



Office of the Auditor General of Ontario

Auditor General's 10-Year Reflections

Reflecting on a Decade of Service
to the Legislative Assembly

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2013-2023

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1.0 Forward

In my first year as Auditor General of Ontario, I decided to include my personal reflections in our Annual Report. It was important to me that we make our audit findings accessible to the public and communicate themes and lessons identified through our audits.

Over my 10-year term as Auditor General, my Office has conducted 168 value-for-money audits, including 25 special reports, and at least the same number of follow-up audits on the recommendations from our reports and those of the Standing Committee on Public Accounts. In addition, we have completed our required work on financial statement audits on Crown agencies and corporations, and issued my annual audit opinion on the Province's consolidated financial statements. We also have conducted ongoing governance reviews, reviews of information technology systems, pre-election reports, and advertising reviews.

In looking back on my decade as Auditor General, I think it is prudent to take stock and reflect on the role of the Office and certain recurring themes over a decade of auditing.

2.0 The Role and Work of the Auditor General

Auditors General across Canada and the international community play an important role in the public sector, fostering transparent and accountable governments and trust in public administration.

The primary function of an Auditor General is to provide legislators with information required to hold the executive branch accountable. We provide many other benefits as well, including promoting trust in government, deterring wrongdoing, improving the public's understanding of government, sharing expertise

and best practices, and, ultimately, making recommendations to support the improvement in public administration and management of public resources.

When government co-operates with Auditors General it builds public trust and confidence. By opening government records and processes to an audit, engaging in honest and open discussions about how resources are allocated, and working with auditors to identify areas for improvement, governments demonstrate to the public that they are transparent and focused on improving the public sector.

Audits also act as a deterrent to waste and abuse of public funds, help reinforce the existing legal, financial and institutional frameworks, and provide a platform to identify non-transparent decision-making that is not in the public interest.

Through our work in the province, we develop extensive corporate and operational knowledge of government, gaining a “whole of government” perspective. This unique perspective allows us to identify connections between or duplications of programs, conduct root-cause analysis of issues and promote best practices across government and other jurisdictions. It is this quality of our work, combined with our independence, that makes our reports a reliable source of information that the public and elected officials can use to better understand government and how their tax dollars are spent.

2.1 Understanding Value-for-Money Audits

The term “value-for-money audit” is often perceived of as a purely financial exercise. However, this kind of auditing (referred to as performance or comprehensive auditing in other jurisdictions) encompasses much more than the tallying up of dollars and cents. Value-for-money audits delve into an auditee’s underlying operations to assess how well a program

is being managed. They examine the processes and controls in place to safeguard assets and minimize risks, assess the level of services being delivered to the public and the relative cost-effectiveness of that service, and examine if there are appropriate procedures to measure and report on effectiveness.

We employ a variety of methods to ensure we collect comprehensive and accurate evidence to inform our work. In addition to reviewing an auditee’s data and records, we go into the field to observe how programs and services are implemented. For example, we visit long-term care homes and hospitals to observe the level and quality of care provided; we accompany inspectors on their inspections of bridges, farms, or meat-processing plants to assess the completeness of their inspections and compliance with rules and regulations; and we even conduct mystery shopping trials to test internal controls in casinos, or consumer protection in funeral homes.

2.2 Selecting the Right Audits

Because the mandate of an Auditor General is to serve the Legislative Assembly, we consider the public interest in all aspects of our work, from the selection of topics to how we write and share our audit reports. When we select our audits, we take a risk-based approach, considering changing and emerging risks, the financial significance of programs, risks to public safety, key issues affecting society, and risks to achieving intended program outcomes.

The ability to select our audits is a core part of our independence. Serving the Legislative Assembly means we are able to independently select the area and scope of audits. We focus on areas where risks are the greatest—which may not always be areas where governments prefer auditors to look.

2.3 The Auditor General Act: Creating an Effective Framework for an Independent and Effective Auditor General

Independence is a cornerstone feature of Auditors General and a key reason our work is reliable. The Legislative Assembly and public service look to our Office to provide independent, fact-based, and reliable information they need to understand and oversee government spending and operations.

To enable Auditors General to execute their legislated mandate without government interference, Auditor General acts are typically written in a manner to provide Auditors General with broad access to information, documents and people. A key component of an effective legal framework for an independent Auditor General is unrestricted access to information and people, required to perform our duties.

