

Chapter 1

Section 1.14

The Provincial Public Appointment Process

Follow-Up on VFM Section 4.02, 2016 Annual Report

RECOMMENDATION STATUS OVERVIEW						
	# of Actions Recommended	Status of Actions Recommended				
		Fully Implemented	In Process of Being Implemented	Little or No Progress	Will Not Be Implemented	No Longer Applicable
Recommendation 1	2	2				
Recommendation 2	3	3				
Recommendation 3	3	3				
Recommendation 4	3	2	1			
Recommendation 5	2		2			
Recommendation 6	1		1			
Total	14	10	4	0	0	0
%	100	71	29	0	0	0

Overall Conclusion

As of June 29, 2018, 71% of the actions we recommended in our 2016 Annual Report have been fully implemented. For example, the Treasury Board Secretariat implemented a new IT system to better support ministries and agencies in the appointment process. The new system allows ministries to better track appointments and reappointments and provides alerts when agencies fall below the minimum number of required members.

The Treasury Board Secretariat has made progress in implementing the remaining 29% of the recommendations. For example, it is in the process

of working with the government on how best to include diversity statistics on the new website.

The status of actions taken on each of our recommendations is described in this report.

Background

Public appointments in Ontario are co-ordinated through the Public Appointments Secretariat (Secretariat), which was set up to both administer and provide support to ministries on the appointment process. It reports to the Treasury Board Secretariat. Each year, the provincial government makes

approximately 1,500 public appointments to 184 provincial agencies (191 at the time of our follow-up) and 360 other entities.

The Secretariat publishes information on its website about the appointment process, upcoming vacancies, how to apply for appointments, and specific details on all current appointments by agency, including the tenure, remuneration and position.

We found in 2016 that while it was good that the appointment process was centrally co-ordinated by the Secretariat, it (in conjunction with the ministries) had not ensured that appointments were done in a timely and transparent manner.

These are the main findings in our 2016 *Annual Report*:

- In our review of a sample of 1,400 new appointments in the years between 2012 and 2016, we found that it took on average almost 16 months to fill these vacant positions despite frequent monitoring and reporting of existing and upcoming vacancies months ahead of the end date of the outgoing members' terms.
- In our survey of the appointees to agencies (including the chairs) and CEOs, 28% of the chairs, 21% of the other appointees and 54% of the CEOs rated the transparency of the appointment process as poor or very poor.
- Appointees to non-board-governed agencies were serving longer than the maximum term allowed by the government directive. As of July 2016, 22% of these appointees had served for longer than 10 years in the same position.
- At 208 agencies, 50% or more of their appointees had terms ending in the same year.
- A better process was needed to ensure that provincial agencies and other entities were attracting qualified candidates. In reviewing applications to public appointments, we noted that relatively few applicants were interested in positions at agencies in Northern Ontario.

- Compensation was not in line with the Agencies and Appointments Directive. Almost a quarter of appointees to board-governed and advisory agencies were compensated at per diem rates higher than the rates set out in the Directive.

We made six recommendations, consisting of 14 actions, and received the Treasury Board Secretariat's commitment that it would take action to address them.

Status of Actions Taken on Recommendations

We conducted assurance follow-up work between April 3, 2018 and June 29, 2018, and obtained written representation from the Treasury Board Secretariat that, effective October 31, 2018, it had provided us with a complete update of the status of the recommendations we made in the original audit two years ago.

Significant Delays in the Appointment and Reappointment Processes in the Last Five Years

Recommendation 1

To minimize the negative impact of delays of appointments on the operations of the provincial agencies and the lack of provincial representation on the boards of other entities, the Treasury Board Secretariat, in conjunction with the ministries, should ensure:

- *the appointments of new members and reappointments of existing members are done in a timely manner (where appropriate, defining the time allowed for each step of the appointment process);*

Status: Fully implemented.

Details

In our 2016 audit, we found that the Public Appointments Secretariat (Secretariat) took on average almost 16 months to fill vacant positions. This occurred despite the fact that the Secretariat frequently monitored and reported existing and upcoming vacancies six months ahead of the end date of the outgoing members' terms.

Since our audit, Treasury Board Secretariat developed educational materials and provided training to ministry and ministers' office staff who participate in the public appointments process to educate them on the process and importance of timely appointments and reappointments. Approximately 90 staff in total attended the training sessions. Additional sessions were provided in September and October 2018 for new staff of ministers' offices who are responsible for appointments.

