

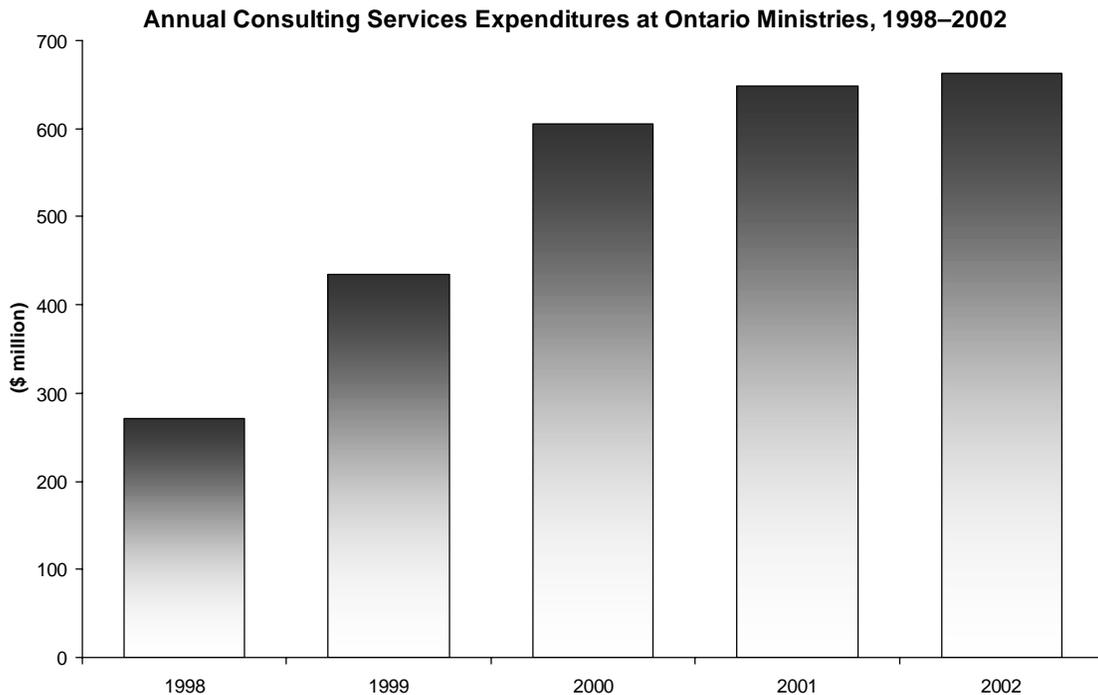
MANAGEMENT BOARD SECRETARIAT AND THE MINISTRIES OF THE ENVIRONMENT, FINANCE, HEALTH AND LONG-TERM CARE, NATURAL RESOURCES, AND PUBLIC SAFETY AND SECURITY

3.06–Consulting Services

BACKGROUND

Consulting services, as defined under the Management Board of Cabinet Directive on Consulting Services (Directive), are services provided for a fee, on the basis of a defined assignment, and relating to management consulting, information technology (IT) consulting, technical consulting, and research and development.

Over the past five years, there has been a substantial increase in annual consulting services expenditures at Ontario ministries, from \$271 million in 1998 to \$662 million in 2002. The following graph illustrates this increase.



Source of data: Ministry of Finance

The increase has been particularly significant for IT and management consulting services. Expenditures for IT consulting services have tripled from \$100 million to \$313 million during the past five years, while those for management consulting have increased almost four-fold, from \$40 million to \$152 million.

With respect to the planning, acquisition, and management of consulting services within the Ontario government, Management Board Secretariat (MBS) is primarily responsible for:

- developing and evaluating the effectiveness of the Directive and recommending any changes to the Management Board of Cabinet;
- assisting ministries in the development of their administrative procedures in support of the Directive; and
- reviewing ministry submissions and reports to evaluate ministry performance with respect to compliance with Directive requirements.

The Directive outlines four main principles, which are summarized as follows:

- *Competition.* Consulting services shall be acquired competitively, through open and transparent procurement procedures, to meet specified needs with the objective of obtaining the best value for the funds to be expended.
- *Access.* Access for suppliers to compete for ministry consulting assignments is to be open, fair, and consistent. When acquiring consultants, ministries must avoid any conflict of interest, must not permit a supplier to gain a monopoly for a particular kind of work, and must not continuously rely on a particular outside organization.
- *Fair and equal treatment of suppliers.* Suppliers of consulting services shall be treated in a fair, equitable, and responsible manner.
- *Responsible management.* Ministries shall co-ordinate, monitor, and control the combined efforts of internal and external resources to ensure satisfactory completion of consulting assignments on schedule and within budget. When appropriate, a transfer of knowledge must occur from consultant to staff to avoid a continuous reliance on consultants.

These principles are in turn reflected in the following mandatory requirements:

- *Assignment definition, justification, and approval.* Before seeking assistance from suppliers of consulting services, the ministry must ensure that the assignment is well defined and justified and that appropriate approvals are obtained.
- *Competitive acquisition.* The estimated ceiling price of an agreement (including fees and expenses) determines the prescribed acquisition procedure. Specifically:
 - If the estimated ceiling price is less than \$25,000, the ministry determines the appropriate procedure. However, competition must not be avoided by awarding the same consultant continuous agreements, each less than \$25,000 but totalling more than \$25,000, unless each assignment is unique and different and the terms

of reference of each new assignment change substantially from the previous assignment.

- If the estimated ceiling price is \$25,000 or more, all consulting services must be acquired through a competitive process that must include at least a written request for proposals; a written evaluation of proposals; a written agreement; and, upon the request of bidders, bidder debriefing. Ministries must select from among qualified bidders the consultant with the lowest evaluated cost.
- If the estimated ceiling price is \$100,000 or more, an open call for tenders must be issued.
- *Approval of supplier selection.* When the ceiling price for an assignment (including any follow-on assignments) is \$100,000 or more, approval in writing of the selected supplier, the selection process, and the proposed agreement must be obtained from the Deputy Minister or designate. When the estimated price is \$500,000 or more, the approval of both the Deputy Minister and Minister must be obtained.
- *Agreements.* The ministry and the supplier must formally define the responsibilities of both parties with respect to the assignment through a written agreement. Further, the ceiling price of an agreement must not be exceeded if the terms and conditions of the agreement remain unchanged.

In all cases in which changes to the terms and conditions for any agreement increase the ceiling price, the following need to both be documented and receive the prior approval of the Deputy Minister or designate: the changes and/or additions to the agreement; the method used to arrive at the revised ceiling price; and the reason why the need for changes and/or additions were not foreseen prior to agreement signature. The prior approval of both the Deputy Minister and Minister is required for any changes to the ceiling price that cause the total value of the agreement to reach or exceed \$500,000.

- *Assignment documentation.* Ministries must retain appropriate documentation of each assignment for reporting to MBS and for future reference. Ministries must be prepared to provide a report to MBS on their ability to effectively manage the process of planning, acquiring, and managing consulting services.

In addition to the requirements set out in the Directive, MBS has established corporate vendor-of-record (VOR) arrangements with multiple vendors. These are contractual arrangements for the ongoing acquisition of commonly purchased goods and services, including consulting services, over a specified term that are available to all ministries.

AUDIT OBJECTIVE AND SCOPE

The objective of our audit of consulting services was to assess whether six selected ministries had adequate systems and procedures in place to ensure that consulting services were

acquired and managed with due regard for value for money and in compliance with corporate policies.

The scope of our audit included the following six ministries (the Ministries): Management Board Secretariat and the ministries of the Environment, Finance, Health and Long-Term Care, Natural Resources, and Public Safety and Security (Public Safety and Policing Services Divisions only, constituting the former Ministry of the Solicitor General). Our audit work included interviews with appropriate staff at the Ministries, a review of the Directive and other relevant administrative procedures, and an examination of consulting services contracts, invoices, and other related documents.

Prior to the commencement of our audit, we identified the audit criteria that would be used to conclude on our audit objectives. These were reviewed and agreed to by senior management at the Ministries.

Our audit was performed in accordance with the standards for assurance engagements, encompassing value for money and compliance, established by the Canadian Institute of Chartered Accountants, and accordingly included such tests and other procedures as we considered necessary in the circumstances.

During the course of our audit, we worked with the Internal Audit Services for the Ministry of Finance and were able to rely on their work to reduce the extent of our work at the Ministry. Our audit field work was substantially completed by March 2002.

OVERALL AUDIT CONCLUSIONS

Our audit identified numerous instances where the Ministries did not comply with directive requirements and MBS guidelines. As a result, we concluded that, in many respects, consulting services were not acquired and managed with due regard for value for money. The following is a summary of our major concerns.

Use of Consultants at Ministries

Heavy dependence on the use of consultants: Hundreds of consultants were engaged at per diem rates that were on average two to three times higher than the salaries of ministry employees performing similar duties. For instance:

- At the Ministry of Public Safety and Security, over half of the IT workforce was made up of consultants. In addition, more than 40 of these consultants were former ministry employees who had left the Ministry in 2001 and returned within a few days at per diem rates that were more than double their salaries as employees.

Awarding continuous agreements with little or no change to the original deliverables: Ministries often entered into contracts that started with the consultant providing its expertise for a short period of time, usually on a three- to six-month contract, after which the contracts were extended with little or no change to the original deliverables. For example:

- A consultant was initially engaged by the Ministry of the Environment to provide technical consulting services for three months at a rate of approximately \$540 per day, with total remuneration not to exceed \$25,000. Over the following three years, the consultant's contract was renewed or extended seven times without any change in the contracted deliverables, for total remuneration of \$455,000.
- A consultant engaged by the Ministry of Health and Long-Term Care on a six-month assignment at \$96,000 was awarded successive contracts that extended the term to two years, resulting in a total price of \$360,000. The consultant was eventually replaced with a full-time staff member at an annual salary of approximately \$60,000.

