

Toward Better Accountability

Each year, our Annual Report addresses issues of accountability—and initiatives to help improve accountability—in government and across the broader public sector. This year, in addition to issues of accountability raised in our value-for-money audits, we have examined the timeliness of provincial agencies in publicly reporting on their activities through their annual reports. Thorough and accurate disclosure of such information is essential to accountability, and is a mandated requirement for provincial entities. As this chapter highlights, there is considerable room for improvement by some provincial agencies and their responsible ministries in meeting the required timelines for reporting.

1.0 Main Points

A provincial agency's annual report, including its audited financial statements, provides details about the agency's activities, and is meant to give the responsible minister, all members of the Legislature and the public a comprehensive view of the agency's operational and financial performance. The annual reporting requirements and timelines are typically governed by the statute that created the agency, a Memorandum of Understanding (MOU) between the agency and its responsible minister, and/or a directive of Management Board of Cabinet. (An MOU is an administrative agreement

that provides a formal record of the relationship between the agency and the responsible minister. It clarifies expectations and policies set out in the statute that established the agency.) Most provincial agencies are required to produce annual reports and submit them to their responsible minister within a specified time period. Ministers are then to review these reports and make them public, either by “tabling” them (officially presenting them) in the Legislature or by approving them for posting on an agency or government website. Although the intent of these requirements is to promote agency transparency and accountability, we have found that some aspects of a new directive issued by Management Board of Cabinet in February 2015 instead conflict with this intent. We also noted:

- Fewer than a quarter of agencies sampled had specific timeframes legislated for submitting and/or tabling their annual reports. Despite the legislated requirement for their 2014 annual reports, these timeframes were often not met. Similarly, required timeframes set out in MOUs (for agencies without legislated timeframes) were often not met. Further, over the past three years, only a small portion of provincial agencies' annual reports were tabled in the Legislature in accordance with the timetables specified in the Management Board directive in effect at the time. We reviewed the timeliness of such reporting for a sample of 57 agencies over the past three years and found that only 5% were tabled within six months

after the agencies' fiscal year-end, while 68% were tabled more than 12 months after year-end and 6% had not been tabled at all. Our work further showed that the major delays were often not in the agencies themselves, but rather in the ministers' offices.

- Timelines required for submitting and tabling annual reports are not consistent. This is because the annual reporting requirements for some agencies, but not all, are specified in the legislation, regulation or Order-in-Council that established them, or in an MOU between the agency and its responsible minister. Legislative requirements take precedence over the Management Board of Cabinet directive that governs agencies without such requirements. As a result, agencies with responsibilities in the same areas may report on different timetables, and reporting timelines for an agency and its responsible minister may be found in different places. These complications further contribute to inconsistencies in the release of reports, and to decreased access to the reports by the members of the Legislature and the public.
- Ontario has recently moved away from tabling reports as a means to hold agencies accountable. Under the new directive that came into effect in February 2015 (directives are not publicly posted), the requirement was eliminated for ministers to table in the Legislature the annual reports of provincial agencies. However, 101 provincial agencies are still required by statute to table their annual reports in the Legislature. Some would argue that tabling is not necessary because the Legislature's Standing Committee on Government Agencies is empowered to review the operations of all provincial agencies, regardless of whether their annual reports have been tabled. The view of the Management Board of Cabinet is that posting annual reports on websites is preferable to tabling them in the Legislature because posting on a public website invites the public to engage in the political process. Posting on public websites is seen as part of the government's Open Government initiative announced by the Premier in October 2013. However, we believe that some measure of accountability may be lost if our elected officials are not also formally notified when reports become publicly available that document the operations and expenditures of agencies that are responsible for billions of dollars of public funds. If reports are not tabled, another way is needed to notify elected officials of their public release. In this way, the democratic role of the Legislature is upheld and public access to vital information is enhanced.
- An annual report could sit in a minister's office for months or even years without the minister being in contravention of the new February 2015 directive. The new directive changes the requirements specifying what provincial agencies are required to report on, and the timelines for the submission and release of reports. The stated intention for replacing the previous directive, which dates back to 2010, with the new one was to increase accountability and openness, and to expedite public reporting. However, one change actually achieves the opposite. Whereas the previous directive required the relevant minister to table an agency's annual report in the Legislature or with the Clerk's Office within 60 days of receiving it (unless the agency's establishing legislation specified otherwise), the new directive specifies no deadline for the minister to release the report either through tabling or posting on a website.
- Our survey of other Canadian jurisdictions indicates that five have statutes mandating a consistent process for submitting and/or tabling agency annual reports. Minimizing ambiguity in reporting requirements across government agencies could lessen confusion and serve to increase transparency and oversight.

OVERALL RESPONSE FROM TREASURY BOARD SECRETARIAT

Ontario has recently enhanced the governance, accountability and transparency of its provincial agencies. The Agencies and Appointments Directive has introduced several new accountability and transparency requirements including: the public posting of key governance documents (i.e., business plans, memoranda of understanding, and annual reports); regular mandate reviews for all agencies; quarterly risk reporting to Treasury Board and Management Board of Cabinet; and annual agency CEO/Chair declarations of compliance with applicable legislation, regulation, directives and policies. The input and recommendations of the Auditor General will assist in further enhancing the governance and accountability of Ontario's provincial agencies.

2.0 Background Information

2.1 What Are Provincial Agencies?

Governments in Canada establish agencies to undertake a variety of activities in the public interest. Although the work of these agencies is related to the responsibilities of provincial or federal ministries, they are intended to provide goods and services to the public and to operate to varying degrees at arm's length from the government. The government of Ontario establishes provincial agencies through an act, a regulation of an act or an Order-in-Council, which is an order that the government issues, for example, to bring a law into force or set up a commission. Some of Ontario's provincial agencies are engaged in commercial ventures, such as the Liquor Control Board of Ontario selling alcohol. Some perform a regulatory role, such as the Ontario Energy Board and the Ontario Securities Commission. (See **Appendix 1** for the types and number of agencies under the Agency Establishment and Accountability

Directive in effect until January 2015. See **Appendix 2** for the types and number of agencies under the new Agency and Appointments Directive in effect from February 2015.)

