

Towards Better Accountability

This year, from our perspective, we have seen several areas where progress has been made “towards better accountability.” Specifically, in this chapter I would like to highlight the impact of our expanded mandate on the broader public sector, improvements in the implementation of our prior years’ recommendations, government initiatives regarding results-based planning and reporting, and certain aspects of the *Fiscal Transparency and Accountability Act, 2004*. I also reiterate my concern regarding limitations on my access to certain government activities or information resulting from the *Quality of Care Information Protection Act, 2004*. And finally, I outline concerns regarding our access to certain government-controlled corporations and the need for a number of the larger agencies of the Crown to table their annual reports on a much more timely basis.

My Expanded Audit Mandate

Bill 18, the *Audit Statute Law Amendment Act*, which amended the *Audit Act* (now the *Auditor General Act*), received Royal Assent on November 30, 2004. The most significant amendment contained in Bill 18 was the expansion of the Auditor General’s value-for-money audit mandate to include the thousands of organizations in the broader public sector

that receive government grants, and Crown-controlled corporations such as Ontario Power Generation and Hydro One Inc. (The expanded mandate does not apply to grants to municipalities, but it does allow the Auditor to examine a municipality’s accounting records to determine whether a municipality spent a grant for the purposes intended.) The effective date of the expanded mandate with respect to value-for-money audits in the broader public sector was April 1, 2005.

In our first year of this new mandate, organizations from a broad spectrum were selected for audit, including school boards, community colleges, hospitals, Children’s Aid Societies, and the two provincially controlled hydro companies. The results of these audits are included in Chapter 3.

The acquisition of goods and services was the primary focus of our audits at selected school boards and colleges as well as at Ontario Power Generation and Hydro One Inc. It was also a secondary focus of our audits of Children’s Aid Societies. This area was selected for three reasons:

- Our audits of these areas in ministries in recent years have found opportunities to achieve savings and strengthen controls, and we suspected similar opportunities might exist in the broader public sector.
- The government has been examining ways to improve supply chain management in Ontario,

citing potential savings of several hundred million dollars in the broader public sector.

- Examining the acquisition function provided my Office with an opportunity to use existing expertise in an area that cuts across many aspects of the operations of these organizations in the broader public sector, thereby helping my staff to build their knowledge of the organizations' businesses. This knowledge will serve us well as we plan and carry out audits in these sectors in the future.

Audit work at four of the 53 local not-for-profit Children's Aid Societies in the province assessed whether the funding provided by the Ministry of Children and Youth Services was spent prudently with due regard for economy and efficiency, and whether children in need had received care and protection in a timely manner in accordance with legislation and policies. The Ministry provides 100% of the required funding for these services.

Given the significance of the expenditures incurred and the services provided, we conducted two separate audits at selected hospitals. One focused on the adequacy of policies and procedures to ensure cost-effective acquisition and maintenance of medical equipment, while the other focused on the management and use of medical diagnostic imaging equipment, particularly magnetic resonance imaging machines (MRIs) and computed tomography (CT) equipment. In the second audit, the objective was to determine whether the selected hospitals had adequate policies and procedures in place to ensure that the management and use of medical imaging equipment met patient needs efficiently and was in compliance with applicable legislation and that test results were reported on a timely basis.

Improved Implementation of Our Recommendations

Our Office has the following primary objective: providing legislators with the information they need to hold the government, its administrators, and grant recipients accountable for achieving value for money and a high level of service to the public. We obtain this information primarily through our value-for-money audits, which, over time, cover all major activities of the government and the broader public sector.

In conducting these audits, the Office believes that it is not enough to just point out problems or concerns. We also provide what we feel are practical and constructive recommendations to address issues in a cost-effective manner. Three years ago, when I tabled my first Annual Report, I commented on two overriding themes. One related to the lack of sound management information systems; the second related to some frustration with the lack of implementation of our prior years' recommendations. With respect to this latter issue, in my opening remarks to the media on my *2003 Annual Report*, I stated that

it was apparent to us this year that there were far too many areas where prior-year concerns—often going back four, five, six, or even 10 years—had not been satisfactorily addressed. We acknowledge that many of our recommendations deal with very substantive and complex issues that cannot be addressed overnight and substantial progress in addressing them may well take a year or two. However, there is no excuse for a lack of effective action after so many years have passed.