Lack of knowledge and experience for carrying out senior-level responsibilities within ministries: Some ministries had to engage senior-level consultants at high per diem rates to oversee projects and manage the work of other consultants. For example:

- As at March 31, 2002, the Ministry of Health and Long-Term Care had engaged about 15 senior consultants who charged over \$1,200 per day on average in a management capacity, compared to approximately \$340 per day for senior ministry employees at the equivalent level.

Lack of competition in acquiring IT consultants: In the development and implementation of multi-million-dollar IT projects, the Ministries often engaged consultants on a per diem basis to do the work instead of calling for open tender. This practice did not ensure that the most qualified consultants were acquired at the best available price and that all suppliers of consulting services were given fair access and treated in an open and transparent manner. Examples of our findings are provided in the following table.

Information Technology Projects for Which an Open Tender Process Was Not Followed

Ministry	Project	Project Costs (estimated or actual)	Other Concerns
Environment	Environet (three of six components)	\$1.1 million–\$4.2 million (estimated)	
Natural Resources	MNR ON-Line	\$1.9 million (actual) at March 31, 2002	no estimate made of cost and time required to complete the project
Health and Long-Term Care	Smart System for Health	\$12.7 million (actual) at March 31, 2002	
	Integrated Services for Children Information System	\$8.5 million (actual) at March 31, 2002	original estimate was \$6 million; estimated additional \$3 million required to complete the project
	a project to define and implement quality-assurance processes	\$5.9 million (estimated)	
Public Safety and Security	IT Service Management Project	\$3 million (actual) at March 31, 2002	consultant sub-contracted some work to another consultant on current VOR list
Management Board Secretariat	a management improvement project	\$1.4 million (estimated)	project cancelled by MBS after \$467,000 was spent

Sources of data: Management Board Secretariat and Ministries of the Environment, Health and Long-Term Care, Natural Resources, and Public Safety and Security

Risk assumed by engaging consultants on a per diem basis: By compensating consultants on a per diem basis and not on the basis of a fixed price and fixed deliverables, the Ministries assumed the risk of consultants not delivering their work on time and would often be forced to pay the costs of missed deadlines and cost overruns, even when these problems may have been caused by unsatisfactory performance and inefficiencies on the part of the consultants.

Lack of competition in acquiring other consultants: In the acquisition of non-IT consultants, we found problems such as the following:

- At MBS, a \$1.7 million contract to provide management consulting services relating to the government's data network was awarded to a firm without any competition. An open tender process would have been prudent and appropriate in view of the large amount paid to this firm.

Weaknesses in the competitive selection process: We found instances of weaknesses in the competitive selection process, such as:

- At the Ontario SuperBuild Corporation—an agency of the Ministry of Finance—a calculation error resulted in a consultant being awarded a contract as a financial advisor for \$681,000. The consultant may not have received the contract if the error had not been made.
- In another case, SuperBuild Corporation's poorly defined evaluation criteria led to the awarding of a \$3-million consulting contract, which was double the price bid by the lowest bidder.

An agreement not reflecting the scope of consulting work: A forensic accounting firm was engaged by MBS to review certain real-estate transactions entered into by the Ontario Realty Corporation (ORC). Its estimated fees ranged from \$150,000 to \$500,000. However, the firm was paid almost \$6 million out of ORC's budget for expanded work, and a new contract was not entered into to reflect the revised scope and objectives of the ongoing investigative work.

Not ensuring that consultants' provincial taxes were in good standing: The Ministries frequently did not ensure that consultants' provincial taxes were in good standing as required by their own policies and by statements made in the *1996 Ontario Budget Speech*. For example:

- At MBS, two consultants who received contracts were not registered with the Ministry of Finance, and two other consultants had tax arrears of approximately \$110,000 and \$35,000 respectively.
- At the Ministry of Public Safety and Security, two consultants who received contracts were in default for not filing corporate tax returns.

Significant weaknesses in controls over payments to consultants: Instances of weak controls included:

- At the Ministry of the Environment and the Ministry of Public Safety and Security, numerous payments were made to consultants that exceeded the ceiling price of

contracts, and there was no evidence of prior approvals by the Deputy Minister or designate as required by the Directive.

- At the Ministry of Public Safety and Security, a consulting firm was engaged to monitor and operate computer systems onsite and at remote locations around the province. The arrangement continued for seven months after the contract expired, and the firm was paid, in total, \$200,000 above the contract amount.
- At MBS, one consulting firm was reimbursed for meal charges at ten times the rates allowed to government employees, another consultant was mistakenly paid twice an amount over \$14,000, and no supporting documents were found for over \$36,000 in charges paid to another consultant.
- MBS permitted one consultant's rates to increase significantly, from \$725/day in April 2000 to \$1,800/day in May 2000 and to \$2,600/day in September 2000 without documented rationale for these large increases in the consultant's rate. In another case, a consulting firm, which received almost \$450,000 for an engagement, charged the Ministry of Natural Resources hourly rates of \$393 and \$218 per hour, even though the rates quoted for the engagement were \$300 and \$200 per hour respectively.

Direction To Ministries

The Directive provides adequate direction and guidance to ministries to ensure that, if followed, the planning, competitive acquisition, and management of the use of consulting services are undertaken with due regard for value for money. However, we identified a number of areas where the VOR arrangements for consulting services established by MBS were inconsistent with the Directive and were insufficient to ensure that ministries using vendors of record receive value for money. This was of particular concern because on May 1, 2000, all ministries were informed by MBS that, effective immediately, the use of the corporate VOR arrangements would be mandatory for the acquisition of all consulting services. The following is a summary of our major concerns.

Approval not obtained for changing directive requirements: MBS established the threshold amount of \$500,000 for certain VOR arrangements before an open tender is required. This threshold amount is five times higher than the threshold amount of \$100,000 in the Directive. In other cases, MBS did not establish any threshold amounts whatsoever. In establishing a higher amount, it had not obtained approval from the Management Board of Cabinet and also had not recommended changes to the Directive to reflect the higher VOR competitive tendering thresholds.

Lack of equal opportunity for consultants to bid on assignments: The VOR lists include consultants in the same job categories that charge significantly different rates—rates can vary by as much as \$2,000 per day. However, MBS guidelines did not require that ministries give qualified consultants on a VOR list an equal opportunity to demonstrate that they can satisfactorily complete a given assignment at the lowest cost.

Unclear guidelines on requirements for open tender: The practice of some ministries was to avoid open tender by subdividing multi-million-dollar IT projects into smaller individual assignments. For example, at the Ministry of Health and Long-Term Care, an IT project that had cost \$10.6 million to date had about 50 consultants working on smaller assignments of less than \$500,000 each. The Ministry advised us that this practice was in compliance with VOR requirements. There is a need to clarify the VOR guidelines to ensure that the procurement process is open and transparent and that the most qualified consultants are obtained at the lowest costs using an open tender process whenever possible.

OTHER MATTER

We had concerns with respect to the engagement of creative communications consultants at the Ontario Realty Corporation (ORC). For example, one firm had billed ORC over \$1 million, but letters of agreement existed only for billings of \$210,000.

DETAILED AUDIT OBSERVATIONS

DIRECTION TO MINISTRIES

The Management Board of Cabinet Directive on Consulting Services (Directive) sets out corporate policies and the requirements that ministries must follow in planning for, competitively acquiring, and managing consulting services with due regard for value for money. Ministries must obtain prior approval from the Management Board of Cabinet for any exemption from the requirements contained in the Directive.

Further direction to ministries with regard to acquiring consulting services is provided through the contractual VOR arrangements with multiple vendors established by MBS. These VOR arrangements are for the ongoing acquisition of commonly purchased goods and services, including consulting services, over a specified term and are available to all ministries. MBS's Procurement Policy and IT Procurement Branch establishes and manages corporate VOR arrangements for information technology (IT) consultants, and the Shared Services Bureau establishes and manages corporate VOR arrangements for non-IT consultants.

On May 1, 2000, all ministries were informed by MBS that, effective immediately, the use of the corporate VOR arrangements established by MBS would be mandatory for the acquisition of all consulting services.

Establishing Vendor-of-record Arrangements

To establish VOR arrangements with various categories of consultants, MBS begins with an advertised request for proposals for various types of consulting services used by the government, and each response from an interested consultant is reviewed based on the

consultant's experience, qualifications, and the billing rates the consultant submits for a specific type of work. Approved VOR lists are maintained for each specific type of consulting service and include all consultants who successfully met the criteria for inclusion on the lists. Typically, there are many consultants for each type of service. The VOR lists help ministries achieve administrative efficiencies in that much of the work of identifying prospective consultants and evaluating their credentials has already taken place.

Ministries are required to select from the appropriate list the consultant that best meets the needs of the assignment at the lowest cost. For large assignments, the ministry is required to receive competing proposals from several consultants, with the selection being based on the merits of each proposal. The cost of the assignment can vary significantly between consultants, depending on the consultant's approach, the consultant's estimates of the amount of time and work required to complete the assignment, and the consultant's per diem rates on the VOR list.

We noted several areas where the VOR arrangements require improvement to ensure that they reflect the requirements for fairness, openness, and competitiveness in the Directive that help ensure ministries achieve value for money.

- The Directive states that if the estimated ceiling price of an assignment (including fees and expenses) is \$25,000 or more, all consulting services must be acquired competitively through a written request for proposals from potential suppliers. Ideally, the acquisition procedure will result in consideration of three or four valid proposals. If the estimated ceiling price is \$100,000 or more, a call for open tender is required. However, we noted that, for several categories of consultants, the threshold amount set by MBS for the use of VOR lists was often significantly higher than the amount specified in the Directive. For example, certain VOR arrangements allow a ministry to select a consultant of its own choosing without any competition unless the ceiling price of an assignment is more than \$100,000, contrary to the Directive's threshold amount of \$25,000. Similarly, the VOR arrangement for IT consultants allows ministries to select from among the consultants on the list without calling for open tender unless the ceiling price of an assignment is more than \$500,000, contrary to the Directive's threshold amount of \$100,000. The VOR arrangement for alternative-service-delivery consulting services did not even have a threshold amount beyond which competitive selection of consultants and calling for open tender is required.