2.2 How Are Provincial Agencies Governed?

The government of Ontario grants provincial agencies the authority and responsibility to perform their public functions or services and makes the majority of appointments to the agencies' governing boards. The agencies' governance structures are defined by Management Board of Cabinet directives issued under the Management Board of Cabinet Act and consist of three key parties:

- the responsible minister;
- the governing board; and
- the agency's management.

Although agencies are not part of a ministry, they are accountable to the responsible minister for fulfilling their legislative obligations, managing the resources they use and maintaining the appropriate standards for any services they provide.

Where present, the governing board is responsible for setting and achieving an agency's objectives. The board is immediately accountable to the responsible minister for the agency's performance. Agency management is responsible for carrying out the board's direction. **Figure 1** illustrates this relationship. Government appointments to provincial agencies (i.e., board of directors, adjudicative tribunals) are made for either a fixed term or at the pleasure of the responsible minister and/or Lieutenant Governor in Council. Some of the appointees are government employees, such as deputy ministers, while others come from outside of government.

2.3 Are Provincial Agencies Accountable to the Public?

To ensure that the citizens of Ontario are well served by provincial agencies, good governance and

Figure 1: Agency Accountability and Governance Structure

Source of data: Adapted from the Agencies and Appointments Directive



accountability practices are essential. Therefore, these agencies are ultimately answerable to the Legislature and the public to ensure that they are operating effectively, fulfilling their mandates and meeting their objectives. They are also accountable for how public funds are spent.

Ready access to information about agencies' operations and finances, including annual reports, is considered vital to open and transparent government. In October 2013, the Premier announced the launch of the Open Government initiative, focusing on finding ways for the government to be more open in its activities, including putting government data online. Although the initiative does not specif-

ically refer to provincial agencies, enhancing public accessibility to agency annual reports would be in line with the intent of Open Government.

2.4 Why Do Provincial Agencies Provide Annual Reports to the Government?

Each year, provincial agencies spend public funds allocated to them by the government to undertake activities in the public interest. An agency's annual report details its activities and expenditures to inform the government and the public whether it has achieved its goals and how it has spent its money. Other provincial entities such as the Ontario Lottery and Gaming Corporation and the Liquor Control Board of Ontario generate their own funds. In some cases, the legislation, regulation or Order-in-Council that established the agency specifies that the agency must produce an annual report; in other cases, it is the Management Board of Cabinet that formally requires provincial agencies to prepare these annual reports. Management Board oversees the governance of provincial agencies primarily by issuing directives—the Agency Establishment and Accountability Directive in effect until January 2015 and the Agencies and Appointments Directive effective from February 2015 on. Management Board is also responsible for ensuring agencies' openness and accountability under Ontario's Open Government initiative.

2.5 When Are Provincial Agencies Required to Submit Their Reports?

For some agencies, the legislation, regulation or Order-in-Council that established the agency directs the agency to complete its annual report and submit it to the responsible minister within a set number of days after the end of the agency's fiscal year. In some cases, if the statute establishing the agency has not specified when the annual report is to be submitted, a Memorandum of Understanding

(MOU) between the agency and its responsible minister does so. Some of the statutes that established an agency or MOUs between the agency and the responsible minister further stipulate that the minister table the annual report in the Legislature within a set time period.

Given that legislation stipulates reporting requirements for only a limited number of agencies, and in some cases does not prescribe timelines, Management Board of Cabinet issued directives that applied to all agencies without legislated requirements. Until February 2015, the Agency Establishment and Accountability Directive specified annual reporting requirements for these agencies. In February 2015, a new directive called the Agencies and Appointments Directive was approved by Management Board of Cabinet and took effect immediately. It replaced the previous directive and its annual reporting requirements.

2.6 What Are Provincial Agencies Required to Report?

2.6.1 Prior to February 2015—Agency Establishment and Accountability Directive

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

2.6.2. Since February 2015—Agencies and Appointments Directive

The Agencies and Appointments Directive that came into effect in February 2015 stipulates what must be included in the agencies' annual reports. **Figure 2** illustrates the differences between the two directives, and shows that the new directive includes reporting requirements beyond those con-

tained in the previous one. For example, in addition to the financial reporting required by the old directive above, annual reports under the new directive must also contain a description of activities over the year, an analysis of operational and financial performance, and a discussion of performance targets achieved and of action to be taken when targets are not met.

The previous directive required only the agency's financial statements (with actual results, variances against estimated expenditures and explanations of the variances). The new directive also requires a description of activities over the year. Board-governed agencies must further include an analysis of operational and financial performance; discussion of performance targets achieved and of action to be taken when these targets are not achieved; and names of appointees to the board and the start and end dates of their terms. However, the new directive no longer requires a minister to table a report in the Legislature within 60 days of receiving it when the Legislature is in session, or file a report with the Clerk within 60 days of receiving it when the Legislature is not sitting.

2.7 Role of the Legislature's Standing Committee on Government Agencies

The Legislature's Standing Committee on Government Agencies is empowered to review intended appointments to the boards of directors and other key roles of provincial agencies, and to review the operations of all agencies and report its findings and recommendations to the Legislature as a whole.