The Treasury Board Secretariat also established best practice guidelines regarding timelines overseen by ministry staff. The guidelines include a list of best practices to increase the speed of processing public appointments. For example, each ministry is encouraged to designate an official as the ministry's appointments co-ordinator and schedule regular meetings to discuss current and upcoming vacancies. The best practice guidelines were distributed in fall 2018.

The Treasury Board Secretariat also developed a short video for public appointee applicants and ministry staff regarding the steps involved in the public appointment process. The video was posted online on the Secretariat's website on October 1, 2018.

- *all provincial agencies have at least the minimum number of members in order to conduct business, and other entities have sufficient provincial representation as dictated by their enabling legislation or as identified by the ministry/agency if no minimum is set in legislation.*

Status: Fully implemented.

Details

We found that the delay in appointments caused provincial agencies to drop below their legislated minimum number of members, and other entities not to have legislated public representatives on their boards as required. We conducted a survey for our 2016 audit that showed that delays in appointments had a significant negative impact on agency operations. For example, some agencies had difficulty achieving quorum, and members waiting to be reappointed could not participate in major decisions.

Since then, the Secretariat developed and is now using educational and training materials that discuss the importance of public appointees and their roles. The materials also explain the consequences if there are delays in the appointment process, such as the inability to meet quorum and the organization not meeting its mandate.

Treasury Board Secretariat also developed an Information Technology (IT) system to support ministries in the appointment process. The new system allows ministries to better track appointments and reappointments and alert ministry staff when agencies fall below the minimum number of members needed to conduct business. A new Secretariat website makes it easier for the public to apply to vacancies. The new IT system was deployed in July 2018.

Lack of Transparency in the Appointments Process Undermines the Credibility of the Process

Recommendation 2

To maintain a transparent and credible appointments process, the Treasury Board Secretariat, in conjunction with the ministries, should work with the ministers' and premier's offices to ensure:

- *there is clear communication with the agencies on the selection process used to evaluate the candidates' qualifications, experience and fit*

against the needs of the agencies, including publishing the selection criteria used to evaluate the candidates, where appropriate;

Status: Fully implemented.

Details

We reported in 2016 that the transparency of the appointment process was poor. Agencies and appointment candidates were not well informed of the status of appointments, and sometimes they waited months for approval decisions even when the agencies recommended the candidates for appointment.

The Secretariat has now developed educational and training materials that include information on the role agencies play in selecting and vetting candidates.

The Treasury Board Secretariat continues to provide guidance around the use of external advertising to support the appointments process. The number of appointment ads posted on the Secretariat website has increased year-over-year for the last few years from 96 ads in 2015 to 146 ads in 2017. The position description is included in the appointment ad, along with the qualifications, duties and responsibilities. The required qualifications are the basis for the selection criteria.

- *chairs, in conjunction with CEOs, are consulted for their input on board requirements so that appointed board members have the competencies to fill the gaps in their boards;*

Status: Fully implemented.

Details

In 2016, only 40% of chairs strongly agreed that sufficient consultation and communication occurred between the ministry and their organization to ensure appointees have the necessary skills for their boards.

Treasury Board Secretariat continues to require chair recommendations for all adjudicative and regulatory appointments. It also has created a best practice recommendation that ministries ask for the Chair's recommendations for board-governed

appointments. The best practice is documented in the training material provided to ministries. The training material includes information on the importance of the Chair in the appointment process during both the recruitment process and making recommendations. Chair recommendations are documented by a letter from the chair to the ministry.

- *agencies are promptly and clearly informed of the status of position vacancies being filled to facilitate planning at the agencies.*

Status: Fully implemented.

Details

Our 2016 audit found that there was not enough consultation between the ministries and agencies to ensure that the status of position vacancies was being communicated promptly.

Ministry and ministers' office staff training sessions discussed in **Recommendation 1** included the importance of notifying the chair of the respective agency when appointments are finalized. The training material provided to ministry staff also includes timelines to notify the chair before posting the appointment to the Secretariat website.

The Treasury Board Secretariat developed best practice guidelines that includes best practices for notifying chairs and agencies about new appointees. The best practice guidelines are available with the rollout of the new IT system, as discussed in the second action item of **Recommendation 1**.