I am pleased to report that this is one area where I have seen an improvement over the past three years. It is evident from Chapter 4 in this year's

report, where we present our follow-up of the status of recommendations we made in the *2004 Annual Report*, that action has been taken and progress made in addressing most of the recommendations we made two years ago. Of particular interest is the number of audits where the progress made to date is not only satisfactory but significant—action is being taken on all recommendations, with a number already having been substantially implemented. Figure 1 illustrates the trend over the last decade with respect to this.

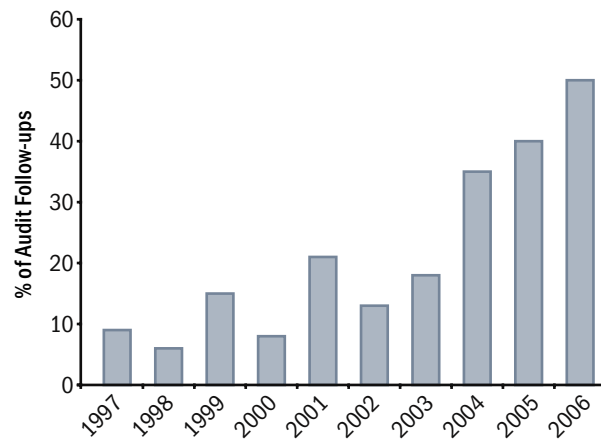
As well as being evident at the audit level, as Figure 1 shows, this positive trend has also been evident at the individual recommendation level. We made over 200 recommendations in each of the years 2002–04 and, based on our follow-up work two years after the original audit, the proportion of these that have been substantially implemented after two years has been rising steadily. Specifically, 42% of recommendations made in 2002 had been substantially implemented, as had been 44% of those made in 2003 and 46% of those made in 2004. As well, at least some progress has been made on over 90% of the 239 recommendations we made in 2004.

So who should take the credit for such progress? First of all, senior management in the ministries and central agencies that we audit certainly must be recognized for their increased commitment to implementing our recommendations. However, another not-so-obvious contributor is the Legislature’s Standing Committee on Public Accounts.

As further discussed in Chapter 8, “The Standing Committee on Public Accounts,” our Annual Report is automatically referred to this Committee on tabling in the Legislature. The Committee selects a number of sections from our report—including both current-year audits as well as sections from our follow-up work on recommendations made two years ago—to hold formal hearings on. At these hearings, the Deputy Minister or agency head, along with his or her senior officials, have the

Figure 1: Audit Follow-ups Noting Significant Progress in Addressing Recommendations Made Two Years Prior

Prepared by the Office of the Auditor General of Ontario



opportunity to outline what action they have taken on issues identified by that particular audit and are questioned by members from all three parties. I suspect that ministry and agency awareness of the possibility that they will be called to appear before the Committee acts as an additional motivator for management to take action on our recommendations.

This is not to say that, in the absence of the influence of the Committee, senior management of ministries, organizations in the broader public sector, and Crown agencies would not be taking our recommendations seriously. In fact, I was heartened to hear, when meeting with the government’s Council of Deputy Ministers to discuss alternative ways of reporting auditees’ responses to recommendations, that the Deputies were committed to continuing to respond formally to our recommendations. They felt that this would maintain a “healthy tension” in the system that would help ensure that timely action is taken to address our concerns.

The bottom line is that improved and timelier implementation of our recommendations will result in better, more cost-effective services being delivered to Ontarians.

Developments in Public Performance Reporting

ONTARIO

Over the past 10 years, the government of Ontario has made efforts to enhance the use of performance measures by program management to help focus efforts and expenditures on achieving results as well as to enhance the public reporting of those measures.

In May 1996, the government of Ontario published its first annual business plans and committed to publishing these plans annually. The business plans were to include a presentation of the results achieved during the year as well as targets, goals, and objectives for the following year.

In April 2000, Management Board Secretariat (now the Ministry of Government Services) issued the Business Planning and Allocations Directive and, in December 2000, a companion guideline entitled Performance Measurement in the Business Planning Process—A Reference Guide for Ministries. These documents provided valuable guidance to ministry management and staff on improving their performance reporting, with a particular focus on the outcomes being achieved by significant government programs.