3.0 What We Looked At

Our objective was to assess whether the provincial agencies we sampled were complying with the reporting timelines as required by Management Board's Agency Establishment and Accountability

Figure 2: Comparison of Agency Establishment and Accountability Directive with Agencies and Appointments Directive

Source of data: Ministry of Government Services, Public Appointments Secretariat

Agency Establishment and Accountability Directive (Effective until January 2015)	Agencies and Appointments Directive (Effective as of February 2015)
<p>Requirements under the Agency Establishment and Accountability Directive carried over into the Agencies and Appointments Directive</p>	
<p>Agency Classifications</p>	
<p>There were seven different agency classifications. There was a total of 197 agencies within these classifications as of March 2014. See Appendix 1 for details.</p>	<p>There are three different agency classifications. There was a total of 184 agencies within these classifications as of June 2015 (13 agencies existing in March 2014 were merged or dissolved). See Appendix 2 for details.</p>
<p>Annual Reporting Requirements</p>	
<p>Every agency except advisory agencies must submit an annual report to the responsible minister within 120 days after its fiscal year-end. An agency that does not have a governing board must submit its report to the minister within 90 days after its fiscal year-end.</p>	<p>Every agency except advisory agencies must submit an annual report to the responsible minister within 120 days after its fiscal year-end. An agency that does not have a governing board must submit its report to the minister within 90 days after its fiscal year-end.</p>
<p>The ministry must table an agency's annual report in the Legislature within 60 days of receiving it. When the Legislative Assembly is not sitting, the minister must file the report with the Clerk's Office within 60 days of receipt.</p>	<p>The annual report must be posted on a provincial agency or government website within 30 days of being tabled in the Legislature (if required by statute) or when approved by the minister (if tabling is not required). Agencies without governing boards and adjudicative tribunals must also post the annual report on a ministry or provincial agency website within 30 days of minister's approval.</p>
<p>The annual report must include:</p> <ul style="list-style-type: none"> the agency's financial statements, with actual results, variances and explanations of the variances against estimate. 	<p>The annual report must include:</p> <ul style="list-style-type: none"> a description of activities over the year; audited financial statements (or, where an audit is not practical, financial statements subject to another appropriate level of external assurance), with actual results, variances and explanations of the variances against estimate. <p>The annual report of a board-governed provincial agency must include in addition:</p> <ul style="list-style-type: none"> an analysis of operational and financial performance; discussion of performance targets achieved and of action to be taken when targets not achieved; and the names of appointees, including their appointment dates and the expiry date of their terms. <p>The annual report of a non-board-governed provincial agency without a governing board must include:</p> <ul style="list-style-type: none"> a report on the tribunal's activities, including recruitment activities, during the preceding fiscal year; a financial statement for the tribunal for the preceding fiscal year; and any content required by legislation.
<p>Other Accountability Measures</p>	
<p>Ministers and Deputy Ministers must sign and submit an annual attestation to the Secretary, Management Board of Cabinet, indicating that provincial agencies have complied with all requirements of this directive and any others that may apply. This includes having a current Memorandum of Understanding, an annual report, a business plan and a risk-assessment evaluation.</p>	<p>Deputy Ministers must sign and submit an annual attestation to Treasury Board Secretariat indicating that provincial agencies have complied with all requirements of this directive and any others that may apply. This includes having a current Memorandum of Understanding, an annual report, a business plan and a risk-assessment evaluation.</p> <p>If agencies have failed to comply with directives and policies, the attestation must state this explicitly and explain the failures to comply.</p> <p>CEOs of board-governed agencies must attest to their chairs that the agency has complied with all requirements. Chairs of board-governed provincial agencies must send a letter to the responsible minister confirming their agency's compliance with legislation, directives, and accounting and financial policies.</p> <p>Provincial agencies must post their Memorandum of Understanding and an annual business plan for the next three years within 30 days of the minister's having approved them.</p>

Directive. (The new February 2015 directive has more requirements, but compliance with it could not yet be reviewed at the time of our audit.) We reviewed the timeliness of reporting by 57 of the largest and more significant agencies over the past three years. (These agencies are listed in **Appendix 3**.) All 57 agencies we selected responded to our survey. We also reviewed the requirements set forth in the new directive to see whether it is likely to increase the timeliness of annual reports being made publicly available over the earlier directive.

In July 2015, the Ontario Internal Audit Division began a review of agency governance and oversight, focusing on business plans and annual reports, which it expected to have completed by early 2016. Our office supports this review.

4.0 Key Observations and Recommendations

4.1 Significant Delays in the Public Release of Annual Reports

We surveyed a sample of 57 provincial agencies to assess the period of time after their fiscal year-end that their annual report was:

- submitted to their responsible minister; and
- tabled in the Legislature.

The sampled agencies were those that are included in the province's financial statements (Public Accounts), to which the Directive applies. Agencies were specifically asked about the status of the previous three years of annual reports, and to provide evidence as to when the reports were forwarded to the appropriate ministry for tabling in the Legislature.

As illustrated in **Figure 3**, over the three-year period 2012–14, on average only 5% of annual reports were tabled within six months of the sampled agencies' fiscal year-end. On average, 68% of the annual reports were tabled more than 12 months after the agencies' fiscal year-end, and 6% had not been tabled at all. As of September 2015, 9% of 2014 annual reports had not yet been tabled. Late tabling reduces the ability of the members of the Legislature to review and question the agencies' operations. Likewise, it is more challenging for the Legislature to play a constructive role in the public discussion on the direction and governance of agencies if annual reports are tabled late or not at all.

Our review also assessed whether the delays were caused by agencies failing to submit annual reports to the ministries on time, or by the ministries failing to table annual reports on time. As illustrated in **Figure 4**, the sampled agencies submitted annual reports to the ministries within 120 days (four months) of their fiscal year-end in only 58% of the cases on average over the past three

Figure 3: Timing of the Tablings of the Annual Reports of a Sample of 57 Agencies, 2012–2014

Prepared by the Office of the Auditor General of Ontario

Annual Reports Tabled (time after agency fiscal year-end)	2012		2013		2014		Total 2012–2014	
	#	%	#	%	#	%	#	%
< 6* months	4	7.0	3	5.3	2	3.5	9	5.3
7–8 months	2	3.5	3	5.3	5	8.8	10	5.8
9–10 months	4	7.0	15	26.3	1	1.8	20	11.7
11–12 months	2	3.5	—	0.0	3	5.3	5	2.9
More than 12 months	43	75.4	32	56.1	41	71.8	116	67.9
Not tabled	2	3.5	4	7.0	5	8.8	11	6.4
Total	57	100.0	57	100.0	57	100.0	171	100.0

Note: Data is current as of September 2015.