Terms of Appointments May Not Be Effective for Proper Governance

Recommendation 3

To maximize the effectiveness of provincial agencies and other entities serving the public, the Treasury Board Secretariat, in conjunction with the ministries, should work with the provincial agencies to:

- *support the transition of members who have served over the 10-year maximum term to new*

members and take steps to minimize any negative impact on the operations of the agencies;

Status: Fully implemented.

Details

We noted in our 2016 report that more than 20% of appointees had served for longer than 10 years in the same position. Terms longer than the maximum of 10 years were meant to be an exception. The exception was only if the appointment served the public interest, such as an appointee staying to mentor and provide training to new members or in cases where there is difficulty recruiting a replacement in certain regions.

The Treasury Board Secretariat developed a Succession Planning Tool in December 2016. The tool includes best practices and recommendations for the succession of board members. The tool is available to ministry staff and agencies through an internal website.

The Secretariat IT system that was developed allows ministries to better track where in the appointment/reappointment process an appointment is. With the IT system, ministry staff can see the tenure of board members and determine proactive actions when members are closing in on 10-year terms.

- *ensure timely communication between the ministries and the Secretariat on the status of members on expired term to ensure its record of all appointees in Ontario is up-to-date;*

Status: Fully implemented.

Details

The Secretariat relies on the ministries to notify it when appointees' terms expire or they have resigned, in order for it to update its records of all appointees in the province.

The Treasury Board Secretariat sends a vacancy list to the ministries on a bi-monthly basis, listing all appointments currently expired and expiring over the next six-month timeframe. The Treasury Board Secretariat now supplements the vacancy list with communications to ministries enquiring on the

status of appointees whose terms have expired and encourages ministries to address the vacancies.

The Treasury Board Secretariat continues to maintain a public record of current appointees on the Secretariat website.

- *stagger the terms of appointees serving at the same agency.*

Status: Fully implemented.

Details

We noted in our 2016 report that many agencies had appointees with terms ending in the same year. This added undue stress on the process of finding the right replacement candidates, or reappointing candidates, in a timely manner.

Educational materials and training to ministry and ministers' offices now include discussion on the chair's role in providing advice on staggering terms. One of the materials that was distributed to ministries and agencies was the Succession Planning Tool, which now includes best practices for staggering the terms of appointees. In addition, Treasury Board Secretariat has developed an internal memo for ministries for the Women on Boards initiative, which reinforces staggered terms.

Process to Attract Qualified Candidates Needs Improvement

Recommendation 4

To ensure that qualified candidates are appointed to provincial agencies and other entities, the Treasury Board Secretariat, working with the ministries, should:

- *proactively promote vacant positions in Northern Ontario to attract qualified candidates;*

Status: Fully implemented.

Details

Our 2016 audit reviewed the number of applications that the Secretariat had received by agency and noted a chronic shortfall of applicants interested in positions at agencies in Northern Ontario.

For example, in the five years prior to 2016 in the Province overall, 30 agencies with one or more vacancies had received fewer than 10 applications each; 22 of them were in Northern Ontario.

The Treasury Board Secretariat has since provided guidance on using external advertising to support the appointments process and has emphasized the importance of attracting Northern candidates. In addition, the Secretariat does periodic follow-ups with ministries on vacancies. The new IT system, discussed in the second action item of **Recommendation 1**, has a module that allows ministries to create appointment ads and a module to search for suitable candidates for appointments from across the province, including Northern Ontario.

The Treasury Board Secretariat has also started adding guidelines on external advertising to a vacancy report mail-out.

- *assess the need to prioritize and fill long-standing vacant positions, particularly if those positions have been outstanding for a number of years;*

Status: Fully implemented.

Details

We reported in 2016 that some agencies had a significant number of applicants on file, yet vacant positions at these agencies were unfilled for long periods.

As part of the new IT system, the Secretariat has asked every ministry to confirm the minimum number of board members for each agency so that the Treasury Board Secretariat can better track long-standing vacancies. The IT system is operational as of July 2018.

- *monitor appointment diversity statistics and post them on its public website.*

Status: In the process of being implemented by winter 2019.

Details

We reported in 2016 that although the Secretariat's appointees' database had the information needed to track the progress in achieving the provincial government's target of women composing 40% of board members on all provincial boards and agencies, the Secretariat had not started to do so at the time of our audit.