In our *2003 Annual Report*, we felt that it would be worthwhile to review the guidance provided by Management Board Secretariat. We used as a benchmark the nine public-performance-reporting principles that had recently been developed by the Canadian Comprehensive Auditing Foundation (CCAF). We noted that the guidance had partially or fully incorporated five of the CCAF's nine principles. We recommended that

over the next few years, as ongoing refinements to the guidelines are made, the four principles not yet included be considered in future revisions of the guidelines and

that ministries be encouraged to implement them as soon as possible.

We also noted that “it is encouraging to see the progress that has already been made in the public reporting of the government’s performance. Nevertheless, in these days of constrained resources, increased delegation of responsibilities, and rapid and constant change, the need for clear, credible, and timely performance reporting has never been greater.”

We were pleased to note that the 2004 Ontario Budget referred to the CCAF’s nine principles for public reporting as a model for improving Ontario’s reporting on performance. These principles have been officially adopted by the federal government and the governments of British Columbia, Saskatchewan, and others and served as a valuable underlying framework for a Statement of Recommended Practice for Public Performance Reporting issued in June 2006 by the Public Sector Accounting Board of the Canadian Institute of Chartered Accountants (CICA).

Results-based Planning

Commencing with planning for the 2004/05 fiscal year, the government of Ontario introduced “results-based planning,” which was defined as “the corporate process through which ministries demonstrate the alignment of resources to strategies and programs to support achievement of the government’s priorities and results and the fulfillment of statutory obligations.” Performance measurement is a key element of results-based planning and is intended to help decision-makers at various levels throughout the process. Based on extensive research into best practices in other jurisdictions, Management Board Secretariat issued a reference guide for performance measurement in March 2005 that describes the Ontario Public Service’s approach to performance measurement and explains how performance information is to be used

in decision-making, risk management, and business planning.

The Ontario government currently uses three levels of performance measurement:

- *output measures*—to measure the tangible products or invoices that result from activities;
- *outcome measures (short-term and intermediate term)*—to demonstrate the achievement of ministry activities and strategies and /or the contribution of ministry activities and strategies to meeting government priorities; and
- *high-level indicators*—to measure social, environmental, or economic conditions for which government alone is not accountable but which reflect the extent to which the government's priorities are being achieved.

In addition to their role in assessing effectiveness in achieving goals and intended outcomes, these measures are intended to provide information about efficiency and customer satisfaction.

Since 2004, the government of Ontario has been publicly reporting annually on its progress in achieving results on three main priorities:

- Success for Students;
- Better Health; and
- Jobs and Prosperity.

A 2004 report entitled *Getting Results for Ontario* identified the results that the government of Ontario was endeavouring to achieve and the strategies it would use to achieve those results. The 2005 progress report, *Working Together For A Better Ontario*, and the 2006 progress report, *Getting Results for Ontario Families*, describe the progress the government has made in achieving the planned results. The 2004, 2005, and 2006 reports are available at www.resultsontario.gov.on.ca. These performance reports are not intended to achieve the degree of comprehensiveness recommended by the CICA and the CCAF reporting principles, which are gaining widespread acceptance, but they do provide useful information on high-level outcomes to help track progress against key priorities.

There are other, more comprehensive sources and levels of performance information that are or will be publicly available to Ontarians. Currently, ministry-published results-based plans are made available to the public on individual ministry Internet sites. These plans are intended to provide the public with more detailed information about the individual ministry's mandate, its goals and objectives, the major programs and services delivered by the ministry, and how these support government priorities or statutory obligations. We also understand that Treasury Board Office is continuing to collaborate with the CCAF to advance adherence to the nine principles. Commencing in the 2007/08 fiscal year, Ontario will participate in a three-year pilot to improve public performance reporting, led by the Ministry of Finance and involving the Ministry of Government Services as the pilot ministry.

Sector-focused Reporting

In addition to government-wide and ministry public reports on progress against the priorities established by the government, there are also sector-specific initiatives underway to enhance public reporting and accountability. Two recent examples are the creation in 2005 of the Ontario Health Quality Council and the Higher Education Quality Council of Ontario. Both are independent agencies established to oversee the performance of their respective sectors.

