8—we had a clear expectation in the assembly that this was going to clear up some of these challenges. Why wasn't what the auditor is talking about, in terms of clear deadlines, included in there?

That was an omnibus piece of legislation. It dealt with MPP expenses, and greater accountability and transparency, yet here we still are today, after Ornge, eHealth the OLG—all those scandals with government agencies—with the auditor telling us that some of those 57 that were

surveyed were not meeting the deadlines. Why wasn't that in Bill 8, and how do we put forward a piece of legislation that does address this?

Mr. Greg Orensak: Good questions, obviously. I have a couple of comments and thoughts on that. I should check my recollection, but I do believe that Bill 8 was introduced in the fall of 2014. The Auditor General's report came out in the fall of 2015. So I guess we weren't prescient enough to include this in Bill 8 at the time. But like I said, if there are future opportunities for good government bills, it's certainly something we could look to advocate for.

I think the Auditor General makes an important point. I think that part of what the Auditor General has referenced is that the previous directive had clearer deadlines. That being said, the Auditor General reviewed compliance under the previous directive. So all of the reporting that the Auditor General included in her report was for a time period and a reporting period where the previous directive applied, and you saw what the Auditor General found. Just having deadlines in a directive does not guarantee that reports will be tabled in a timely basis.

The government, in its response to the auditor's report, has certainly undertaken to consider how we can improve the new directive to include time frames for tabling annual reports. But I would argue, and part of what I've been trying to illustrate and talk about is that it's not sufficient just to write into the directive. It's really important to make sure that there are practices and expectations in place to ensure that ministries and agencies follow the requirements of the directive. Those things go hand in hand, and reflect the complex world of agency accountability.

Frankly, from the perspective of the Treasury Board Secretariat, we want to make sure that we do raise the bar on accountability, and that that accountability is effective for citizens and for legislators. I think we've been trying to help provide as many tools in that toolbox as possible to try to raise the bar on all fronts. That's where mandate letters come into play, that's where the requirement for attestation comes into play and that's why we've been on this journey for a bit.

There is always more to do. I think the Auditor General's report is very helpful to us in informing the path forward.

Ms. Lisa MacLeod: Thank you, Deputy.

The Chair (Mr. Ernie Hardeman): Thank you. We'll go to the third party.

Ms. Catherine Fife: Ms. MacLeod covered a couple of questions I wanted to follow up on on recommendations 4 and 5, so I don't need to go there. But I am curious—you've said this a few times now—about rules not being enough and that it's not just about deadlines and not just about guidelines. I just want to go back to the Auditor General's point. I mean, it needs to be in legislation that ministries must table these reports if there is truly to be accountability on how these 184 agencies spend tax dollars across the province. If we truly want accountability, it can't just be a directive. If we put it in

legislation, if we make it the law, if we truly make it accountable to the law for these agencies, would it not make your job easier with the Treasury Board to actually know that these reports must be tabled in the Legislature and, therefore, posted as well?

Mr. Greg Orencsak: Obviously the force of law is paramount. The more things that are in legislation, the more solid that requirement may be. Currently, there is legislation on the books that requires 106 of these agencies to table annual reports.

The other consideration—

Ms. Catherine Fife: In a timely manner; the 106 have to table in a timely manner.

Mr. Greg Orencsak: They have a requirement to table in a timely manner.

The other consideration, Ms. Fife, that I think is important to us and what has motivated some of the changes we've made to the directive, is—we made quite a bit of changes to the directive. If you go back to that chart on page 701 of the annual report, you'll see that the directive included a whole bunch of new requirements. It's a little bit easier to change a directive, because it's one directive, as opposed to 125 different pieces of legislation.

So when we're looking to raise the bar, when we're looking to respond at the speed of business, sometimes that's easier to do through one mechanism that applies to everyone without necessarily having to go back and amend individual pieces of legislation. There's a balance to be struck there. I think we're constantly striving to find the right balance.

Ms. Catherine Fife: I'm glad that you have, on that same chart, "If agencies have failed to comply with directives and policies, the attestation must state this explicitly and explain the failures to comply." And then you've also referenced putting measures in place to ensure that there is compliance but then you said not punitive.

You can incentivize compliance. You can ask nicely; you can be polite. You can shame compliance. But if you don't want to be punitive, what are your options here? I want to know why it took eHealth Ontario 363 days past their due date to file their annual report. I want to know that. In fact, I think I actually have the right to know that information on behalf of the constituents of Kitchener-Waterloo.