In all these cases where the threshold amounts beyond which competitive consultant selection is required were higher under VOR arrangements than in the Directive, there was no documented rationale to justify the higher threshold amounts. In addition, MBS had neither sought approval from the Management Board of Cabinet to set the higher threshold amounts nor had it recommended changes to the Directive to reflect the higher tendering requirements when the VOR process is involved.

- The VOR lists for each specific type of service include a large number of consultants who charge significantly different rates. For example, the following chart compares the lowest and highest rates that vendors on the same VOR lists ask for their services.

Ranges of Per Diem Rates on Two VOR Lists

Job Category	Lowest Per Diem Rate (\$)	Highest Per Diem Rate (\$)	Difference (\$)
VOR List for IT Services—Oracle Environment (Greater Toronto Area)			
Project manager/leader	435	2,340	1,905
Technology architect	435	1,885	1,450
Applications architect	400	1,885	1,485
Data architect/modeler	375	1,600	1,275
Systems analyst	326	1,415	1,089
Programmer/analyst	350	1,290	940
Database administrator	218	1,150	932
VOR List for Alternative Service Delivery Consulting Services			
Partner	1,200	3,350	2,150
Principal	1,200	2,883	1,683
Project manager	900	2,240	1,340
Senior consultant	800	1,790	990
Consultant	700	1,595	895
Business analyst	471	1,268	797

Source of data: Management Board Secretariat

The VOR list for alternative-service-delivery consulting services has 22 firms whose per diem rates vary by over \$2,000, while the VOR list for IT services—Oracle environment (Greater Toronto Area) has 116 firms, and the per diem rates vary by almost \$2,000. Given such large numbers of firms and varying rates, it is particularly critical that a fair and open competitive selection process be followed by ministries to ensure that the consultant who meets the needs of an assignment will be acquired at the lowest cost. However, MBS guidelines to ministries did not require that qualified consultants on the VOR lists be given an equal opportunity to submit a proposal to demonstrate that they can satisfactorily complete the assignment at the lowest cost. We noted instances where ministries requested proposals from only one or a few consultants, who charged rates at the higher end of the per diem range, and excluded from consideration, perhaps for reasons of unfamiliarity, other consultants who may be qualified and offered a much lower rate for their services.

-
- For some ministries, we noted that several multi-million-dollar projects, particularly IT projects, were subdivided into individual smaller assignments of less than \$500,000. These ministries did not call for open tender for the assignments but rather selected consultants from the VOR lists on a per diem basis to complete the assignments. In that regard, we noted that guidelines provided to ministries by MBS were unclear with respect to when open tender is required. Our two concerns were that guidelines do not address the need for ministries to better define large projects that should be acquired using open tender, and they do not address the need for ministries to require fixed deliverables at a firm price in order to ensure that consultants assume responsibility and some of the risk relating to their work.

With respect to the first concern, in the view of some ministries, the VOR requirement that consultants for IT assignments of \$500,000 or more be acquired through open tender does not mean that ministries cannot subdivide multi-million-dollar projects into many individual smaller assignments; as long as each assignment is distinct and has an estimated ceiling price of less than \$500,000, the ministries can select consultants from the VOR lists for the assignments and not follow an open tender process. For example, at one ministry, we noted that about 50 consultants were working on an IT project that had cost \$10.6 million to date. The ministry indicated to us that each of the consultants was working on an individual assignment of less than \$500,000 and that therefore the ministry was following the VOR requirements in not requesting open tender. There is a need to clarify the VOR guidelines to ensure that the procurement process is open and transparent and that the most qualified consultants are obtained at the lowest costs using an open tender process whenever possible.

With respect to the second concern, because consultants were engaged on a per diem basis and were not responsible for fixed deliverables, the ministries assumed the risk of consultants not delivering their work on time and were often forced to pay the costs of missed deadlines and cost overruns, even when these problems may have been caused by unsatisfactory performance and inefficiencies on the part of the consultant.

- Ministries are not required to report to MBS on the extent to which VOR arrangements are used. In addition, only IT consultants are requested to report back to MBS the value of the contracts they received from ministries under VOR arrangements. However, such information, when received by MBS, was not complete. Therefore, MBS did not have adequate information on the amount of work that consultants have been engaged to do under VOR arrangements. Such information could be used to monitor the success of the VOR procurement strategy and to obtain better rates from consultants that may receive a significant volume of business from the government.
- The per diem rates proposed by consultants on VOR lists generally remain unchanged for the term of the VOR arrangement; however, in some VOR arrangements, consultants are allowed to periodically change their rates to reflect market conditions.

Recently, MBS has recommended that ministries not request discount pricing from consultants and that consultants not submit discounted pricing for assignments. According to MBS, the VOR rates that vendors submitted were considered by MBS to be the best rates the vendors could offer. However, we noted that MBS does not obtain guarantees from vendors that the rates submitted are indeed the lowest rates the vendors make available to their major customers, even though such guarantees can usually be obtained from vendors for large-volume customers such as the Ontario government. Since MBS has not obtained the guarantees, we question why MBS is recommending that ministries not negotiate lower prices for their assignments and that consultants be prohibited from offering lower rates in certain situations.

Recommendation

In order for vendor-of-record arrangements to reflect a fair, open, and competitive procurement process that will ensure that ministries receive value for money, Management Board Secretariat (MBS) should ensure that:

- **guidelines are strengthened to clarify the process by which consultants are selected and that ministries are required to follow a formal selection process to give the qualified consultants on a vendor-of-record list equal opportunity to bid on government contracts;**
- **there is a documented rationale to support any departure from the competitive selection requirements of the Directive, authorization from Management Board of Cabinet is obtained for all departures, and the Directive is updated to reflect the requirements of vendor-of-record arrangements;**
- **its guidelines to ministries require that larger projects not be subdivided into smaller assignments to avoid competition and that ministries ensure that consultants assume responsibility for their work by requiring fixed deliverables at a firm price; and**
- **an improved process for collecting information on and monitoring ministry use of vendors of record is established.**

In addition, MBS should, whenever possible, obtain guarantees from consultants that their per diem rates are the lowest available to their major customers. The vendor-of-record list should indicate when these guarantees have not been obtained, in which case ministries should be permitted to negotiate for better rates.

Management Board Secretariat Response

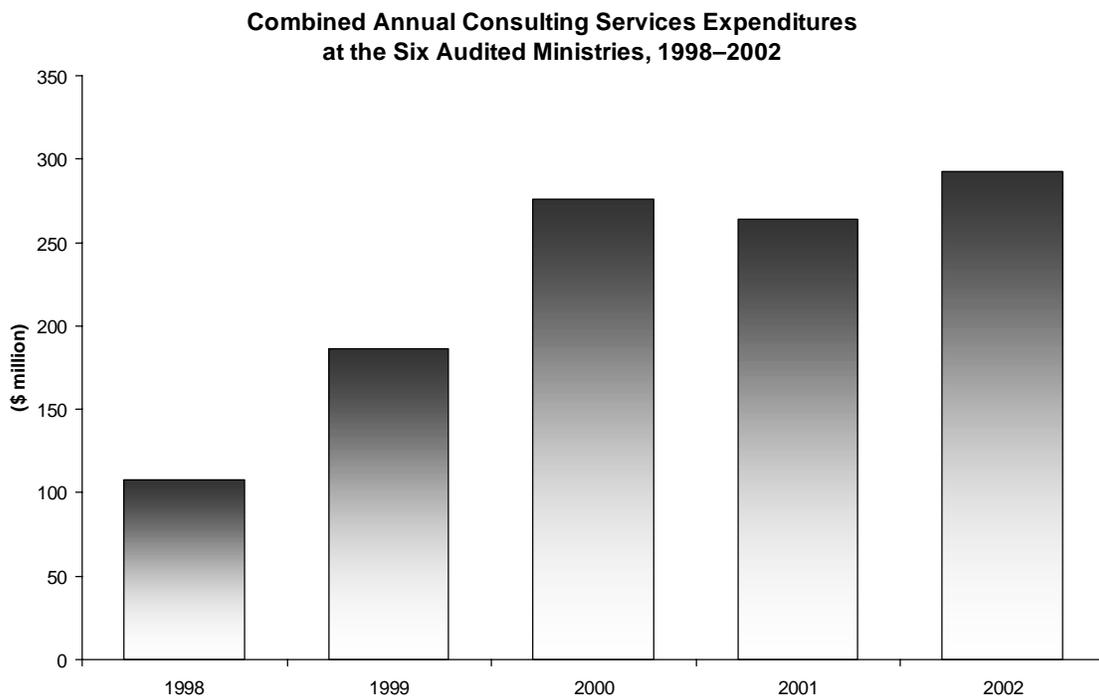
Vendor-of-record arrangements are established through a fair, open, and transparent request-for-proposal process whereby proponents responding to the request for proposals must meet specified mandatory requirements and are then evaluated on their qualifications, experience, understanding of the potential consulting assignments, and the rates submitted for the specific expertise they are offering to provide.

Management Board Secretariat will work with ministries in responding to the findings in this report relating to vendor-of-record arrangements and will develop and make recommendations to the Management Board of Cabinet that the Management Board of Cabinet Directives on procurement be revised to set out and clarify the specific rules relating to vendor-of-record arrangements, including the establishment of thresholds. In addition, Management Board Secretariat will take the necessary steps to address any other issues identified in this report.

In addition, Management Board Secretariat concurs with the recommendation of the Provincial Auditor that vendor-of-record guidelines be strengthened and clarified to ensure that ministries use the agreements properly and appropriately and that vendor-of-record arrangements should seek commitments from vendors that they will offer the best prices for services to the Ontario Public Service that they offer to similar large organizations within Canada. As well, Management Board Secretariat concurs with the recommendation that an improved process for collecting information on and monitoring ministry use of vendors of record be established.