The Ontario Health Quality Council reports directly to Ontarians on access to publicly funded health services, health human resources in publicly funded health services, consumer and population health status, and health system outcomes. Its first public report, issued in April 2006, identified the attributes of a high-performing health system, thereby establishing a framework for reporting on the performance of the system. These attributes lead to performance measurement based on the extent to which the system is safe, effective,

patient-centred, accessible, efficient, equitable, integrated, appropriately resourced, and focused on population health. Although the Council has proposed performance measures to capture these attributes, it noted that “inadequate information is limiting our ability to continuously improve quality, monitor performance and report on it.” In response, the Council proposed that “investing in e-health—using information technology to manage health, arrange, deliver and account for care, and manage the health care system—will do the most to improve each of the attributes of a high-performing health system.”

In addition, the 2006 legislation governing Ontario’s new Local Health Integration Networks requires that the Minister and each local health integration network establish multi-year accountability agreements for the local health system, including performance goals, objectives, standards, targets, measures, and reporting requirements for the network and the local health system. Local health integration networks are responsible for planning, funding, and integrating local health systems to improve the health of Ontarians through better access to high-quality health services, co-ordinated health care in local health systems and across the province, and effective and efficient management of the health system.

Also, the Ministry of Health and Long-Term Care has been developing a strategic management and accountability framework for the Ontario health system that will include performance measurement and reporting at multiple levels (that is, local, sector, and provider levels) using consistent indicators and agreed-on methodologies.

The education sector is another significant sector that lacks sufficient appropriate information with which to monitor and report on service quality and the achievement of improvement objectives. Although some progress in this regard has been made by the Education Quality and Accountability Office, which measures and reports on trends in

elementary and, to a lesser extent, secondary student success in mastering the Ontario curriculum, less progress has been made in the postsecondary education sector. Recognizing this, the Higher Education Quality Council of Ontario was given the mandate to monitor and report on performance measures and guide the postsecondary education system towards improved quality.

One initiative aimed at obtaining the commitment and information necessary to deliver on this mandate is the establishment of performance agreements with each publicly funded postsecondary institution—a similar initiative is being undertaken in the hospital sector. These will establish key public expectations and the reporting requirements necessary for funders and the Council to oversee the sector and to strengthen institutional accountability.

Citizen-focused Reporting

While much literature and effort has been devoted to high-level or aggregated performance reporting by governments, sectors, and publicly funded institutions, there has been an increasing interest in providing more detailed information that citizens will find useful in making the decisions important to them, that will hold service providers accountable, and that will drive continuous improvement in the services being delivered. Below are several examples of this web-based, citizen-focused information. In many cases, this information is aligned with key government objectives and therefore can also provide the data needed to report on progress against improvement objectives.

- In the postsecondary education sector, the Ministry of Training, Colleges and Universities has, for several years, required institutions eligible to participate in the Ontario Student Assistance Program (OSAP) to report on loan default and graduation and employment rates by program of study, so that parents and students can make more informed career choices

with the money they invest in postsecondary education.

- Since 2000, the Ministry of Municipal Affairs and Housing, under its Municipal Performance Measurement Program (MPMP), has required that all Ontario municipalities report annually on the effectiveness and efficiency of key municipal services. Now in its sixth year of operation, the MPMP examines 54 measures in 12 service areas—including fire, police, roadways, transit, land-use planning, water, sewage, local government, parks and recreation—that cover key areas of interest of taxpayers and municipal expenditures. The performance measures are well defined, widely understood, and used by taxpayers, elected officials, and administrators to further accountability and service improvement. Municipalities use a range of methods to publish their results. Municipal results are also summarized on the Ministry of Municipal Affairs and Housing’s website.
- Since June 2004, the Ministry of Labour has been maintaining on its website statistics for the last 10 years on key activity measures for its Occupational Health and Safety Program, such as the number of workplaces inspected and investigated, total field visits, and orders issued and prosecutions initiated for violations of the *Occupational Health and Safety Act*. Such information, when combined with workplace accident statistics, provides an indication of whether Ontario workplaces are becoming safer or riskier.
- More recently, a website has been created for the education sector to provide parents and funders with information on class sizes for every elementary classroom in Ontario. This information informs both parents and the government on progress towards its commitment to reduce class sizes in elementary schools.

- Similarly, for the health sector, a website has been established to track wait times for diagnostic tests and certain high-demand surgical procedures, so that patients, providers, and funders can monitor trends and opportunities for improvement.