* As required by the Agency Establishment and Accountability Directive. See Figure 2 for reporting requirements, including timing of reports.

years. As **Figure 3** shows, only 5% of the reports were tabled within six months after the agencies' fiscal year-end. This indicates that delays within the ministries, versus delays by the agencies, mainly contributed to the delays in the tabling of the annual reports.

RECOMMENDATION 1

To ensure agencies effectively demonstrate their accountability to their responsible minister, the Legislature and the public, Treasury Board Secretariat in conjunction with the ministries should ensure that all agencies submit their annual reports within legislated timeframes or the directed 90 or 120 days. In addition, ministries should co-ordinate with their ministers to ensure the minister tables and/or otherwise makes public the annual reports in a timelier manner than in the past.

SECRETARIAT RESPONSE

A new requirement for board-governed agencies requires the Chief Executive Officers and Chairs

of Boards of Directors to attest that their agencies are complying with applicable legislation, regulation, directives and policies. To support the implementation of this new requirement and ensure compliance, Treasury Board Secretariat is developing comprehensive guidance material regarding the attestation process for provincial agencies and ministries. Compliance declarations will be part of the annual Ontario Public Service Certificate of Assurance process to support compliance and accountability beginning this year.

In addition, the Government's Agencies and Appointments Directive has introduced new requirements to publicly post all governance documents (that is, business plans, Memoranda of Understanding, and annual reports) within 30 days of ministerial approval. This is expected to greatly increase the transparency and accountability of agencies, and reduce the total time taken to publicly release annual reports. Ministries will be encouraged to work with their Ministers to table and/or publicly post annual reports in a more timely manner.

Figure 4: Timing of the Submissions to the Relevant Ministry of the Annual Reports of a Sample of 57 Agencies, 2012–2014

Prepared by the Office of the Auditor General of Ontario

Annual Reports Submitted to the Relevant Ministry (months after agency fiscal year-end)	2012		2013		2014		Total 2012–2014	
	#	%	#	%	#	%	#	%
< 4 ¹	28	54.9	32	58.2	34	59.6	94	57.7
5–6	9	17.6	6	10.9	6	10.5	21	12.9
7–8	4	7.8	6	10.9	7	12.3	17	10.4
9–10	1	2.0	2	3.6	5	8.8	8	4.9
11–12	2	3.9	5	9.1	2	3.5	9	5.5
More than 12	7	13.8	4	7.3	3	5.3	14	8.6
Total	51²	100.0	55²	100.0	57	100.0	163	100.0

1. As required by the Agency Establishment and Accountability Directive. See Figure 2 for reporting requirements, including timing of reports.

2. As of September 2015, six agencies for the 2012 year and two agencies for the 2013 year were unable to provide requested information to our office on the timing of their annual report submission to the ministry.

4.2 Maximum Time Frames for Ministers to Approve Annual Reports for Public Release Eliminated for Most Agencies

Under the new Agencies and Appointments Directive, a minister, through choice or accidental omission, could never approve an agency's annual report (and therefore would not be required to make the report public) but would still be in compliance with the directive. The previous directive required the responsible minister to table the annual report within 60 days of receiving it. The new directive, on the other hand, no longer requires the minister to do so. Instead, if tabling the report in the Legislature is required by statute for that agency, the annual report must also be posted on a website within 30 days after tabling. If tabling is not required by statute, the report must be posted on a website no more than 30 days after the Minister approved it. However, there is no requirement specifying how soon the Minister must approve the report after receiving it from the agency. As discussed in the **Section 4.1**, failure of ministers to approve reports in a timely manner has been a more significant issue than agencies not submitting their reports on time. In other words, ministerial approval has been the delay in the timely release of information. The change in the directive removing the requirement for ministers to approve annual reports within 60 days of receiving them removes the incentive for ministers to reduce this delay.

RECOMMENDATION 2

To ensure that the annual reports of provincial agencies are released promptly, Treasury Board Secretariat should advise the government to consider revising the Agencies and Appointments Directive to specify the period of time for ministerial approval of agency annual reports after ministers receive them.

SECRETARIAT RESPONSE

To ensure that ministers table and/or otherwise make publicly available agency governance reports in a timely manner, Treasury Board Secretariat will propose timeframe amendments to the public posting section in the Agencies and Appointments Directive to TB/MBC.

4.3 Directive No Longer Requires Annual Reports to Be Tabled

Ontario has moved away from tabling reports—presenting them officially in the Legislature—as a means to hold agencies accountable. In some cases, agencies' annual reports must be tabled if the law that established them or their Memorandum of Understanding (MOU) with their responsible minister specifies it. Where there is no applicable legislation, agencies must also follow the new Agencies and Appointments Directive, which came into force in February 2015 and requires the annual reports (except for advisory agencies) to be posted on a public website, but not tabled.

Some would argue that tabling is not necessary because the Legislature's Standing Committee on Government Agencies is empowered to review the operations of all provincial agencies, regardless of whether their annual reports have been tabled. The view of Management Board of Cabinet is that only posting annual reports on websites is preferable to also tabling them in the Legislature because posting on a public website invites the public to engage in the political process. Posting on public websites is seen as part of the government's Open Government initiative announced by the Premier in October 2013. However, the new directive says all reports must be posted on a website after being approved by the minister—but, as previously mentioned in **Section 4.2**, no timetable is given for a timely ministerial approval preceding public posting.

We believe that some measure of accountability is lost if our elected officials are not also formally notified when reports become publicly available

that document the operations and expenditures of agencies that are responsible for billions of dollars of public funds. If reports are not tabled, another way is needed to notify elected officials of their public release. In this way, the democratic role of the Legislature is upheld and public access to vital information is enhanced.

RECOMMENDATION 3

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

SECRETARIAT RESPONSE

By April 2016, Treasury Board Secretariat will consult with the Legislative Assembly of Ontario to find an appropriate mechanism for keeping all elected representatives informed of the public posting of provincial agency governance documents, including annual reports.