Mr. Greg Orencsak: That's why I think attestations are really going to be important, because if something doesn't get done in a timely way, something doesn't get followed in terms of the rules that apply, the attestation provides an opportunity to put that information down on paper, make that information available to the ministry and, obviously, through the ministry, to the legislators, when asked.

But I agree with you. It is important to know what's going on and why things may not be happening as they should. Once that problem is identified, there is a better opportunity to remedy that through appropriate actions.

To clarify my earlier comment in terms of "punitive," it's not to say that the ministry cannot take appropriate action—

Ms. Catherine Fife: As an employer too, right?

Mr. Greg Orencsak: Yes, sure—to remedy a situation. By "not punitive," I meant that the directive itself is not punitive. It doesn't say that if someone reports an exception X, you should be taking step Y to fix that. Ministries have tools through accountability mechanisms and through transfer-payment agreements to take appropriate steps to remedy situations and, hopefully, ensure that exceptions are minimized and don't take place in the future.

1430

Ms. Catherine Fife: Okay. I know that the Treasury Board Secretariat sets priorities for government and informs government policy. So it's in your best interest to have these reports filed and tabled on time as well, right?

Mr. Greg Orencsak: It's in everyone's interest.

Ms. Catherine Fife: Especially the Treasury Board because it's where the money is going and how financial decisions are being made.

I point to the Ontario Trillium Foundation—let me just find it here. On page 708, the Ontario Trillium Foundation: It took 274 days for them to file their 2014 annual report. The reason I raise that foundation is because there was a significant shift in how that funding is going to be flowing from the Ontario Trillium Foundation this year. In fact, \$25 million has been pulled out and that happened very quickly.

So this is my example, if you will, of pointing to the importance—I would like to see the 2015 Trillium report so that I can figure out why this government is pulling \$25 million out of it. I'm just using that as an example.

Now, you've also referenced board governance, but also the appointees of these agencies. You mentioned something really interesting. Is the Treasury Board contemplating—you said something about having the agency chair come before Treasury Board. Or were you thinking of the Standing Committee on Government Agencies information? You did reference that, right? I didn't imagine that?

Mr. Greg Orencsak: Yes, I did say that. I said that in the context of risk reporting. One of the requirements of the new directive is that ministries work with their agencies to assess the risk that they face, to look at mitigation strategies and also to keep track of and report those risks.

That's a requirement because it's through understanding risks that ministries are best able to manage those risks. Sometimes the nature of those risks would necessitate a conversation with the ministry. Sometimes, it might help to ensure that those risks are brought to the attention of the deputy and the minister, and the minister may want to discuss those with the chair as part of their responsibility of overseeing the agency.

What we've also done is that we've asked ministries to report those risks to us, which then get presented to Treasury Board in a summary format. Obviously, Treasury Board has taken some interest, and Treasury Board has the opportunity to ask ministers and agency chairs to

jointly appear before Treasury Board and Treasury Board ministers to discuss the nature of those risks, discuss what they're doing to mitigate those risks and discuss and share their concerns about what gives rise to those risks, which, again, is a good governance practice.

Ms. Catherine Fife: I think you did mention that appointee training should be incorporated into that.

As for the budget, we went through Bill 173 clause by clause. Under one of the committees, the Criminal Injuries Compensation Board, I tried to move an amendment because I was shocked to learn that, currently, the act does not require the Criminal Injuries Compensation Board to conduct a formal capacity assessment by persons trained in capacity-related matters in order to find a person incapable or to do that assessment, and that has adversely impacted people with disabilities. We, as New Democrats, brought forward this amendment to include training on capacity law and autonomy rights and compensation, which you would think that appointees to these agencies would have some training on.

So that's what the Treasury Board is looking at: to try to modernize, if you will, or transform or raise the bar on training and capacity training for board members?

Mr. Greg Orencsak: Yes, absolutely. What we do is we provide governance training to appointees to—

Ms. Catherine Fife: Specifically to the agencies that they are a part of?

Mr. Greg Orencsak: Yes, to the board-governed agencies and other appointees. The nature of that training is in terms of governance, right? Board members play a particular role in terms of ensuring oversight. Board members on a corporate board or an agency board don't manage the day-to-day affairs of a particular business.

Ms. Catherine Fife: I know they're not operational boards. I understand the difference between governance and operational.

Mr. Greg Orencsak: From an operational perspective, the operational responsibility rests with the particular agency and the management of that particular agency.