The reliability and usefulness of this information improves as the necessary information systems and data-collection practices mature. For example, while older initiatives, such as OSAP and the MPMP, include some rigour to ensure that the data reported are reliable, newer initiatives, such as the reporting of wait times for key health services, are still in need of continuous improvement because of exclusions and inconsistencies in the way service providers collect and report their information. We discuss this issue in more detail with respect to wait times for diagnostic tests in Section 3.06, Hospitals—Management and Use of Diagnostic Imaging Equipment. We understand that the Ministry of Health and Long-Term Care is developing a single wait-time information system for Ontario to collect accurate and timely data. By December 2006, this system will be established in approximately 50 Ontario hospitals, representing more than 80% of the total volume for the five health services funded through the Wait Times Strategy. Eventually, this new system could track wait times for all surgical procedures in Ontario.

OTHER JURISDICTIONS IN CANADA

In some Canadian jurisdictions, such as British Columbia and Alberta, public performance reporting is legislated and has been in place for a number of years. As a consequence, their public performance reporting practices are somewhat more advanced than practices in Ontario to date.

British Columbia

Through British Columbia's *Budget Transparency and Accountability Act*, the government, ministries, and Crown agencies are required to prepare and publish a three-year service plan, which includes goals, objectives, measures, and targets. The government and Ministers are also required to table annual reports that compare actual results against the expectations set out in the government's three-year strategic plan and ministry and Crown agency service plans. In an annual strategic plan report, actual results and performance are compared against targets established in the British Columbia government's three-year strategic plan.

Alberta

Under Alberta's *Government Accountability Act*, the Minister of Finance must prepare an annual government business plan as part of the consolidated fiscal plan. This plan must include the current fiscal year and at least two subsequent fiscal years. The government business plan must include the following:

- the mission, core businesses, and goals of the government;
- the measures to be used in assessing the performance of the government in achieving its goals;
- the performance targets set by the government for each of its goals; and
- links to ministry business plans.

Ministers are required to prepare annual business plans for their ministries that include the same type of information as the government's business plan and links to the government's business plan.

The Minister of Finance must prepare and make public, on or before June 30 of each year, a consolidated annual report for the province of Alberta for the fiscal year ended on the preceding March 31. This report is to include a comparison of the actual performance results to the targets included in the government business plan, an explanation

of any significant variances, and a message from the Minister of Finance providing an overview of the performance of the government. Ministers must include in their ministry's annual report the same type of information for their ministry that is required to be included in the province's consolidated annual report.

CONCLUSION

Clearly, there is considerable momentum for improving accountability and decision-making through the collection and reporting of more meaningful performance information on the delivery of publicly funded services. Our Office will continue to report on ways to improve the quality of performance information collected and reported on the services and programs we examine each year, as part of our goal to strengthen accountability and encourage value for money in the delivery of government services.

The *Fiscal Transparency and Accountability Act, 2004*

The *Fiscal Transparency and Accountability Act, 2004* (Act) requires the government to plan for a balanced budget each fiscal year unless it determines that it would be consistent with prudent fiscal policy to have a deficit in a given fiscal year as a result of extraordinary circumstances. The Act also requires that the Minister of Finance publicly release:

- a multi-year fiscal plan as part of each year's budget;
- a mid-year review of the fiscal plan;
- periodic updated information about Ontario's revenues and expenses for the current fiscal year;

- Ontario's economic accounts each quarter; and
- a long-range assessment of Ontario's fiscal environment in the two years after each provincial election.

The Minister of Finance is in compliance with the Act and has publicly released the required information listed above.

Another key requirement in the Act is that the Ministry of Finance release a report on Ontario's finances prior to an election. The pre-election report must provide information that updates the current year's fiscal plan as reported in the latest budget, including:

- an update on the macroeconomic forecasts and assumptions used to prepare the fiscal plan;
- a description of significant differences, if any, from the forecasts and assumptions originally used to prepare the fiscal plan;
- an updated estimate of the revenues and expenses used in the fiscal plan;
- details of the budget reserve for financial contingencies; and
- updated information about the ratio of provincial debt to Ontario's gross domestic product.

The Act states that the Auditor General must review this pre-election report to determine whether it is reasonable and to release a statement describing the results of the review. As of the printing of this Annual Report, the deadline for the release of the pre-election report had not been established by regulation. Since the next general election will take place in October 2007, I encourage the Ministry of Finance to ensure that these and other regulatory details are established well in advance of my review.