4.4 Requirements for Agency Annual Reports Lack Consistency

As noted previously, timelines for an agency to submit its report and for the minister to table or approve for public posting may be set out in the legislation that established a provincial agency, in a Memorandum of Understanding (MOU) between the agency and its responsible minister, and/or in the directive.

We reviewed the legislative requirements of all 57 sampled agencies and found that they vary considerably with respect to when their annual reports must be submitted to their ministers and then tabled in the Legislature. Further, under the new directive, the public disclosure of agency annual reports not subject to legislated requirements is

at the discretion of government. As reflected in **Figure 5**, we noted the following with respect to agencies' 2014 annual reports:

- Fifty of the 57 agencies had legislated requirements for the annual report to be submitted to their ministry, but only 14 referred to specific timelines (i.e., days required). We noted that of the 14 with specific timelines, only five, or 36%, met the legislated requirement.
- Fifty of the 57 agencies had legislated requirements for the ministry to table their annual report in the Legislature, but only six referred to specific timelines (i.e., days required). We noted that of the six with specific timelines, only one, or 17%, met the legislated requirement.

As **Figure 6** indicates, for the 43 sampled agencies without legislated requirements, we reviewed compliance with their MOU-required timelines for submitting and tabling their 2014 annual reports and noted the following:

- All but one of the agencies' MOUs referred to specific timelines (i.e., days required) for their annual report to be submitted to their ministry. We noted that only 23, or 55%, met their MOU requirements.
- Seventeen of the agencies had MOUs that required their annual report to be tabled in the Legislature within a specific timeline (i.e., days required). We noted that of these 17, only two, or 12%, met their MOU requirements.

We surveyed other Canadian jurisdictions to determine how they ensure annual reports of their agencies are issued and/or tabled in a timely and consistent manner. The results are shown in **Figure 7**. Some agencies in other Canadian provinces and territories are subject to annual reporting requirements specified either by the agencies' enabling legislation or by a central piece of legislation that covered several agencies (this is indicated by the "x"s under "... the same requirements apply to all agencies" in **Figure 7**).

- British Columbia, Prince Edward Island, the Northwest Territories and Nunavut have the

Figure 5: Sample Compliance with Specific Legislated Time Frames for Submitting and Tabling Annual Reports

Prepared by the Office of the Auditor General of Ontario

Agency	Submission of Annual Report			Tabling of Annual Report		
	Legislated Requirement (days after year end)	Actual Submission Time, 2014 (days after year end)	Legislated Requirement Met? (yes/no)	Legislated Requirement (days after submission)	Actual Tabling Time, 2014 (days after submission)	Legislated Requirement Met? (yes/no)
Agricorp	120	119	yes	— ¹	298	n/a
Algonquin Forestry Authority	91	129	no	— ¹	not tabled ²	n/a
Deposit Insurance Corporation of Ontario	122	112	yes	— ¹	268	n/a
eHealth Ontario	120	121	no	90	363	no
Legal Aid Ontario	122	253	no	— ¹	149	n/a
Metrolinx	122	185	no	60	161	no
Ontario Capital Growth Corporation	90	91	no	— ¹	235	n/a
Ontario Educational Communications Authority (TVO)	120	122	no	60	88	no
Ontario Electricity Financial Corporation	153	260	no	— ¹	167	n/a
Ontario Energy Board	183	182	yes	31	190	no
Ontario Financing Authority	90	115	no	— ¹	312	n/a
Ontario French-Language Educational Communications Authority (TFO)	120	120	yes	60	254	no
Ontario Infrastructure and Lands Corporation	90	122	no	— ¹	266	n/a
Ontario Securities Commission	183	122	yes	31	8	yes

1. Legislated tabling requirements are not stated within a specific time frame. For example, the legislation may simply require the Minister to “lay the report before the Assembly,” without specifying a number of days.

2. The Agency’s annual report had not been tabled as of September 29, 2015.

most consistent and stringent requirements. In these provinces and territories, statutes govern annual reporting requirements, and these requirements include deadlines applicable to all agencies.

- In Quebec and in Newfoundland and Labrador, statutes also govern annual reporting requirements, but the deadlines for reporting vary by agency, depending on the statute (in Quebec) or on the requirements set by the Lieutenant-Governor in Council (in Newfoundland and Labrador).
- Saskatchewan has consistent and stringent requirements for all provincial corporations to

report annually by a set deadline, and most, but not all, agencies’ enabling statutes also set out reporting requirements.

- The requirements set out by statute to govern agency annual reporting in Alberta, Manitoba, New Brunswick and Yukon Territory extend to most, but not all, agencies.

In our view, the current situation in Ontario lends itself to unnecessary confusion. The fact that the reporting timelines for an agency and its responsible minister may be found in one of three different places—the establishing legislation, an MOU or the directive—creates needless complications. This could contribute to unnecessary delays

in the finalizing and tabling of annual reports, or to reports being submitted or released according to the wrong timelines, such as if the directive is followed rather than the relevant legislation or MOU.

Presumably, the directive constitutes what the Management Board of Cabinet deems to be the

most desirable practice with respect to timelines for reporting. In view of that, it would make sense for the system to be simplified so that all agencies follow the directive.