CONCERNS RELATING TO THE USE OF CONSULTANTS AT MINISTRIES

For the 2001/02 fiscal year, the ministries at which we audited consulting arrangements incurred \$293 million in consulting expenditures. The following graph summarizes the Ministries' consulting expenditures over the last five years.



Source of data: Ministry of Finance

Continuous Reliance on Consultants and Assignment Definition

We found numerous instances in which the Ministries did not comply with the Directive requirements that:

- consultants must only be hired on a defined assignment;
- for services ultimately costing more than \$25,000, competition must not be avoided by awarding the same consultant successive agreements; and
- when appropriate, a transfer of knowledge must occur from consultant to staff to avoid a continuous reliance on consultants.

Specifically:

- Many of the Ministries depended heavily on the use of consultants, particularly in the area of information technology, as the examples in the following table illustrate.

Consultant Use at Ministries, 2001/02

Ministry	# of IT Consultants	# of IT Staff
Management Board Secretariat	170	540
Health and Long-Term Care (Human Services Cluster)	120	350
Public Safety and Security (Infrastructure Service Branch)	100	90
Natural Resources	65	275

Sources of data: Management Board Secretariat, Health and Long-Term Care, Natural Resources, and Public Safety and Security

On average, the per diem rates of these consultants were two to three times the salaries and benefits of comparable employees at the Ministries. As an example, the following table shows how per diem rates for consultants compare to those of staff at the Ministry of Health and Long-Term Care.

**Comparison of Per Diem Rates
of Consultants and Equivalent Staff
at the Ministry of Health and Long-Term Care**

Classification	Consultant Per Diem (\$)	Ministry Staff Per Diem (\$)
Project manager	1,088	371
Database administrator	661	346
Desktop specialist	610	275
Client support analyst	600	231
Business analyst	544	284
Programmer analyst	428	231
<i>Overall average per diem rates for all consultants and staff</i>	847	273

*Sources of data: Ministry of Health and Long-Term Care,
calculations by the Office of the Provincial Auditor*

The Ministries acknowledged that many consultants were engaged to perform day-to-day operational duties rather than work on defined assignments. According to the Ministries, the reason that they had to extensively rely on the use of consultants was that, in recent years, they had had more difficulty in obtaining approval and funding to increase the number of their full-time staff and salaries ranges to the levels needed to attract qualified candidates. However, such use of consultants was not in compliance with the requirements of the Directive that consultants only be hired on a defined assignment and that ministries must avoid continuous reliance on consultants.

We also noted that, at the Ministry of Public Safety and Security, more than 40 consultants were former ministry employees who had left the Ministry in 2001 and were subsequently hired by consulting firms. They returned to the Ministry as consultants to perform their previous duties at per diem rates that were much higher than their salaries as ministry employees. The Directive states that engaging the services of former employees must bear the closest public scrutiny to ensure that no unfair advantage exists. Caution must be particularly exercised if less than one year has passed since former staff left the employment of a ministry. In this case, we found that the majority of the consultants came back within a few days of having left the Ministry.

- We noted that, in many first-time contracts with consultants, the consultant was engaged to provide expertise for a short period of time, usually on a three- to six-month contract. Once expired, these contracts were extended with little or no change to the original deliverables. Competitive selection processes were not always followed, and even when they were, they typically resulted in the re-engagement of the original consultants.

The following are examples of the effects of these questionable practices that we noted from our audit of the Ministries:

- At MBS, a consulting firm was selected to provide one staff person on a per diem basis for the MBS information-technology help desk and site-services support unit. The initial contract awarded in April 2000 was for six months at a cost of \$50,000. At the completion of our audit in March 2002, the consulting firm had received three contract extensions, totalling \$200,000, without competition and without any substantial changes to the original deliverables.
- In February 1999, a consultant was initially engaged by the Ministry of the Environment to provide technical consulting services for three months at a rate of approximately \$540 per day, with total remuneration not to exceed \$25,000. Over the following three years, the consultant's contract was renewed or extended seven times without any change in the contracted deliverables, for total remuneration of \$455,000. The Ministry informed us that, because of the unique experience and knowledge of the consultant, it had to continuously rely on the consultant's services to avoid disruption to the Ministry's operations. In our view, however, the specialized nature of the consultant's work has made it even more important that a process be established to ensure appropriate knowledge transfer from consultant to ministry staff, since at some point the services of the consultant may no longer be available.
- A consultant was engaged to provide testing services for the Ontario Land Information system of the Ministry of Natural Resources. The consultant was engaged under three successive contracts, with no change to the original deliverables, for services from January 2000 to September 2001, at a rate of over \$500 per day, totalling approximately \$237,000.
- A consultant was engaged by the Ministry of Health and Long-Term Care in 1999 for an initial term of six months and a price of \$96,000. The consultant, who was asked to conduct business- and systems-analysis activities for a branch, received contract extensions that brought the term to two years. There were no appreciable changes to the original deliverables, and the final cost of the assignment after the extensions was \$360,000. The consultant was eventually replaced with a full-time staff member at an annual salary of approximately \$60,000.

Without clearly defined, tangible deliverables that require the consultant to complete the assignment by a specified date and at a fixed ceiling price, the assignments may be ambiguous, and this ambiguity can often result in the consultants billing over the original, agreed-upon amount.

We also saw little evidence that a formal process was in place to ensure appropriate knowledge transfer from consultants to ministry staff to avoid a continuous reliance on consultants.

- We were also concerned about the lack of sufficient knowledge and experience within the Ministries to carry out senior-level responsibilities and effectively manage the work of

consultants. Specifically, we found that the Ministries had to engage senior-level consultants at high costs to oversee projects and manage the work of other consultants. For example, as at March 31, 2002, the Ministry of Health and Long-Term Care had engaged about 15 senior consultants, who charged over \$1,200 per day on average, compared to salaries of approximately \$340 per day, including benefits, that would have been paid for senior ministry employees at the equivalent level.

Recommendation

To ensure that its requirements are met in the most economical manner, the Ministries should comply with the requirements of the Management Board of Cabinet Directive on Consulting Services by:

- clearly defining proposed assignments, which involves specifying tangible deliverables, time frames for completion, and related costs, preferably with fixed ceiling prices; and
- avoiding continuous reliance on consultants and, when appropriate, ensuring that a transfer of knowledge occurs from the consultant to staff.

Management Board Secretariat Response

The Secretariat agrees that requirements for consulting services must be met in the most economical manner possible. The Secretariat has initiated the development of a training program for managers on the acquisition and management of consultants to ensure that where consultants are used, it is on the basis of a strong business case and documentation that includes clearly defined details on deliverables, time frames, and related costs.

The Secretariat also agrees that knowledge transfer is essential in order to avoid a continuous reliance on consultants and will take the necessary actions, including through ministry training, to further strengthen the knowledge transfer requirement.

Ministry of the Environment Response

The Ministry acknowledges that consulting contracts should be well defined in advance and reliance on consultants monitored. The Ministry is currently strengthening its capacity to ensure that all contracts are in compliance with Management Board of Cabinet directives.

To ensure all contracts include well documented assignments, the Ministry has developed a procurement checklist for use by all contract managers. The checklist clearly outlines the mandatory contract components to ensure compliance with Management Board of Cabinet directives.

Consultants will continue to provide a resource of temporary expertise that can be purchased to assist the Ministry to do its business. However, the Ministry's new contract management and quarterly reporting system will

ensure regular review by senior management of consultant use across the Ministry to monitor ongoing reliance on consulting services and compliance with directives. This will allow for early detection of problems and prompt management response to any problems that may occur.

Ministry of Health and Long-Term Care Response

The Ministry agrees in principle with the recommendation as a long-term strategy. However, it should be noted that, in some cases, a more cost-effective approach to staffing projects is to bring in outside expertise with the requisite skills and experience for the duration of a project, rather than maintain a large number of full-time staff to accommodate the specialized resource requirements of many of the initiatives. In complying with the government's requirement that ministries effectively manage their staff complement, the Ministry must make decisions that enable it to carry out its mandate while meeting this commitment. Managers make their decisions based on funding allocations and corporate direction.

It should be noted that most recently in the Human Service Cluster's I&T Secretariat, the work of the fee-for-service consultants is now being undertaken by Ontario Public Service staff. Also, in the Human Services I&IT Cluster's Quality Assurance project, a formal strategy was undertaken to allow for transfer of knowledge prior to the termination of the fee-for-service contracts. This included documentation of quality assurance work completed and processes developed to date, as well as knowledge transfer to recently hired full-time staff.

The Ministry will continue to monitor its use of consultants and raise the awareness of program areas to the need to plan for a transfer of knowledge where possible and appropriate.

Ministry of Natural Resources Response

We will implement the recommendation.

In concert with the Shared Services Bureau, we will improve procedures to more clearly define assignments, including specifying deliverables and fixed ceiling prices.

In the case of the Ontario Land Information system, we are in the process of operationalizing the developmental and testing components and transferring this knowledge to a core staff team. This will help minimize reliance on consultants and ensure skills transfer to ministry staff.

Ministry of Public Safety and Security Response

The Ministry has developed tools and processes to ensure that consulting assignments are adequately defined, deliverables and time frames specified,

and ceiling prices and other terms and conditions clearly documented. The introduction of these tools and processes began in December 2001, and therefore the results of the improvement to internal controls were not yet reflected at the time of the audit.

To address increasing workloads in the absence of adequate staffing levels, particularly in the area of information technology, the Ministry has been required to use consultants to continue providing critical technical support to front-line service delivery. In addition, a considerable amount of work is project-based and requires short-term infusion of highly specialized skills. In these cases the Ministry will define the requirements and access consulting and other specialized resources through consulting contracts with defined deliverables.