The Treasury Board Secretariat is monitoring gender statistics for appointments to provincial agencies and provides updates to the Premier's Office and Treasury Board Secretariat Minister's office. "Get on Board" Women in Corporate Leadership was posted online on Ontario.ca and it provides public information on where the government is at in reaching its 40% commitment. The Treasury Board Secretariat is raising awareness about the target, identifying provincial boards and agencies with few women and working with ministries to increase appointments of qualified women, monitoring progress, providing training and conducting outreach. In addition, the Treasury Board Secretariat has developed an internal memo for the Women on Boards initiative.

A new public website, as part of the new IT system, has the capacity to allow applicants and appointees to self-identify their gender and other characteristics so that ministries and the Treasury Board Secretariat can track the diversity of appointees. The Treasury Board Secretariat is working with the government on how best to include this information on the new website.

Training Provided by the Public Appointments Secretariat Has Been Generally Well Received by the Appointees

Recommendation 5

To ensure its public appointees are sufficiently trained to effectively perform their roles, the Treasury Board Secretariat should:

- *review its training materials to enhance areas for improvement identified by public appointees, specifically relating to their expected roles and responsibilities, the relationship and communication between the agencies and the provincial ministries, and best practices/common requirements applicable to the various types of roles;*
Status: In the process of being implemented by late 2018.

Details

We reported in 2016 that while the majority of respondents to our survey indicated that the training provided by the Secretariat to appointees was good, there was still room for improvement. Areas for improvement included the relationship and communication between the agencies and the provincial ministries, and best practices/common requirements applicable to the various types of roles.

For our follow-up, the Treasury Board Secretariat said it continues to review the Board Governed Appointee Training course content on an ongoing basis. Based on feedback received from participants, an additional case study was incorporated in April 2018 into the training sessions to provide additional board training.

The Treasury Board Secretariat also will be launching a pilot in fall 2018 to train Ontario Public Sector staff on the role of agencies and how to interact and build positive relationships with them. In addition, appointees will receive a survey 12 months after attending a training session to measure the effectiveness of the course and identify any areas for improvement. The first 12 months' surveys were distributed in April 2018, and the results have shown that roughly 90% of respondents feel that the training provided was effective for preparing the appointee for their role.

- *in conjunction with ministries ensure appointees complete their training requirements as part of their appointment in a timely manner.*
Status: In the process of being implemented.

Details

We reported in 2016 that the Secretariat tracked appointees' training to determine whether they had completed the online and/or in-class training. Although there was no required timeline to complete the training, the Secretariat encouraged appointees to complete the training as soon as possible. A majority of the appointees who had not taken the training had been appointed in the previous year.

By the time of our follow-up, the Secretariat still manually tracked appointees' training attendance. The Treasury Board Secretariat has been able to use data extraction from the new system to improve the tracking of attendees within the manual tracker. The Treasury Board Secretariat stated it is exploring options for a new training module to better track and follow up to ensure appointees complete training in a timely manner.

Compensation is Not in Line with the Agencies and Appointments Directive

Recommendation 6

To ensure that compensation to appointees is transparent, provincial agencies should adhere to the compensation rates outlined in the Agencies and Appointments Directive or, as needed, the Treasury Board Secretariat should propose to the Treasury Board/Management Board of Cabinet that the Directive be amended to indicate the compensation actually in effect.

Status: In the process of being implemented by December 2018.

Details

In 2016, we found that almost a quarter of appointees (23%, or 140 of 606) to board-governed and advisory agencies were being compensated using per diem rates that were higher than the rates set out in the Agencies and Appointments Directive (Directive). The difference between the rates in the Directive and the actual rates paid was as high

as \$800 a day, with the average being about \$200 above Directive per diem rates. Treasury Board/Management Board of Cabinet approved the higher rates for these appointees. Their decisions take precedence over the rates set out in the Directive.

Treasury Board Secretariat informed us at the time of our follow-up that it now recommends remuneration rates consistent with the Directive as new provincial agencies are established. It stated it has proposed that the Directive be amended, and it respects the Treasury Board/Management Board of Cabinet's authority to make compensation decisions on behalf of the government. When rates are proposed above the rates listed in the Directive, ministries must provide the Treasury Board/Management Board of Cabinet with a business case outlining the rationale for the higher rate.

To increase transparency in remuneration, as of July 4, 2017, all appointment Orders-in-Councils (including remuneration Orders-in-Councils) for all appointees are now posted online at www.ontario.ca/search/orders-in-council. Previous to this, some Orders-in-Councils were restricted from public posting.