Figure 6: Sample Compliance with Memorandum of Understanding Time Frames for Submitting and Tabling Annual Reports, for Entities Without Legislated Requirements, 2014

Prepared by the Office of the Auditor General of Ontario

Agency	Submission of Annual Report			Tabling of Annual Report		
	MOU Requirement (days after year end)	Actual Submission Time, 2014 (days after year end)	MOU Requirement Met? (yes/no)	MOU Requirement (days after submission)	Actual Tabling Time, 2014 (days after submission)	MOU Requirement Met? (yes/no)
Agricultural Research Institute of Ontario	90	259	no	- ¹	158	n/a
Cancer Care Ontario	120	120	yes	60	not tabled ²	no
Central East Local Health Integration Network	90	88	yes	- ¹	286	n/a
Central Local Health Integration Network	90	88	yes	- ¹	286	n/a
Central West Local Health Integration Network	90	88	yes	- ¹	286	n/a
Champlain Local Health Integration Network	90	88	yes	- ¹	286	n/a
Education Quality and Accountability Office	120	119	yes	- ¹	121	n/a
Erie St. Clair Local Health Integration Network	90	86	yes	- ¹	288	n/a
Financial Services Commission of Ontario	231	228	yes	60	203	no
Grain Financial Protection Board	120	234	no	- ¹	183	n/a
Hamilton Niagara Haldimand Brant Local Health Integration Network	90	88	yes	- ¹	286	n/a
Liquor Control Board of Ontario	120	176	no	60	276	no
Livestock Financial Protection Board	120	234	no	- ¹	183	n/a
Metropolitan Toronto Convention Centre	120	380	no	60	29	yes
Mississauga Halton Local Health Integration Network	90	87	yes	- ¹	287	n/a
Niagara Parks Commission	120	337	no	60	203	no
North East Local Health Integration Network	90	87	yes	- ¹	287	n/a
North Simcoe Muskoka Local Health Integration Network	90	88	yes	- ¹	286	n/a

Agency	Submission of Annual Report			Tabling of Annual Report		
	MOU Requirement (days after year end)	Actual Submission Time, 2014 (days after year end)	MOU Requirement Met? (yes/no)	MOU Requirement (days after submission)	Actual Tabling Time, 2014 (days after submission)	MOU Requirement Met? (yes/no)
North West Local Health Integration Network	90	87	yes	- ¹	287	n/a
Northern Ontario Heritage Fund Corporation	120	190	no	60	218	no
Office of the Fairness Commissioner	90	88	yes	60	146	no
Ontario Arts Council	120	242	no	60	152	no
Ontario Clean Water Agency	181	121	yes	- ¹	106	n/a
Ontario Immigrant Investor Corporation	120	323	no	- ¹	not tabled ²	n/a
Ontario Lottery and Gaming Corp	120	395	no	- ¹	29	n/a
Ontario Media Development Corporation	214	214	yes	60	180	no
Ontario Mortgage and Housing Corporation	- ¹	140	n/a	60	70	no
Ontario Mortgage Corporation	120	165	no	60	17	yes
Ontario Northland Transportation Commission	120	165	no	- ¹	not tabled ²	n/a
Ontario Pension Board	120	91	yes	- ¹	164	n/a
Ontario Place Corporation	120	435	no	60	135	no
Ontario Racing Commission	120	248	no	- ¹	not tabled ²	n/a
Ontario Science Centre - The Centennial Centre of Science and Technology	244	280	no	- ¹	114	n/a
Ontario Tourism Marketing Partnership Corporation	120	107	yes	60	237	no
Ontario Trillium Foundation	120	120	yes	60	274	no
Ottawa Convention Centre Corporation	120	122	no	60	358	no
Public Health Ontario	120	120	yes	60	255	no
Royal Ontario Museum	120	122	no	60	272	no
South East Local Health Integration Network	90	88	yes	- ¹	286	n/a
South West Local Health Integration Network	90	91	no	- ¹	283	n/a
Toronto Central Local Health Integration Network	90	87	yes	- ¹	287	n/a
Waterloo Wellington Local Health Integration Network	90	91	no	- ¹	283	n/a
Workplace Safety and Insurance Board	120	120	yes	- ¹	336	n/a

1. The MOU makes reference to the Agency or Minister's responsibility to submit or table the annual report, but this requirement is not in the form of a certain amount of days. For example, an MOU may require only that the Minister table the report in the Legislature.

2. The Agency's annual report had not been tabled as of September 29, 2015.

Figure 7: Agency Reporting Requirements in Other Canadian Jurisdictions*

Prepared by the Office of the Auditor General of Ontario

Jurisdiction	Do Statutes Include Reporting Requirements?			What Are the Reporting Requirements?		General Timing Requirements
	Yes, for All Agencies, and the Same Requirements Apply to All Agencies	Yes, for All Agencies, But Requirements Vary by Agency	Yes, But Only for Some Agencies	All Annual Reports Tabled in Legislature	All Annual Reports Made Publicly Available	
British Columbia	X				X	Required by statute, all government organizations must submit an annual service plan report to their ministers. The reports must be made public by the responsible minister no later than August 31 each year or within 5 months after the organization's fiscal year.
Alberta			X			Only some agencies are mandated by statute to submit and table an annual report in the Legislative Assembly. For these agencies, the timelines for submitting to a minister and for tabling vary from a requirement to table immediately upon receipt, within a certain number of days after the commencement of the next sitting, or "Annually, when ready."
Saskatchewan	X			X	X	The <i>Executive Government Administration Act</i> requires Ministers (heads of agencies in Saskatchewan) to submit an annual report within 120 days of the agency's preceding fiscal year, and the reports must be prepared at least 20 days before they are due to be laid before the Assembly. Reports are made publicly available, but location varies by agency.
Manitoba			X			No standard requirements exist. Some agencies may be required to submit Annual Reports, as per their enabling legislation. One example: Travel Manitoba must submit an annual report within 4 months of the end of its fiscal year, and the minister must table a copy of the report in the Assembly within 15 days of receipt, but there is no requirement to make the annual report public.
Ontario			X			A government-wide directive requires that agencies not mandated by statute submit their annual report to the responsible minister. Timelines vary on submitting annual reports and whether they must be tabled and made public.