Many information technology (IT) skills are still in very short supply within the Ontario Public Service, and we will continue to need to fill gaps with consultants. We are moving on a number of fronts concurrently to actively address the skill gap— the IT internship program, specific recruitment approaches for specialized skills, retention, and succession planning so that qualified staff are available to assume critical roles where required.

With respect to the transfer of knowledge, for defined assignments, it is ministry policy to ensure that the transfer of knowledge and expertise by the consultant to ministry staff takes place at the conclusion of each consulting assignment. We will reinforce that policy.

Justification for the Use of Consultants

The Directive states that a ministry must not purchase external consulting services prior to considering existing ministry resources. Known resources available from other ministries must also be considered. The majority of ministries did not demonstrate that they determined whether resources, both within the ministry and in other ministries, were available before purchasing external consulting services. Staff at the Ministries expressed the opinion that the lack of available skills and resources was obvious and previous attempts to identify qualified internal resources had proven to be unsuccessful.

Proper evaluation and documentation of available resources and anticipated skill shortages could help management identify recurring areas where training or hiring staff with the required skills would be a more cost-effective long-term strategy for obtaining needed services than engaging consultants.

Recommendation

To ensure that needed services are obtained in the most economical way possible, prior to hiring consultants the Ministries should conduct a proper evaluation of available resources both within the Ministries and in other

ministries, document the results, assess alternatives to using consultants, and, where the services of consultants are considered necessary, justify the engagement of consultants.

Management Board Secretariat Response

The Secretariat concurs with the recommendation and will improve its evaluation of the availability and skills of internal resources before engaging outside consultants. In addition, the Secretariat is in the process of implementing a strategy to address internal skills requirements, consisting of an information technology internship program, specific recruitment approaches for specialized information technology skills, retention, and succession planning, so that qualified staff are available to assume critical roles where required.

Ministry of the Environment Response

The Ministry acknowledges the need to improve its documentation to justify the use of consultants. The Ministry's action plan will include training sessions to increase awareness among key personnel of the need for better documentation and evaluation of the need to hire consultants and a requirement that staff complete and document a resource-needs evaluation. Technical co-ordinators will be responsible for the review of contracts in order to ensure that all proper procedures are followed and documentation is complete.

Ministry of Finance Response

We agree with the recommendation. In future, we will document why existing staffing resources are not able/available to handle the proposed assignment and/or any other reasons for retaining outside consultants.

The Office of the Provincial Controller has been doing this as a matter of normal operational practice in the past but has not documented it. The evaluation is somewhat subjective and not formalized, but it is based on personal knowledge within the management group that is actively involved in arriving at this conclusion and includes both the availability of Ministry of Finance staff and the financial community in the Ontario Public Service (OPS). Due to the current demand for financial expertise in the OPS (for both ministry and corporate initiatives such as the Integrated Financial Information System), it is extremely difficult to find qualified internal expertise at this time.

Ministry of Natural Resources Response

We will implement the recommendations and improve our documentation.

In some specialized areas of the Ministry's business such as water control structure engineering and specialized systems development, we have made an

organizational decision to increase the use of specialized knowledge that exists within the private-sector industry as we are not aware of an additional or available source of expertise within our own or other ministries.

Ministry of Public Safety and Security Response

It is a ministry requirement to conduct evaluations of existing staff resources prior to determining that the use of outside consultants is required. The Ministry acknowledges that documentation of the results of the evaluation is generally inadequate. The Ministry has introduced enhanced internal controls related to the acquisition of consultants including a compliance control process that will ensure all aspects of the business case for the use, acquisition, and monitoring of consulting services are properly documented in accordance with Management Board of Cabinet Directives.

Competitive Selection of Consultants

We concluded that the Ministries' procedures for the competitive selection of consultants were inadequate to ensure that the Directive and MBS requirements were followed. In particular, we found numerous cases where, in the development of multi-million-dollar IT projects, the Ministries did not comply with MBS requirements regarding the acquiring of consultants from the IT VOR list.

As indicated earlier, the use of consultants from the IT VOR list is limited to projects with an expected cost of \$500,000 or less; above that amount, an open tender process is required. This requirement is intended to ensure that the most qualified consultants are acquired at the best available price, and that all suppliers of consulting services are given fair access and treated in an open and transparent manner.

However, we found that, even where the amounts spent on the projects exceeded \$500,000, the Ministries did not follow an open tender process. Instead, the Ministries elected to engage consultants from the VOR list on successive contracts to work on these projects. Some ministries maintained that, by engaging consultants directly from the list to do the work, they would have more control over the consultants. However, this practice did not comply with the requirement for open tender.

As indicated earlier, by compensating consultants on a per diem basis rather than with a fixed price and on fixed deliverables, the Ministries assumed the risk of consultants not delivering their work on time and would often be forced to pay the costs of missed deadlines and cost overruns, even when these problems might have been caused by unsatisfactory performance and inefficiencies on the part of the consultants.

In addition to not following an open tender process, in many instances the Ministries did not request written proposals from at least several potential suppliers, did not conduct and

write up evaluations of proposals, and, when an evaluation was carried out, did not always select the most qualified consultants at the lowest cost.

The following are examples of our observations from our audit of the Ministries.

Management Board Secretariat

The first example involves a contract awarded to a consulting firm in April 2000 to assist in selecting a vendor to assume responsibility for certain network data functions and components. The assignment was defined as having several phases: defining the request-for-proposal process; assisting in the development of the request-for-proposal documents; and negotiating a contract. We were advised that the contract was awarded to this consulting firm by selection from the vendor-of-record list; however, there was no documentation available to support the selection of the firm. The rates the consulting firm charged for its various consultants ranged from \$1,025 to \$2,950 per day, and a total of over \$1.7 million had been paid to the firm as of February 2001. We were advised that the guidelines for this VOR list did not include a stated requirement that ministries must document the decision process used to select the chosen vendor over the several other vendors on the list. We were also informed that this VOR list, in contrast to other VOR lists, did not include a threshold amount over which an open tender process is required. In view of the large amount of money paid to this firm, it would have been prudent and appropriate for MBS to have considered alternative firms in making its selection for this assignment and to have documented the rationale for choosing the selected consulting firm.

The second example involves the selection of an IT consulting firm in April 2000 to provide services relating to a management improvement project. We found that only two VOR companies were contacted and requested to submit proposals. In addition, there was no written evaluation of the proposals providing the reasons for awarding the contract to the successful bidder. The firm selected, which had estimated its fees to be \$1.4 million, had eventually received payments totalling approximately \$467,000 when MBS cancelled the project.

Ministry of the Environment

At the time of our audit, the Ministry was in the process of developing a project called Environet. This project was initiated in the summer of 2000 to automate, through the use of the Internet, the exchange of information between the public, other stakeholders, and the Ministry. The Internet site being developed by the project was to have the following six initial components: the Drinking Water Monitoring/Compliance Information System; the Air Emissions Inventory System (OnAir); the Hazardous Waste Information Network; the Provincial Groundwater Monitoring Information System; eLAB—a system for the delivery of environmental information to laboratories and other databases; and SWAT—applications and tools used to assist in the enforcement of regulations relating to soil, water, and air. The Ministry's estimate of the cost of developing these components was approximately \$17.6 million.

Development work on the Hazardous Waste Information Network and the SWAT component of the Internet site went to open tender, which resulted in the Ministry's receiving bids for both assignments that were lower than the Ministry's original cost estimates. In particular, the SWAT component was developed at a final cost of \$3.5 million, compared to an initial ministry cost estimate of \$6.2 million.

The Ministry subdivided the development work for the other four components into individual assignments and engaged consultants on a per diem basis from the MBS VOR list to do the assignments. The Ministry's individual cost estimates for three of the four components ranged from \$1.1 million to \$4.2 million, while its estimate for the fourth component was \$400,000. As indicated earlier, MBS's VOR-list policy allows for the estimated ceiling price of an IT assignment to be up to \$500,000 before open tender is required. Given that the Ministry's estimates for three of the components were above the \$500,000 threshold, the Ministry did not follow the MBS requirement for an open, fair, and transparent competitive process for those three contracts.

According to the Ministry, the reason for selecting consultants on a per diem basis from the VOR list was that the business requirements for the four components had not been completely defined. By not completely defining the project and undertaking an open competition, the Ministry had no assurance that it had obtained the best price and also increased the risk of cost overruns on the project. In addition, without a clear understanding of what is needed, the ultimate system may not meet the requirements of the users of the system.

We also found the following problems with respect to the engagement of consultants from the VOR list for this project:

- In the case of the OnAir component, on two occasions the Ministry had given two consultants equal ratings but in each case elected to go with the vendor that charged the higher per diem rate. The Ministry could not provide any reason or documentation explaining why these vendors, who cost \$130,000 more in total, were chosen instead of the two that had received equivalent ratings and offered lower per diem rates.
- In the case of the eLAB component, a ministry selection panel interviewed three firms in search of the best one to provide consulting services. The panel rated one of the firms as clearly more suitable in terms of both qualifications and price. However, without any explanation, the assignment, which was for \$316,000, was awarded to the firm rated second, which had less experience and submitted a higher bid. The Ministry explained that the highest-rated firm was not awarded the assignment because it had already been awarded a previous assignment. Subsequently, the firm rated second was awarded another contract for the second phase of the same assignment at a price of \$375,000. In the case of that contract, the Ministry had sent a request for proposals to four vendors, but the only bid received was from the firm that had previously worked on the project.

Ministry of Finance

For contracts awarded by the Ontario SuperBuild Corporation—an agency of the Ministry of Finance, insufficient care was taken in awarding contracts, as is illustrated in the following example.

- When evaluating proposals submitted by consultants for the assignment of providing financial advice on the divestment of certain Crown assets, an error was made in calculating the scores from the bidders' evaluation scores.

In April 2000, two consultants were jointly awarded the contract on the basis of the original ranking, and each received \$681,000. However, had the scores been correctly calculated, one of the two consultants may not have received a contract.