2.3.1. Unfettered Access Is a Cornerstone of an Auditor General's Independence

For many decades, the Office of the Auditor General has had direct, unfettered access to the people and information needed to complete its work on behalf of the Legislative Assembly and the people of Ontario. However, in 2021 and 2022 the Office faced unprecedented pushback and difficulty accessing information during the special audit of Laurentian University—an audit requested by the Standing Committee on Public Accounts.

During the audit, the Office was not given the access to information, records and people necessary to effectively conduct its work. The University took a position that Ontario's *Auditor General Act* (Act) did not give the Office access to information subject to solicitor-client privilege, litigation privilege, and/or settlement privilege. As such, Laurentian refused to provide us with privileged information. And in the case of millions of

digital files, the University refused to even provide non-privileged information, arguing that it would take too long to review it for privilege.

In light of this, we sought an interpretation of relevant sections in the *Auditor General Act* from the Ontario Superior Court of Justice in order to obtain the information and records needed to conduct an audit. Concurrently, the Standing Committee on Public Accounts (Committee) took extensive steps to help us obtain information and bring about more transparency to what happened at Laurentian. On the recommendation of the Committee, all members of the Legislative Assembly of Ontario voted unanimously to approve the issuance of rarely used Speaker's Warrants to compel the production of the information requested by the Committee to support the Office in the conduct of our work. The use of such tools is rare and extreme—Ontario legislators have only issued Speaker's Warrants two other times since the early 1990s.

On January 12, 2022, the Chief Justice of the Ontario Superior Court of Justice ruled that the language in the *Auditor General Act* was not clear enough and therefore the Office did not have the legal right to free and unfettered access to privileged information and records of its auditees. On May 1, 2023, the Ontario Court of Appeal upheld that ruling.

Access to privileged information is required to perform our work. For example, to assess the reasonability of an entity's financial liabilities, we review privileged documents regarding ongoing lawsuits. Without access to privileged information we could not provide an opinion on the Province's consolidated financial statements. Further, as we experienced with Laurentian, unfettered access to all information (which may include privileged information) is needed to ensure auditees cannot withhold information under the guise of privilege.

It is not practical or plausible to expect the Legislative Assembly to use Speaker's Warrants on a regular basis to provide our Office the information needed to conduct its work. Yet, in absence of legislative changes, this may be a tool needed to complete our work in the future. An updated *Auditor General Act* with clear, unambiguous language regarding access to privileged information would once again clearly provide the Office with this necessary access to continue to effectively do its work for the Legislative Assembly and the people of Ontario.

Bill 19, the Auditor General Amendment Act, was introduced in response to these challenges and, if passed, would restore the legal access necessary for the Office to independently serve the Legislature and people of Ontario. The bill passed first reading on September 7, 2022 and is currently scheduled for second reading.

2.3.2 Strengthening the *Auditor General Act*

The *Auditor General Act* provides the foundation for the authority and responsibilities for the Office of the Auditor General of Ontario. In recognition of the value of the Office's work and contribution to accountability, a number of legislative changes have been made over the past two decades to expand the Office's oversight of public monies and services to include broader public sector organizations, such as school boards, hospitals, long-term care homes, universities and colleges (2004), transfer payment recipients (2004) as well as a number of delegated administrative authorities (2020). Our mandate was further expanded in 2019 to include the oversight of the operation of the *Environmental Bill of Rights, 1993*. Under these changes, we may also report on the government's progress on energy conservation, greenhouse-gas emissions reduction or other issues that the Auditor General considers appropriate.

However, in addition to the privilege issue noted above, there are a number of areas where the *Auditor General Act* could be updated to ensure that the Office has the necessary access and independence to most effectively deliver on our mandate and assess if provincial tax dollars are being well spent. A request for such updates was provided to the government in 2021, but as of August 2023, no actions have been taken.

Follow the Money Legislation

As the government increasingly contracts with the private sector and provides funding to third-party service providers, public funds are being spent outside of government at an increasing rate. For instance, our Office's report [Pre-Election 2022 Multi-Year Fiscal Plan](#) found that program-expense forecasts for transfer payments to specific sectors outside of ministries was by far the largest component of total ministries' expenses at 77%.

That's why it is essential that Auditors General be able to follow the distribution of taxpayer funds to ensure monies are being used economically, efficiently and effectively. Restrictions in accessing necessary information limits the scope and depth of our work.