Restricted Access to Health-related Information

Section 10 of the *Auditor General Act* (Act) states that the Auditor General is entitled to free access to all information and records belonging to or in use by a ministry, government agency, or grant recipient that the Auditor believes necessary to perform his or her duties under the Act. Clause 12(2)(a) of the Act states that the Auditor General shall report whether, in carrying out the work of the Office, all the required information and explanations were received.

In this regard, I must again inform the Legislature, as I did in my *2005 Annual Report* (see Chapter 2 and Chapter 3, Section 3.08), of a scope limitation on our health-related audit work imposed by provisions of the *Quality of Care Information Protection Act, 2004* (Information Protection Act), which prohibits the disclosure of certain information.

The sections of the Information Protection Act and related regulations that affected our audit work this year came into force on November 1, 2004. They prohibit the disclosure of information prepared solely or primarily for or by a designated quality-of-care committee unless the committee considers the disclosure to management of a health facility or a health-care provider necessary in order to maintain or improve the quality of health care or in order to reduce a significant risk of serious bodily harm. Similarly, anyone to whom such a committee discloses information generally may share the information with others at the health facility only if it is considered necessary to maintain or improve the quality of health care. We understand that this legislation was designed to encourage health professionals to share information to improve patient care without fear that the information would be used against them.

One of the three hospitals we audited for Section 3.06 of this report (Hospitals—Management

and Use of Diagnostic Imaging Equipment) had designated a quality-of-care committee under the Information Protection Act. When we sought certain information relevant to our audit, we were informed that the information had been prepared for this committee, and therefore our access to it was prohibited due to the Information Protection Act. As a result, we were unable to determine whether this hospital had an adequate system in place to analyze and follow up on diagnostic imaging incidents (for example, unusual occurrences associated with diagnostic imaging causing injury to patients or hospital employees) and to take corrective action, where necessary, to prevent similar incidents in the future.

The other two hospitals we audited did not have a designated quality-of-care committee; therefore, we were able to review their processes to analyze and follow up on incidents.

We have been expressing our concerns with the scope limitation imposed by the Information Protection Act since December 2003, when this Act was introduced for first reading in the Legislature. However, our attempts to remedy this situation have to date been unsuccessful and so we continue to maintain that the Information Protection Act has the potential to impact negatively on our current and future audit work, especially on our ability to determine whether important systems that can affect patient safety and treatment are functioning as intended.

Annual Reporting by Provincial Agencies

Like all provincial governments across Canada, the Ontario government has established a number of Crown agencies that undertake a variety of activities in the public interest. Although such activities are carried out by agencies rather than directly by

Figure 2: Classifications of Government-controlled Agencies

Source of data: Ministry of Government Services

advisory	130
operational service	64
adjudicative	63
operational enterprise	36
Crown foundation	28
regulatory	18
trust	7
Total	346

government ministries, such agencies must still be accountable to the Legislature and the public.

According to the List of Classified Provincial Agencies that was prepared by the Corporate Policy Branch of the Ministry of Government Services, as of January 2006, there were 346 agencies established and controlled by the Ontario government. These agencies are classified as shown in Figure 2.

The Corporate Management Directive on Agency Establishment and Accountability, approved by the Management Board of Cabinet and dated February 2000, specifies that any agency established by the province of Ontario is accountable to the government through the responsible minister of the Crown. The Directive also discusses the following accountability mechanisms for agencies:

- *annual financial and performance reporting*—to demonstrate what has been achieved and at what cost;
- *auditing*—to ensure reporting is reliable, operations are conducted prudently, and assets are safeguarded;
- *Memorandum of Understanding*—to clearly articulate roles, responsibilities, and expectations;
- *business planning*—to establish what is to be achieved and at what cost;
- *periodic review*—to assess the continuing need for and direction of the agency; and

- *customer/client service*—to develop and operationalize processes to deal with customer service matters.

The Directive's requirement with respect to auditing is that each year, all but the 130 agencies in the advisory classification be subject to an external audit (regardless of whether the agency's constituting instrument refers to such an audit) if the agency has any of the following attributes:

- The agency holds capital assets.
- The agency incurs financial liabilities or other commitments (for example, through borrowing or making loans).
- The agency enters into commitments with other parties.
- The agency's revenues (including provincial funding, if any) and/or expenditures may be material to the operations of the government.