Jurisdiction	Do Statutes Include Reporting Requirements?			What Are the Reporting Requirements?		General Timing Requirements
	Yes, for All Agencies, and the Same Requirements Apply to All Agencies	Yes, for All Agencies, But Requirements Vary by Agency	Yes, But Only for Some Agencies	All Annual Reports Tabled in Legislature	All Annual Reports Made Publicly Available	
Quebec	X			X	X	All agencies are established through statutes and are required to submit their annual reports to their ministers, and the annual reports are then required to be tabled at the National Assembly and be made public on the National Assembly's website. There are no universal timelines established for submitting these, for tabling them, or for publishing them publicly.
New Brunswick			X			Most Crown agencies have reporting requirements and timelines embedded in their legislation, and where required, they are made public through the Legislative Assembly. In practice, they are also published on the agency's website.
Newfoundland and Labrador		X		X	X	Legislation requires that all government entities table annual reports through the responsible minister. Timelines for submitting annual reports and for tabling them are set by the Lieutenant-Governor in Council and are to be tabled and made public annually through "other effective means" (i.e., electronically).
Prince Edward Island	X			X	X	All agencies must provide their ministers with an annual report in a form requested by the minister, and the Minister must table the report within 15 days of receipt, and it must be made public within 6 months of the end of the financial year.
Yukon Territory		X				Requirements to submit an annual report to the responsible minister vary by agency. Tabling is not usually required, and no timeline for tabling is usually provided for in the statute.
Northwest Territories and Nunavut	X			X		By statute, each agency must submit an annual report to its minister within 90 days of the end of its fiscal year. Each minister must table a copy of annual reports for each territorial corporation at the first opportunity following its receipt, but this tabling requirement does not extend to every agency.

* Nova Scotia did not respond to our survey of practices in other jurisdictions.

RECOMMENDATION 4

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

SECRETARIAT RESPONSE

Treasury Board Secretariat will advise ministries to consider updates to the constituting statutes of their provincial agencies to eliminate inconsistencies in the requirements regarding tabling and/or public posting dates for governance documents (including annual reports), in order to ensure alignment with the Agencies and Appointments Directive. Treasury Board Secretariat will also actively seek out opportunities, such as good government bills, to co-ordinate these legislative amendments on behalf of other ministries.

4.5 Standing Committee on Government Agencies Has Not Reviewed Many Agencies, Boards and Commissions Since 1996

Between 1978 and 2014, the operations of more than 130 agencies, boards and commissions were reviewed by the Committee. Its review process of agency operations would generally involve calling witnesses (usually senior agency officials, community group representatives and interested officials) to appear before it. We noted that the number of agencies reviewed by the Committee can vary greatly. For example, after March 1996, it conducted no agency reviews for over a decade. Between 2011 and 2014, the Committee reviewed three agencies:

the LCBO, Metrolinx and the Workplace Safety and Insurance Board (WSIB). The Committee would normally present a report to the Legislature containing recommendations following its agency reviews. **Figure 8** lists those agencies reviewed by the Committee for which a report was issued between 2006 and 2014.

There is no requirement that all provincial agencies' annual reports be referred to the Legislature's Standing Committee on Government Agencies for review. Under the previous directive, the Committee members would receive a copy of all annual reports because they were all required to be tabled. However, under the new directive, annual reports are not required to be tabled, and therefore the Committee will only receive reports tabled under legislative or MOU requirements (unless it requests them as part of a review). As such, Committee members might not be receiving full information on agencies' annual results that could factor into their selection of which agencies to review.

Figure 8: Standing Committee on Government Agencies—Reviewed Agencies with Committee Report Issued, 2006–2013

Source of data: Standing Committee on Government Agencies

Year	Agency
2006	Liquor Control Board of Ontario
2006	Hydro One
2006	Ontario Lottery and Gaming Corporation
2007	Workplace Safety and Insurance Board
2008	Health Professions Appeal and Review Board
2009	Ontario Infrastructure Projects Corporation (Infrastructure Ontario)
2009	Ontario Educational Communications Authority (TVO)
2009	Ontario Trillium Foundation
2009	Ontario Racing Commission
2010	Ontario Securities Commission
2010	Royal Ontario Museum
2010	Ontario Power Generation
2010	Human Rights Tribunal of Ontario
2013	Liquor Control Board of Ontario
2013	Workplace Safety and Insurance Board

Note: No agencies were reviewed between 1996 and 2005. The Committee also reviewed Metrolinx in 2013 but did not release a report.

RECOMMENDATION 5

To ensure the ongoing accountability and transparency of the operations of provincial agencies, Treasury Board Secretariat should consult the Legislative Assembly of Ontario on how best to ensure the Standing Committee on Government Agencies is provided with all agencies' annual reports when they are made public, as the annual reports can assist the Standing Committee in determining which agencies it considers for review.

SECRETARIAT RESPONSE

By April 2016, Treasury Board Secretariat will consult with the Legislative Assembly of Ontario to find an appropriate mechanism for keeping all elected representatives informed of the public posting of provincial agency governance documents, including annual reports.

Appendix 1—Crown Agency Classifications Under the Agency Establishment and Accountability Directive (Effective until January 2015)

Sources of data: Ministry of Government Services, Public Appointments Secretariat

Classification (# as of March 2014)*	Primary Functions	Examples
Operational Enterprise (31)	<ul style="list-style-type: none"> Commercially sell goods or services to the public (including in competition with the private sector) 	<ul style="list-style-type: none"> Infrastructure Ontario Liquor Control Board of Ontario Metrolinks Niagara Parks Commission Ontario Educational Communications Authority (TVO)
Operational Service (37)	<ul style="list-style-type: none"> Deliver goods or services to the public (usually with no, or minimal, fees) 	<ul style="list-style-type: none"> Cancer Care Ontario Education Quality and Accountability Office eHealth Legal Aid Ontario Ontario Tourism Marketing Partnership Corporation
Regulatory (with or without a governing board) (20)	<ul style="list-style-type: none"> Through processes like inspections, investigations, prosecutions, certifications, licensing and rate-setting, make independent decisions that limit or promote the conduct, practice, obligations, rights and responsibilities of an individual, business or corporate body 	<p>No governing board:</p> <ul style="list-style-type: none"> Financial Services Tribunal Niagara Escarpment Commission <p>With a governing board:</p> <ul style="list-style-type: none"> Financial Services Commission of Ontario Ontario Securities Commission
Trust (5)	<ul style="list-style-type: none"> Administer funds and/or other assets for beneficiaries named under statute 	<ul style="list-style-type: none"> Ontario Public Service Pension Board Workplace Safety and Insurance Board
Advisory (67)	<ul style="list-style-type: none"> Provide ongoing information and/or advice to help develop policy and/or deliver programs 	<ul style="list-style-type: none"> Accessibility Standards Advisory Council Committee to Evaluate Drugs Livestock Medicines Advisory Committee
Adjudicative (37)	<ul style="list-style-type: none"> Make independent quasi-judicial decisions on the obligations, rights and responsibilities of individuals, businesses or corporate bodies in light of policies, regulations and statutes Resolve disputes relating to the above Hear appeals against previous decisions 	<ul style="list-style-type: none"> Assessment Review Board Human Rights Tribunal of Ontario Ontario Labour Relations Board
Crown Foundations (0)	<ul style="list-style-type: none"> Established under the <i>Crown Foundations Act</i> or under the <i>University Foundation Act</i> Solicit, manage and distribute donations of money or other assets donated for a named organization in whose interests the Foundation has been established 	<ul style="list-style-type: none"> None