Oversight of Municipalities

Each year, we receive a number of inquiries from the public requesting financial and value-for-money audits at the municipal level; however, we are limited in what we can review. The Act allows the Auditor General to audit a reviewable grant received directly or indirectly by a municipality from the Province of Ontario to determine whether the municipality spent the provincial grant for the purposes intended (e.g., the delivery of social services funded by the Province). The Act does not enable us to extend that work to all aspects of municipalities' operations.

Further, while the *Municipal Act, 2001* allows municipalities to create their own Auditor General, few municipalities do so (e.g., Toronto and Ottawa), with many raising concerns regarding the costs associated with establishing such an office.

Based on the comments we have received from members of the public and the issues raised by media—such as concerns with operations at the City of Brampton—there is a need for increased oversight of municipalities and a role for Auditors General. Whether a new entity should be created or whether this Office should be provided increased access powers to municipalities, it is clear that action is needed.

3.0 Importance of an Effective Public Accounts Committee

Auditors General and Standing Committees on Public Accounts (PACs) have a symbiotic relationship; when PACs work effectively, they provide an opportunity to amplify the work of the Auditor General, hold leaders in the public service accountable to implement report recommendations, provide scrutiny to the Province's public accounts, and inform legislators about government operations.

3.1 Role of PAC

In Ontario, PAC is responsible for reviewing the reports of the Auditors General and the Public Accounts on behalf of the entire Legislature, and for reporting to the Legislature its observations, opinions and recommendations. All reports of the Auditor General and the Public Accounts are permanently referred to PAC when they become available. The PAC review process typically includes requiring the audited entities to appear before the committee to answer questions and

report on progress made to address the Auditor General's recommendations. Across Canada, PACs perform this role with support of Auditors General.

3.2 Key Characteristics of an Effective PAC

For PAC to operate effectively, it should be free from government interference and operate in a non-partisan way as much as possible. PAC functions are more effective when members develop collegial and constructive working relationships with each other, and when members focus on improving the administration of government programs instead of scoring political points. The effectiveness of a PAC is also impacted by its relationship with the Auditor General. This relationship should be mutually supportive, built on trust and a shared purpose, recognizing each other's different but complementary roles.

3.3 Recent Changes to Ontario's PAC

Historically, the Auditor General of Ontario and supporting staff have attended PAC meetings in their entirety to assist as an advisor for the committee's reviews and hearings and to fulfil the Office's responsibilities to PAC as identified in the *Auditor General Act*.

On November 14, 2022, PAC met in closed session and subsequently passed a motion that the Auditor General and staff of the Office of the Auditor General of Ontario only appear before PAC as witnesses upon the invitation of the committee for the purposes of briefing the committee and answering the committee's questions on the Office's reports, and on other occasions, on the committee's agreement, to provide supplementary briefings. It was also adopted by the committee that when a meeting is held in closed session the attendance of the Auditor General and supporting staff shall be limited to that portion of the meeting when the Auditor

General has been invited to appear as a witness. This motion is not in Hansard, but is included in public minutes available upon request from the Committee Clerk.

While the full implications of these changes are still being felt, our Office has observed that our ability to support and provide candid advice to PAC members has been hampered. We no longer have an avenue to provide the committee with advice on drafting effective report recommendations, ensuring recommendations are addressed to the correct entities or deal with the root cause of issues. Where we used to share our audit observations and fact-check responses provided by auditees during and after hearings, we are now excluded from the committee's closed sessions unless invited as a witness.

4.0 The Need to Protect and Strengthen Our Institutions

After a decade of audits, what perhaps stands out the most are the dedicated men and women who work in the public sector and the broader public sector. Our audits take a risk-based approach, which often identifies areas that need work and improvements. But in almost all audits, our work and reports are met with professionalism, co-operation, collegiality and a dedication to continuous improvement. Our audits would not be possible without the co-operation and input from employees of the entities we audit in the public sector and broader public sector. We all share the same goal: to make a positive difference for all Ontarians.

Certain audits over the course of my tenure have reminded us of the importance of protecting

our public institutions, including ensuring they are effectively resourced and that staff have the necessary knowledge and skill sets to complete their functions. The government also needs to ensure that the necessary processes and safeguards are in place to allow public servants to provide the evidence needed to inform government decision-making, and to be able to speak truth to power.