In addition, these two consultants were not required to sign formal agreements; instead, only purchase orders were issued. There was no explicit division of duties and no deliverables associated with each purchase order. This makes it difficult to hold consultants accountable for their performances.

- In another case, Superbuild Corporation's poorly defined evaluation criteria led to the awarding of a \$3-million consulting contract, which was double the price bid by the lowest bidder.

Ministry of Health and Long-Term Care

We noted that the Ministry did not follow the requirements for an open tender process on three multi-million-dollar information technology projects that were under development. On each project, the Ministry's approach was to subdivide the project into smaller individual assignments and select consultants from the VOR list on a per diem basis to complete the work. Specifically:

- In October 2000, Cabinet approved the establishment of a transfer-payment agency, called the Smart Systems for Health Agency, to provide and manage a secure, province-wide information network for the exchange of health information among Ontario's health-care providers. The original five-year operating budget for the agency was projected at \$488 million. This budget was not approved, and the agency has been allocated funds on an annual basis. At the time of our audit, the Ministry had yet to establish the agency and anticipated that it would be established by September 2002. In the meantime, the Ministry had already begun development of the network, taking the approach of engaging consultants from the VOR list on a per diem basis. As at March 31, 2002, in addition to having nine full-time staff on the project, the Ministry had engaged more than 65 consultants from various firms at per diem rates that ranged from \$435 to \$2,150. For the 2001/02 fiscal year, the Ministry had spent approximately \$12.7 million on consultants engaged on a per diem basis.
- In the 1998/99 fiscal year, the Ministry initiated the development of the Integrated Services for Children Information System, which is designed to identify and co-ordinate

information for the protection of potentially vulnerable children. The Ministry's estimated costs for the system were approximately \$6 million for initial development and \$760,000 per year for ongoing support and maintenance. As at March 31, 2002, about 50 consultants were working on the project on a per diem basis, and the total amount spent was \$10.6 million, of which \$8.5 million pertained to development costs. According to management, the project was about 80% complete, and another \$3 million was needed to bring the system into full production.

- The MBS requirement for open tender was also not followed for a project to define and implement quality-assurance processes in the area of information technology. The cost of engaging consultants on a per diem basis to develop this project was estimated to be \$5.9 million.

In these sizeable projects, the Ministry assumed a major risk of consultants not delivering their work on time and of cost overruns, even when these problems were caused by a consultant's poor performance. It is therefore highly doubtful that the Ministry obtained value for money by not adhering to the Directive.

Ministry of Natural Resources

In 1998, the Ministry initiated a project called MNR ON-Line to develop and implement a strategy for electronic access to the Ministry's information and services. The Ministry's approach has been to engage consultants from the MBS VOR list on a per diem basis to carry out the required work. The work has included assisting in the development of a feasibility study, defining the requirements of the project, and implementing the infrastructure. As of March 31, 2002, approximately \$1.9 million had been spent on this project. We have the following concerns with respect to the process for acquiring consultants for the project:

- We would have expected the Ministry to have known that the MNR ON-Line project would cost over \$500,000 and therefore to have issued an open tender. However, we noted that, with the exception of the project manager, the Ministry engaged consultants on a per diem basis from the MBS VOR list without going to open tender and thus failed to meet Directive and MBS requirements.
- Although the Ministry had prepared an annual budget for consulting services expenditures, it had not estimated the total cost and time required to complete the project.

The lack of open competition and an accurate cost estimate has made it difficult to assess whether the final cost of the project is reasonable, making it doubtful whether value for money has been achieved.

Ministry of Public Safety and Security

Our audit identified a number of instances where the requirements for competitive selection were not being followed. For instance:

- In August 2000, the Ministry initiated the Information Technology Service Management Project to develop an e-service portal that would enable electronic service management for the Justice Cluster. The Ministry's approach to project development was to engage a consulting firm from the VOR list to provide per diem consultants to define the project's requirements and carry out the required development work. The latest information we had available at March 31, 2002 indicated that the total amount spent on the project was \$3 million. As indicated earlier, an open tender process is required for any IT assignment with an estimated ceiling price of over \$500,000.

We noted that the consulting firm engaged by the Ministry had sub-contracted some of the work for the project to another consulting firm on the current VOR list. Had the Ministry followed an open tender process, it could have received competing bids directly from this sub-contractor and other consulting firms.

- Whenever a ministry plans to select a consultant from the VOR list for an IT assignment estimated to cost between \$100,000 and \$500,000, it is required to send a request for resources to at least three vendors from the list. It is then to evaluate the proposals received based on prices quoted and the qualifications of the vendors. However, we noted that, for many assignments, the Ministry acquired the services of consultants from the VOR list without competition.

It is doubtful whether the Ministry obtained value for money in these projects.

Recommendation

To ensure that consulting services are acquired at the best available price, the Ministries should:

- follow the competitive selection requirements of the Management Board of Cabinet Directive on Consulting Services and Management Board Secretariat;
- on the basis of its evaluation of the experience, qualifications, and submitted bids of all the consultants capable of completing the assignment to the satisfaction of the Ministry, select the highest-ranked consultant; and
- adequately document the selection process and retain the documentation for use in supporting its decisions.

Management Board Secretariat Response

As mentioned earlier, Management Board Secretariat will work with ministries in responding to the findings in this report relating to vendor-of-record arrangements and will develop and make recommendations to the Management Board of Cabinet that the Management Board of Cabinet Directives on procurement be revised to set out and clarify the specific rules relating to vendor-of-record arrangements, including the establishment of thresholds. In addition, Management Board Secretariat will take the necessary steps to address any other issues identified in this report.

In each of the cases cited, the vendors were selected from a vendor-of-record arrangement established through a fair, open, and transparent request-for-proposal process. The Secretariat concurs that it must ensure that appropriate documentation is completed and retained with respect to its selection process for consulting services. The Secretariat will take the necessary steps, including appropriate guidance and training for the selection of vendors from vendor-of-record arrangements, to ensure that appropriate procedures are followed.

Ministry of the Environment Response

The Ministry acknowledges the importance of ensuring that consultants are acquired at the best available price.

The period covered by the consulting services audit covered a time in which the Ministry was responding to the Walkerton emergency. The Walkerton emergency placed the Ministry under tremendous pressure to deliver immediate solutions. Major information technology improvements such as the Drinking Water Management and Compliance Information System were being developed as the detailed specifications and consultant requirements were being defined.

However, the Ministry will implement the following actions to ensure the requirements of the competitive selection process are met in the future:

- using a standard contract tracking form and procurement checklists in order to identify all mandatory steps in the contracting process that will be retained in all contract files;*
- training all key staff (technical co-ordinators) to improve ministry awareness of the steps required to ensure a competitive process is undertaken;*
- dedicating a staff position within the Ministry's Business and Fiscal Planning Branch for procurement and contract monitoring and developing strong links to the Shared Services Bureau to ensure that advice on procurement issues is readily available;*
- establishing and staffing a dedicated, full-time controller position to strengthen overall business processes for procurement and contract management within the Information Management and Technology Branch to assist information technology staff in meeting guidelines and providing strategic business advice; and*
- providing quarterly reports to senior management on the competitive tendering of contracts to improve the overall monitoring of the use of competitive tendering processes for consulting contracts.*

Ministry of Finance Response

SuperBuild has since adopted the practice of a second-level review of competition results using the Shared Services Bureau. SuperBuild also accepts and will adopt the recommendation to ensure that evaluation criteria

be clearly defined prior to the close of the request for proposals and that written agreements be entered into prior to work commencing. However, we note that, in cases of emergency, Management Board of Cabinet directives allow work to commence with only a verbal agreement having been made and to continue until a written agreement can be put in place.

Staff involved with project management will be made aware of the recommendation by September 2002, via memos and staff meetings .

Ministry of Health and Long-Term Care Response

We do agree that hiring consultants to do the work on large projects on a per diem basis may not necessarily be the most appropriate methodology. However, the intent of the vendor-of-record arrangement appears to be subject to interpretation and will need to be clarified in consultation with Management Board Secretariat to ensure ministries use vendor-of-record lists more consistently.

Ministry of Natural Resources Response

We will implement the recommendation. We appreciate your conclusion that the Ministry follows a competitive selection process and obtains necessary approvals prior to hiring consultants.

MNR ON-Line is a multi-year initiative to develop and implement electronic access to a significant and diverse amount of the Ministry's information and services. The Ministry has proceeded with a prioritized list of individual projects to achieve its long-term goal. While we believe there is a need to harmonize the application of the vendor-of-record policy with the consulting services policy, we will improve our project definition, especially if hiring consultants on a per diem basis, to avoid the potential of work and cost overruns.

Ministry of Public Safety and Security Response

The Ministry acknowledges that, in some instances, it has not complied fully with the requirements of the Directive on Consulting Services. The Ministry has developed processes, tools, and other controls designed to increase awareness and understanding and to support consistent compliance with the requirements of the Directive by staff across the Ministry. These include the strengthening of corporate and divisional controllership capacity, including enhanced capacity for the provision of advisory services on financial policies and practices.

An MBS Agreement with a Consultant

On March 3, 2000 a forensic accounting firm was engaged by MBS to review certain real-estate transactions entered into by the Ontario Realty Corporation (ORC), an agency of MBS. There had been allegations that ORC had sold land below market value. The firm was selected from the VOR list for estimated fees ranging from \$150,000 to \$500,000. A formal competitive acquisition process was not followed due to the urgent nature of the assignment. The contract between the firm and MBS was signed on March 23, 2000.

The scope of the original agreement specified that the firm perform a detailed review of eight closed sales and a limited review of all remaining properties sold between January 1, 1998 and March 31, 2000. However, the scope of the transactions to be reviewed increased substantially. The scope of the consultant's services also increased to include civil litigation, property investigation, and environmental work.