* There were a total of 197 agencies as of March 2014.

Appendix 2—Agency Types Under the Agency and Appointments Directive (Effective as of February 2015)

Source of data: Treasury Board Secretariat

Type (# as of June 2015)*	Primary Characteristics	Examples
Board-governed Provincial Agencies (77)	<ul style="list-style-type: none"> • Have the authority to make operating decisions through a governing board of directors • Have the financial and operating authority to carry on a business and conduct operations in support of the agency's mandate • Board of directors is accountable to the minister for the achievement of the agency's mandate (chair is the board's representative to the minister) • Many have their own staff and organizational structure and do not rely on ministries for these functions • Board appointees are required to exercise a duty of care for the agencies, requiring them to act honestly, in good faith and in the best interest of the agency • Primarily agencies previously classified under the Agency Establishment and Accountability Directive as operational enterprises, operational services and board-governed regulatory agencies 	<ul style="list-style-type: none"> • Cancer Care Ontario • Education Quality and Accountability Office • eHealth • Financial Services Commission of Ontario • Infrastructure Ontario • Legal Aid Ontario • Liquor Control Board of Ontario • Metrolinks • Niagara Parks Commission • Ontario Educational Communications Authority (TVO) • Ontario Lottery and Gaming Corporation • Ontario Public Service Pension Board • Ontario Securities Commission • Ontario Tourism Marketing Partnership Corporation • Workplace Safety and Insurance Board
Non-board-governed Provincial Agencies (47)	<ul style="list-style-type: none"> • Lack authority to make their own operational decisions—ministries must provide operational support for agencies • Include regulatory agencies and adjudicative tribunals • Adjudicative tribunals must also comply with the provisions of the <i>Adjudicative Tribunals Accountability, Governance and Appointments Act, 2009</i>, in a way that promotes effective use of resources and minimizes duplication 	<ul style="list-style-type: none"> • Assessment Review Board • Financial Services Tribunal • Human Rights Tribunal of Ontario • Ontario Labour Relations Board
Advisory Provincial Agencies (60)	<ul style="list-style-type: none"> • Provide specific advice to a minister or the Premier • Are composed of one or more individuals appointed by the government • Are established for more than three years • Their administrative functions are carried out by the responsible ministry • Are created solely for the purpose of providing advice or recommendations as specified in their terms of reference 	<ul style="list-style-type: none"> • Accessibility Standards Advisory Council • Committee to Evaluate Drugs • Fire Marshal's Public Fire Safety Council • Justices of the Peace Remuneration Commission • Livestock Medicines Advisory Committee

* There were a total of 184 agencies as of June 2015 (15 agencies were dissolved and two were created since March 2014).

Appendix 3—57 Crown Agencies Surveyed

Prepared by the Office of the Auditor General of Ontario

Agricorp	Ontario Educational Communications Authority (TVO)
Agricultural Research Institute of Ontario	Ontario Electricity Financial Corporation
Algonquin Forestry Authority	Ontario Energy Board
Cancer Care Ontario	Ontario Financing Authority
Central East Local Health Integration Network	Ontario French-Language Educational Communications Authority (TFO)
Central Local Health Integration Network	Ontario Immigrant Investor Corporation
Central West Local Health Integration Network	Ontario Infrastructure and Lands Corporation
Champlain Local Health Integration Network	Ontario Lottery and Gaming Corporation
Deposit Insurance Corporation of Ontario	Ontario Media Development Corporation
Education Quality and Accountability Office	Ontario Mortgage and Housing Corporation
eHealth Ontario	Ontario Mortgage Corporation
Erie St. Clair Local Health Integration Network	Ontario Northland Transportation Commission
Financial Services Commission of Ontario	Ontario Pension Board
Grain Financial Protection Board	Ontario Place Corporation
Hamilton Niagara Haldimand Brant Local Health Integration Network	Ontario Racing Commission
Legal Aid Ontario	Ontario Science Centre—The Centennial Centre of Science and Technology
Liquor Control Board of Ontario	Ontario Securities Commission
Livestock Financial Protection Board	Ontario Tourism Marketing Partnership Corporation
Metrolinx	Ontario Trillium Foundation
Metropolitan Toronto Convention Centre	Ottawa Convention Centre Corporation
Mississauga Halton Local Integration Network	Public Health Ontario
Niagara Parks Commission	Royal Ontario Museum
North East Local Health Integration Network	South East Local Health Integration Network
North Simcoe Muskoka Local Health Integration Network	South West Local Health Integration Network
North West Local Health Integration Network	Toronto Central Local Health Integration Network
Northern Ontario Heritage Fund Corporation	Waterloo Wellington Local Health Integration Network
Office of the Fairness Commissioner	Workplace Safety and Insurance Board
Ontario Arts Council	
Ontario Capital Growth Corporation	
Ontario Clean Water Agency	