Ms. Catherine Fife: I was surprised because the government voted down this amendment. I'll just highlight it for you, because I think that if you're deciding compensation for victims of crime, you should have some training in how to evaluate that.

One other thing that I wanted to reference was that you referenced the mandate letters. You talked about how making the mandate letters public is a measurement of accountability. The problem that we see, and perhaps you might want to comment on it, is that making them public but then having no measurement or benchmark for success is really problematic. I agree with the intent, of course, of publishing, but if you take our minister responsible for correctional facilities, for instance, there has to be a benchmark for the measurement of success. Otherwise, it's just sort of a feel-good exercise, in our view.

Mr. Greg Orencsak: Yes. I think that's an important consideration. I think we will be, again, developing guidance and best practices in terms of how these mandate letters can be effectively drafted. Part of what I think

mandate letters need to include are the expectations that a government or a minister has for a particular agency. I think the more specifics that can be included in that mandate letter in terms of those expectations, the easier it is to measure an agency's performance against those expectations.

Sometimes those expectations can be expressed in the context of dollars and cents. If it's an operational agency that generates revenue, there might be a net-income expectation. If it's an agency that serves clients, there might be an expectation in terms of how many clients or procedures the agency should be delivering on.

Something that we're working on in the Treasury Board Secretariat is around measuring and understanding outcomes in addition to outputs. Outcomes are a little bit more tricky but in some ways much more important and meaningful over the longer term when it comes to public policy. We have to be mindful that a particular outcome may be the result of more than just what an agency does. There needs to be appropriate monitoring and an appropriate understanding of what is within an agency's ability to deliver on and what else we need to watch for in the context of that delivery mandate.

Ms. Catherine Fife: Thank you. How much time do I have, Chair?

The Chair (Mr. Ernie Hardeman): You have about three and a half minutes.

Ms. Catherine Fife: That's just in time for my favourite topic, which is executive compensation. You had referenced it, I think, in your original comments.

Mr. Greg Orencsak: Yes.

Ms. Catherine Fife: This is a growing concern for Ontarians. When you look at the sharp increases, despite language around austerity measures and freezing public sector wages—this is different. This is sort of colouring outside the lines on accountability, because we have seen sharp increases in executive compensation. One has only to look at the WSIB, for instance, or OPG or Hydro One—that may be different now, obviously—or Metrolinx. I mean, the leadership of these agencies has not only become multi-layered—we have some genuine concerns about that, but also setting those levels for compensation.

Where is the Treasury Board on trying to control, trying to standardize, trying to adopt—because we hear one thing from the minister, but then we read about it in the Toronto Star, everything from the Pan Am Games to Metrolinx, as I've mentioned.

Would you mind commenting on that, please?

Mr. Greg Orencsak: Sure. Obviously, yet another good question.

In terms of the government's approach to managing executive compensation, it is being done through the Broader Public Sector Executive Compensation Act; it was included as part of Bill 8. What the act does is basically two things. Before we can set appropriate executive compensation frameworks—and by appropriate, I mean frameworks that are informed by appropriate public sector benchmarks and comparators—

Ms. Catherine Fife: I think the key word is “appropriate” there, so who is defining “appropriate”?

Mr. Greg Orencsak: It is ultimately up to cabinet to set these frameworks. What we're working on is how we inform these frameworks so we can provide the best evidence for decision-makers in terms of what is appropriate. Appropriateness will be a function of the labour market. The labour market will be informed by what the appropriate compensation comparators are in the public sector if—

Ms. Catherine Fife: We do hear that rationale: “Well, this person would make this much money in the private sector.” We would argue the private sector is not the public sector. But then there's also the doubling down on bonuses. I think that adds insult to injury, when people are given a bonus for sticking around just to do their job.

The optics of this for everyone who is in the public sector are really poor.

The Chair (Mr. Ernie Hardeman): Thank you very much. That is the question we've been waiting for, because it's the last one.

Thank you very much for your presentation this afternoon and for helping us in reviewing this part of the auditor's report. Thank you very much for your time.

Mr. Greg Orencsak: Thank you.

The Chair (Mr. Ernie Hardeman): For the committee, we will have a quick meeting to discuss how we go forward on report writing, in closed session.

The committee continued in closed session at 1443.

CONTENTS

Wednesday 13 April 2016

2015 Annual Report, Auditor General.....	P-309
Treasury Board Secretariat.....	P-309
Mr. Greg Orencsak	

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