For instance, our 2020 review of Business Case Development in the Ontario Public Service identified instances where business cases went forward to the Treasury Board/Management Board of Cabinet, a Cabinet committee, without a recommendation from the public service staff in the Treasury Board Secretariat (Secretariat), a recommendation that should be based on the evidence and assessment of risks. Specifically, we found that the Secretariat abstained from making such staff recommendations in instances where the requests were high-risk and often political, such as with the Fair Hydro Plan (see our 2017 Special Report The Fair Hydro Plan: Concerns about Fiscal Transparency, Accountability and Value For Money).

Similarly, our 2023 Special Report on Changes to the Greenbelt noted the many failures that allowed an unelected Chief of Staff to limit the land site options assessed by public servants and dictate the criteria to be used, which significantly hindered them from collecting the evidence that decision-makers needed to make an informed decision.

In both cases, our reports noted that Ontario has no public process to transparently identify and address instances where senior public service ministry staff have concerns about the direction provided by a minister. In contrast, such systems are available in the United Kingdom's public service.

5.0 Recurring Issues in Value-for-Money Audits

Looking back on my past 10 years, there are certain issues we have raised repeatedly in reports that are worth taking the time to reflect on. These systemic issues require further attention and commitment from decision-makers.

5.1 The Importance of Good Information and Transparency to Support Decision-Making

To maintain public trust and confidence, government, its ministries and its entities need to show that they are transparent in decision-making, that they use the best information available, and that they act fairly in the interests of all Ontarians. As I reflect on 10 years of annual reports, a recurring theme is the need for good information to support decision-making. Better information was often required for proper oversight of programs or to ensure that the most effective or efficient decisions were being made. For instance, through an assessment of Treasury Board submissions, our review Business Case Development in the OPS found that the submissions used in government spending decisions needed to reflect more analysis in regard to the presentation of options, cost analyses, and performance-monitoring plans.

As I reflected in our 2022 Annual Report:

"Faced with a growing torrent of outside pressures, including changing economic circumstances, decision-makers in public-sector and broader-public-sector organizations can become prone to making decisions based on short-term rather than long-term considerations and without the benefit of good information."

"And, most importantly, all too often they can make decisions without ensuring that all of the relevant facts are being considered and deliberated in an objective and transparent manner."

5.2 The Importance of Longer-Term Planning

The future becomes the present very quickly. Each generation's decisions affect the next generation of Ontarians. Part of making decisions with a long-term view is ensuring the necessary planning has taken place. A formal planning process is not red tape and should not be viewed as a purely bureaucratic exercise. The importance of planning was most profoundly demonstrated in our reports on emergency management planning and the Province's COVID-19 pandemic response.

The 2017 audit Emergency Management in Ontario found that the province was not adequately prepared for an emergency. Although some measures were in place to prepare for and respond to emergencies, there were weaknesses in the Emergency Management Office's (EMO's) oversight and co-ordination of its programs.

Such weaknesses and gaps increased Ontario's vulnerability to the potential impacts of a large-scale emergency, as was experienced with the COVID-19 pandemic. Our 2020 Special Report on Emergency Management in Ontario—Pandemic Response found that, given the significant changeover in leadership at EMO, the outdated emergency plans and the lack of sufficient staff, when the COVID-19 pandemic reached Ontario, governments were not in a good position to activate the provincial response structure in the Province's emergency response plan.

5.3 A Focus on Addressing Systemic Weaknesses that Impact Vulnerable Populations

Many of our audits have highlighted that further attention is required to address systemic weaknesses that hinder providing the necessary support and safeguards for our most vulnerable. Whether it was our 2013 report Autism Services and Supports for Children or the 2021 audit Homelessness, we found that systemic weaknesses remain as there is a lack of actions to address them.

The situation in the province's elderly and long-term care sector has made this point abundantly clear. COVID-19 showed that repeated concerns about systemic weaknesses in the delivery of long-term care services had not been adequately addressed for years. These weaknesses had been documented in our audits on long-term care over the past decade and a half. Our audit Infection Prevention and Control at Long-Term-Care Homes in 2009, Long-Term-Care Home Quality Inspection Program in 2015, and 2019's Food and Nutrition in Long-Term-Care Homes found issues related to insufficient infection prevention and control (IPAC) expertise and poor IPAC practices in long-term-care homes, lack of space to allow for proper cohorting of infectious residents, and ineffective ministry oversight of homes. All of these issues were again highlighted in our 2021 Special Report on Pandemic Readiness and Response in Long-Term Care.