An August 2000 memo from the Chief Internal Auditor to the Secretary of MBS dealt with the expanding scope of the investigation. It indicated that the current investigation had reached the limit of the original terms of reference and that the original contract had been entered into to deal with an urgent need for immediate action. He recommended that if work was to continue, the March 23, 2000 contract should be ended and new contracts entered into to reflect the revised scope and objectives of the ongoing investigative work. He further recommended that approvals and authorization for the new contracts should be clear and that contract management and payment responsibility should be clarified.

We were informed that some revisions were made to the original contract, such as a more comprehensive detailing of the work to be performed, establishment of a ceiling price and date limit, establishment of a joint governance structure with ORC, and establishment of an approval-and-authorization process with ORC for invoice approval and payment. However, although we were informed that the above described revisions were followed, this revised contract was never signed by all parties, and thus the firm was paid for its work without the expanded work being reflected in the contract.

During the 2000/01 fiscal year, billings from the forensic accounting firm, which were paid out of ORC's budget, amounted to almost \$6 million. ORC's board of directors also expressed concerns about the expanding scope of the audit and the management of the contract. We were informed that, subsequent to the board meeting at which these concerns were raised, a joint governance structure was established whose responsibilities included ensuring that funds were being expended appropriately.

Recommendation

In order to properly monitor project progress, control project costs, and determine the extent to which deliverables are achieved, Management Board Secretariat should enter into a new or revised contract with a consultant whenever the scope and objectives of the consultant's original contract are

revised, and the new or revised contract should reflect the changes in scope and/or objectives.

Management Board Secretariat Response

We agree with the Provincial Auditor's recommendation. We recognize the importance of compliance with good contract procurement and management practices. When the scope was better defined, we ensured that the specific deliverables of the firm were provided in accordance with the informally agreed-to revisions.

Tax Compliance Forms

In accordance with the internal policy of the Ministries and statements made in the *1996 Ontario Budget Speech*, all bids that vendors submit to the government must include a declaration that the vendor's provincial taxes are in good standing.

The majority of the Ministries did not ensure that potential consultants submitted the required tax compliance declaration. Even when consultants did submit the required tax compliance declarations, we found that the Ministries did not provide that information to the Ministry of Finance to enable verification that the consultants' provincial taxes actually were in good standing. A check by the Ministry of Finance on the tax compliance of the consultants in our sample indicated the following concerns:

- At MBS, two vendors that had received contracts had Ontario addresses not registered with the Ministry of Finance, making it impossible to check their tax compliance. Two other vendors had tax arrears of approximately \$110,000 and \$35,000 respectively. One of these vendors was also in default for not filing employee health tax returns.
- At the Ministry of Natural Resources, two companies with Ontario addresses, which had received contracts of \$24,999 and \$92,400 respectively, were not registered on the Ministry of Finance's tax roll.
- At the Ministry of Public Safety and Security, two vendors that received contracts were in default for not filing corporate tax returns.

Recommendation

Prior to engaging the services of a consultant, the Ministries should:

- **ensure that the consultant has submitted the required tax compliance declaration to confirm that the consultant is in good standing with the provincial tax authority; and**
- **forward the tax compliance declarations to the Ministry of Finance to enable verification that every consultant who submits the tax compliance form is actually in compliance.**

Management Board Secretariat Response

The Secretariat will ensure that managers are trained on the need to obtain tax compliance forms from the firm prior to awarding a contract. The training will advise managers of the required procedures to file the form with the Ministry of Finance and maintain a copy in the contract file for reference purposes, as required under the Directive on Consulting Services.

The Secretariat will request that the Ministry of Finance assess the associated administrative requirements and develop guidelines, as appropriate, regarding verification of a consultant firm's tax compliance status prior to the completion of the assignment.

Ministry of the Environment Response

The Ministry recognizes the importance of ensuring consultants' provincial taxes are in good standing. The Ministry will require the use of procurement checklists that identify all contract requirements, including the need to ensure the submission of a tax compliance form. The ministry training program being developed for implementation in the fall will ensure that staff are aware of these requirements.

Ministry of Finance Response

We agree with the recommendation regarding tax compliance and will pursue with Management Board Secretariat the inclusion of the submission of the tax compliance declaration as a requirement in the Management Board of Cabinet Directive on Consulting Services.

To strengthen compliance with the Management Board of Cabinet directives on consulting services and to create greater awareness of procurement practices and requirements for consulting services, we have asked the Manager of Modern Controllership Training in our Office to explore with the Shared Services Bureau the development of a training course for managers and other stakeholders.

Ministry of Health and Long-Term Care Response

We agree with the recommendation and will reinforce with program staff the requirements relating to the tax compliance form.

Ministry of Natural Resources Response

We will implement the recommendation. In concert with the Shared Services Bureau, we will confirm all consultants' tax status.

Ministry of Public Safety and Security Response

The Ministry will consult with the Ministry of Finance to determine what process(es) can be established to ensure that the accuracy of tax compliance forms can be verified and to identify any related issues and impacts.

Controls Over Payments to Consultants

Our audit identified significant weaknesses in financial controls over payments to consultants at four of the ministries we audited. The following are our more significant observations.

- At MBS, we identified several instances of invoicing errors and questionable charges for which supporting documents could not be provided, as follows.
 - In August 2001, a consultant was paid \$14,518 twice for the same invoice. After we informed MBS of this overpayment, arrangements were made to recover it.
 - Supporting documents for over \$36,000 in charges paid to a consultant in December 2000 could not be provided to us by MBS.
 - MBS permitted a consulting firm to significantly increase its rates for two of its consulting staff over a short period of time, as follows:
 - One consultant's rates increased from \$725/day in April 2000 to \$1,800/day in May 2000 and to \$2,600/day in September 2000.
 - The second consultant's rates increased from \$906/day in April 2000 to \$1,450/day in May 2000.

We were advised by MBS that these consultant rates were questioned in the fall of 2000 and that these rates were agreed to in January 2001 after MBS's review. However, no documentation was provided to us to support MBS's review or its rationale for allowing large increases in the consultants' rates.

- Of a total of \$90,000 in payments made to a consulting firm for travel expenses from December 2000 to May 2001, over \$40,000 in payments were made either without proper support or with questionable claims (for example, some claims made for meal charges were at ten times the rates allowed to government employees). In August 2001, an internal audit had identified the problem and, as a result, \$7,500 in reimbursement was obtained from the firm.
- At both the Ministry of the Environment and the Ministry of Public Safety and Security, we found numerous examples of payments to consultants that were made without a valid contract in place to indicate the terms and conditions of the consulting arrangement or exceeded the ceiling price of contracts. In one example, we found that payments totalling \$760,000 made by the Ministry of Public Safety and Security to a consulting firm were not supported by a formal agreement. We were informed that the

payments were related to consultants performing day-to-day duties for the Ministry. In another example, a consulting firm was engaged by the Ministry to monitor and operate computer systems onsite and at remote locations around the province. The arrangement continued for seven months after the contract expired, and the firm was paid, in total, \$200,000 above the contract amount.

In cases where ceiling prices were exceeded, we found no evidence of prior approvals by the Deputy Minister or designate, as required by the Directive. As well, we found no evidence of documentation of changes to the terms and conditions of the assignments that would have accounted for the amounts charged.

- The Ministry of Natural Resources did not require that invoices be approved by the project manager prior to payment. As a result, it was unclear who was responsible for ensuring that invoices were checked for accuracy, corresponded to the terms of the contract, and were coded correctly to the proper account. For example, we found one case in which the per diem rates charged by a consulting firm were higher than the rates quoted. The firm, which received just under \$450,000 for the engagement, charged hourly rates of \$393 and \$218 per hour, even though the rates quoted for the engagement were \$300 and \$200 per hour respectively. The Ministry indicated it would recover the overpayment after we brought this to the attention of management.

Recommendation

To ensure that all payments to consultants are in accordance with valid contracts and made only for work performed, the Ministries should:

- ensure that approvals at the appropriate level are obtained for consulting service invoices submitted for payment;
- require that payments be made only when there is a valid contract in place; and
- monitor payments for adherence to the agreed-upon price in contracts and allow amounts in excess of the agreed-upon price only if those amounts are justified, formally agreed to, and accompanied by proper approval.

Management Board Secretariat Response

The Secretariat is tightening controls on payment processes through implementation of its revised delegation of authority framework and through training on the associated payment-process-verification controls (in conjunction with the Shared Services Bureau). As part of its procurement training program, managers will be reminded of the need to ensure that payments are only made based on the stipulated terms of the contract and in compliance with applicable directives. In addition, the procurement training program will address the need for managers to ensure that consultants' contractual terms align with the Ontario Public Service Directive limits for expense reimbursements and that managers make consultants aware of, and make consultants adhere to, these limits.

Ministry of the Environment Response

The Ministry acknowledges that improvements need to be made to ensure that all payments made to consultants are legitimate and made only for work performed.

The Ministry's financial delegation of authority and policies are being revised and streamlined for more efficient and controlled procurement practices, and training sessions will be held for all staff involved in procurement.

The Ministry has met with Shared Services Bureau finance staff to ensure that payments are only made when a valid contract is in place and payments do not exceed the ceiling price.

The Ministry's new internal tracking and reporting system for consulting contracts will also ensure that payments are properly managed and tracked against ceiling prices.

Ministry of Natural Resources Response

We will implement the recommendation.

It is our normal practice to require project managers to review and approve invoices for payment. We will reiterate this requirement to our staff.

In the case of the per diem variance, this contract was completed very much to our satisfaction, within the total price quoted. We will, however, recover the per diem overpayment.

Ministry of Public Safety and Security Response

As mentioned previously, commencing in December 2001, the Ministry introduced a number of processes and tools to improve its control and management of contracts. Measures include the strengthening of divisional controllership capabilities as well as the development of a contract-tracking database to assist in controlling contract expenditures against established ceiling amounts.