5.4 The Importance of Measuring and Managing for Results

Just about every audit we conduct examines the processes in place to measure the effectiveness of

programs and services. In most of these audits, we note deficiencies in this area. For instance, we made 176 recommended actions related to monitoring and oversight in our audits from 2012 to 2016.

Looking back over a decade of audits in conjunction with the results from our recent 2023 Special Report What Gets Measured Gets Managed: Ministries' Performance Measurement, Program Evaluation and Annual Reporting, it became apparent that three overarching processes within the public sector need to be significantly improved to better inform government and ministry decision-making, as well as to enhance operational performance: performance measurement, program evaluation, and public reporting.

In many respects, governments can be likened to large corporations, with taxpayers the equivalent of shareholders. Just as publicly traded entities have a responsibility to be open and accountable to shareholders, the provincial government has an obligation to provide taxpayers with thorough, clear and accurate reporting of the risks, opportunities and performance of the programs and services it provides.

5.5 Refocus Accountability to the Audited Financial Statements

A lot of public attention is focused on a government's budget. Hours before a budget is tabled in the Legislature, media are given the opportunity to read details of planned spending. Standing committees in the Legislature review the supporting estimates and elected officials are questioned about how much is allocated to the various programs. However, much less attention is paid to how that money is actually spent. The public is far less familiar with the Public

Accounts, the details of actual government spending versus budgeted spending.

Ontario's Public Accounts consist of the Province's *Annual Report*, including the Province's consolidated financial statements and financial statement discussion and analysis; the Auditor General's *Independent Auditor's Report* on those consolidated financial statements; and two supplementary volumes of additional financial information. The government is ultimately responsible for preparing the consolidated financial statements for the Province of Ontario and ensuring that this information, including many amounts based on estimates and judgment, is presented fairly.

5.6 A Lack of Effective Oversight

In many of our audits a recurring theme has been limited or inadequate monitoring and oversight. For instance, our continuous follow-up work has shown that from 2015 to 2019 our value-for-money audits identified a total of 336 recommended actions related to monitoring and/or oversight. Proper oversight is important to ensure programs are operating efficiently and effectively and can have important implications for public safety, consumer protection, and good governance.

The need for improved oversight of entities external to the Ontario Public Service is also a common issue identified in our audits. This has been seen with delegated administrative authorities (DAAs), which are non-profit corporations established for the purpose of assuming regulatory functions or delivering services previously carried out by government agencies. From

our first audit of a DAA in 2018 on the Technical Standards and Safety Authority to our recent audit of the Real Estate Council of Ontario in 2022, we found that improved ministry oversight was needed with these types of entities and that the ministry often did not have sufficient information to monitor and assess the entity's performance.

5.7 Increasing Commitment with Limited Resources

Over the last decade, we have seen an increase in legislation that brings with it increased responsibilities. However, sometimes providing funding for new activities is accompanied by reductions in funding elsewhere as priorities change, putting a strain on the ability of existing programs to service changing demands. An example of an organization that was insufficiently funded was demonstrated in our 2017 audit Emergency Management in Ontario, which identified that there was not enough capacity in the system to meet the demands of a lengthy emergency. Our 2020 audit Conserving the Natural Environment with Protected Areas found that the Ministry of the Environment, Conservation and Parks and Ministry of Natural Resources and Forestry did not have sufficient science and planning staff to manage existing protected areas or expand the province's protected areas network. Similarly, the 2023 audit Conserving the Niagara Escarpment found that the Niagara Escarpment Commission did not have sufficient resources to fulfil the legislative mandate to conserve the Escarpment's natural environment.

6.0 Acknowledgements

The Office of the Auditor General of Ontario plays an important role in government accountability—both for financial and non-financial matters. To do its work effectively, the Office needs to be independent and have access to the necessary people and information. Along with the importance of operating as an independent office, the people who work in this Office are crucial to its success.

I want to personally thank my Office's professional and dedicated team, our excellent panel of external advisors, and the various subject matter experts who over the years have shared their knowledge and advice.

I also want to extend my appreciation to those in the Ontario Public Service and Broader Public Service who have worked with me and my Office over many years by contributing their knowledge and expertise, excellent insights and documented information to support recommendations to improve the delivery of services and programs for the people of Ontario.

It has been an honour to serve as Ontario's 13th Auditor General. I will no doubt continue to follow the work of the Office and I will always be proud of having had the opportunity to represent the Office and serve the Legislature and the people of Ontario.



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