Managing and Controlling the Use of Consultants

The Directive states that ministries must be prepared to provide a report on their ability to effectively manage the process of planning for, acquiring, and managing consulting services. Specifically, the report is to include:

- a detailed summary of the use of consultants during the reporting period and a review of ministry practices with respect to each principle and requirement of the Directive;
- information on all agreements for which a firm ceiling price was not established;

- information on all agreements in which an increase in ceiling price occurred;
- information on all follow-on agreements that were not tendered; and
- information on all agreements with a ceiling price of between \$25,000 and \$99,999 in which non-competitive acquisition procedures were used.

The majority of the Ministries had not established adequate systems and procedures to monitor the use of consultants by program area to ensure that consulting services were acquired economically and to identify areas where management practices and controls needed to be improved.

If such information could be readily produced, it would allow the Ministries to undertake overall monitoring activities such as: comparing the estimated and actual costs of assignments to determine if their estimating procedures needed to be improved; assessing whether or not adequate explanations were given for assignments that were not acquired competitively; and establishing whether or not justification existed for increases in assignment costs over the contract ceiling price.

In view of the hundreds of millions of dollars spent on consulting services, the Ministries would benefit by having regular monitoring information on these significant expenditures and their performance in meeting the requirements of the Directive, in that such information would allow for timely corrective action.

Recommendation

To help ensure that consulting services are acquired, managed, and controlled appropriately and economically, the Ministries should establish an adequate system for maintaining management information on the use of and payments to consultants by the various program areas. The information should be used for monitoring the effectiveness of the use of consultants by the Ministries and for identifying areas where management practices need to be improved.

Management Board Secretariat Response

The Secretariat will identify and implement improvements to current management information systems to ensure that we have appropriate information on the use of consultants and can assess where management practices may need improvement.

Ministry of the Environment Response

The Ministry acknowledges the need to properly manage and control the use of consultants. A key element of the Ministry's action plan to improve consulting contract management will be the introduction of a new tracking and reporting system for all consulting contracts.

Quarterly reports, containing contract information by division and program area, will be prepared for senior management for control and monitoring purposes. The reports will provide early alerts to problems in order for immediate follow-up and resolution.

Ministry of Health and Long-Term Care Response

Agreed.

The Ministry's current consultant procurement process includes preparation of a business case that includes an assessment of the most appropriate acquisition process. Documented justification is also required for any amendments to initial contracts that will increase the original ceiling price.

In its training sessions on procurement and the educational tools provided to program staff, the Ministry does review the best practices that should be used to manage and control consultants. The Human Services Cluster has initiated an overall monitoring process that reviews all its consultant contracts on a quarterly basis.

The Contract Management and Reporting System is primarily a reporting tool to capture the information noted in the Provincial Auditor's findings. The Ministry will review the feasibility of using the system as the master system for recording all contracts and for doing periodic reviews.

Ministry of Natural Resources Response

We will implement the recommendation in concert with the Shared Services Bureau and establish a more systematic approach to collecting this information. We will enhance contract administration training. The Shared Services Bureau is currently working on enhancing a contract administration manual to be used in conjunction with the training and as a tool for ongoing reference by project managers.

Ministry of Public Safety and Security Response

The Ministry accepts this recommendation and, prior to the commencement of the audit, was nearing completion on the development of a contract-tracking database to support the management, control, and reporting of consulting contracts. Completion of the database was delayed due to the recent labour dispute in the Ontario Public Service. The Ministry also took this opportunity to make significant improvements to meet corporate information technology architecture requirements and further enhancements to the client database.

Post-assignment Evaluations

A written performance appraisal of the consultant should be prepared after the completion of an assignment. Performance appraisals are required in the case of contracts with vendors of record. Performing the appraisal enables an assessment of: the quality of the work; whether value for money was obtained; and the suitability of the consultant for future work.

We found that the Ministries generally did not prepare formal post-assignment evaluations of consultants, and the evaluations that were prepared lacked sufficient detail to determine aspects of the consultant's performance, such as whether it was satisfactory, met all milestone dates, and was within budget. In addition, prior to awarding new contracts to companies, past performance was not verified to ensure that previous contracts had been satisfactorily carried out.

For example, in the development of the Hazardous Waste Information Network (a component of the Environet project) at the Ministry of the Environment, a consultant was hired at a price of approximately \$270,000 to prepare a request for proposals. We were informed that, after an assessment of the consultant's work, the Ministry had to spend \$250,000 to have the work done again. However, since the assessment was not performed on a formal basis, the Ministry had no documentation of the assessment.

Recommendation

To better ensure that value for money is received from consultants, the Ministries should ensure that all major consulting projects are formally evaluated upon completion and that the results are documented for use in determining the suitability of the consultants for future work.

Management Board Secretariat Response

Management Board Secretariat concurs that documented evaluations of consulting assignments should be completed. The instructions for using a vendor-of-record arrangement include the requirement to complete a performance evaluation for each consulting assignment. Management Board Secretariat will take the necessary steps to ensure that this is done in the future.

Ministry of the Environment Response

The Ministry acknowledges that post-assignment evaluations are a key element of good contract management. The Ministry will ensure that a standard post-assignment evaluation form is completed for all contracts.

The Ministry's new internal tracking of consulting contracts will ensure that the requirement for a post-assignment evaluation is identified, and it will be the responsibility of the technical co-ordinators to ensure that contract files are not closed until this final step is completed.

Ministry of Finance Response

We agree with the recommendation and will implement an evaluation process to assess the consultants' performance and degree to which the assignment objectives were achieved. This evaluation will be placed in the consulting file at the completion of the contract.

The Ministry will approach the Shared Services Bureau to determine the feasibility of developing a procedure whereby all consultants' performance evaluations are filed centrally and made available to the Ministry.

Ministry of Health and Long-Term Care Response

Agreed. In fact, the Ministry's guidelines in both its handbooks and on the self-help Web site suggest that a post-performance appraisal is a best practice. The Ministry will continue to emphasize this point to program managers in its procurement training.

Ministry of Natural Resources Response

We will implement the recommendation in concert with the Shared Services Bureau, including making modifications to the Performance Evaluation form.

Ministry of Public Safety and Security

As has been mentioned previously, the Ministry has developed a contract compliance process to help staff follow the requirements of the Directive on Consulting Services and to ensure appropriate documentation is maintained for all consulting engagements. A key component of this process is the completion and documentation of a post-engagement review to assess the performance of the consultant against contract deliverables.

OTHER MATTER

ONTARIO REALTY CORPORATION

In the course of our attest audit work on the Ontario Realty Corporation (ORC)—an agency of MBS—we reviewed contracts pertaining to the acquisition of creative communications consultants. The acquisition, management of, and controls over creative communications consultants fall under a different Management Board of Cabinet directive than the Management Board of Cabinet Directive on Consulting Services (see the Background section for the specific consulting services covered under the Directive) and therefore are not within the scope of this value-for-money audit. However, our work on the

ORC revealed similar issues to the issues raised in our value-for-money audit, and for that reason we provide the following summary of our findings.

During the 2000/01 fiscal year, many consultants were engaged by ORC to deal with criticisms by members of the Legislature of past real-estate transactions. Of these consultants, the communications firms whose contracts we reviewed billed ORC a total of \$1.4 million, with one firm billing over \$1 million.

The largest firms reviewed were chosen through standing agreements with Management Board Secretariat's Advertising Review Board (ARB). These firms were selected based on a public-relations-company competition administered by the ARB. Firms were publicly invited to compete based on ORC's need for a public-relations agency that could provide full service to ORC.

One standing-agreement contract per company was signed. These contracts did not include a ceiling price, as the standing agreements required that ORC and the consultants enter into a "letter of agreement" for each specific project or task. The letter of agreement is intended to establish the services to be provided, the timetable, the contract price, and such other terms and conditions to which ORC and consultants agreed.

We observed that letters of agreement were frequently not completed or signed. For example, one firm's standing agreement was signed October 25, 1999. However, the first letter of agreement was not signed until September 15, 2000, by which time over \$630,000 in services had been billed by the firm.

Despite the fact that this firm billed and was paid over \$1 million, we found only five letters of agreement with this firm, which established maximum billings aggregating to only \$210,000. Where letters of agreement were completed, we noted that the scope of the assignment was often very general in nature, defined by phrases such as "providing advice on a variety of issues impacting ORC" and "providing external and internal communications advice."

We also observed that invoices submitted by the consultants often lacked sufficient detail to determine whether the amount invoiced was reasonable.

A review of communications consultant billings revealed that consultants billed for work in all aspects of ORC's corporate communications. These included preparing annual reports and business plans, writing briefing notes, assisting in communications in connection with ORC's change in agency status, and developing Web sites. Management Board directives discourage users of consultants from becoming overly dependent on the consultants' services.

ORC management informed us that during the 2000/01 fiscal year, the organization was in the media spotlight and dealing with criticisms at Queen's Park over past real-estate transactions. ORC staff indicated that in this environment, it often had to act quickly and therefore was not always able to fully comply with formal contract procurement and management practices.

Recommendation

The Ontario Realty Corporation (ORC) should ensure that justification for hiring communications consultants is documented. A needs analysis should include the costs and benefits of hiring the consultant and alternatives considered such as the use of ORC staff. In order to reduce costs, ORC should also attempt to lessen its dependency on communications consultants by performing as much work as possible in-house.

To ensure proper contract management with communications consultants, ORC should comply with the terms of the Advertising Review Board standing agreements that require that letters of agreement be entered into for each individual assignment. ORC should also ensure that, for each agreement, the project scope and deliverables are clearly defined in sufficient scope and detail to permit the effective management of the contracts and to ensure objectives have been met.

Invoices submitted by communications consultants should provide sufficient information to allow staff responsible for invoice approvals to determine whether the service has been rendered and that the amount invoiced is reasonable.

Agency Response

ORC agrees with the recommendation. In future, corporate procurement procedures will be used for all purchases of goods and services.