An annual external audit of an agency's accounts and financial transactions is commonly known as an "attest" or "financial-statement" audit. In such an audit, the auditor gives an opinion stating whether the results of operations (annual surplus or deficit) and financial position (assets and liabilities) of the agency, as reflected in its financial statements, have been fairly presented in accordance with appropriate accounting policies, which in most cases are those established by the Canadian Institute of Chartered Accountants.

Most of Ontario's agencies (excluding advisory agencies) are audited by public accounting firms that are appointed by the agencies' governing boards or shareholders. The Auditor General has the responsibility to audit 35 of the many provincially established agencies that require an annual external audit. Twenty-eight of these agencies designate the Auditor General as their external auditor in their enabling legislation, while the remaining seven, through their governing board or shareholders, have appointed the Auditor General as their external auditor. The Auditor General also has the responsibility to direct the audit of an addi-

tional five provincially created agencies that are audited by another auditor.

Another of the accountability mechanisms identified by the Directive on Agency Establishment and Accountability—annual financial and performance reporting—requires that each agency's audited financial statements be made public annually. Specifically, the Directive requires that every agency, except an agency classified as advisory, prepare an annual report for submission to the minister responsible (unless otherwise specified in the agency's constituting instrument) that includes:

- discussion of performance targets achieved/not achieved and of action to be taken;
- analysis of the agency's operational performance;
- analysis of the agency's financial performance; and
- names of appointees, including when each was first appointed and when the current term of appointment expires.

The annual report is to be submitted to the minister responsible within 120 days of its fiscal year-end, unless the agency does not have a governing board, in which case it must be submitted within 90 days. Then, within 60 days of receiving the report, the minister must table it in the Legislative Assembly.

From a legislative and public accountability perspective, the requirement to prepare and make publicly available an annual report is of paramount importance. Doing so in a timely manner enhances the transparency of the actions taken and the results achieved by the agencies, thereby strengthening agency accountability to the Legislature and the public. In mid-September 2006, we assessed whether the 35 provincially established agencies for which the Auditor General has direct audit responsibility had complied with this requirement. Our findings are summarized in Figure 3.

Based on the results of our limited review, we believe improvements are required to ensure more

Figure 3: Agency Compliance with Requirement to Table Annual Report

Prepared by the Office of the Auditor General of Ontario

Number of agencies whose 2005 annual report was tabled within the Directive time frame	1
Number of agencies whose 2005 annual report was tabled, but not within the Directive time frame	17
Number of agencies whose 2005 annual report was not yet tabled	17
Number of agencies whose 2004 annual report was not yet tabled	8
Number of agencies whose 2003 annual report was not yet tabled	5
Number of agencies whose 2002 annual report was not yet tabled	3*

* All three agencies are in arrears for annual reports from 2000 to 2005.

timely tabling of agency annual reports if agencies are to be effective in demonstrating their accountability to the Legislature and the public. While the individual agencies are first and foremost accountable for meeting this responsibility, under the Directive on Agency Establishment and Accountability, monitoring and ensuring compliance with its mandatory requirements, which includes the timely tabling of agency annual reports, is also the responsibility of the individual ministries. We understand that, in some cases, annual reports may have been prepared and submitted to the Minister responsible but have not yet been tabled.

We were informed during discussions with Corporate Policy Branch staff that a recent Internal Audit review, based on a sampling of five ministries, also revealed that the rate of compliance with the requirements set forth in the Directive could be improved. The Branch indicated that it has established an Agency Co-ordinators Forum to address non-compliance with the Directive. The Forum has representatives from all ministries, and its mandate includes providing guidance to the Branch on the needs of ministries and on how to improve and assess compliance with the Directive's requirements.

Restrictions on Our Right to Audit Certain Government-controlled Corporations

My rights and responsibilities with respect to audits of various government-controlled organizations are laid out in the *Auditor General Act* (Act). The Act's definition of "agency of the Crown" states that the Auditor General is either to perform the audit or direct the audit performed by another auditor, who must report to the Auditor General:

"agency of the Crown" means an association, authority, board, commission, corporation, council, foundation, institution, organization or other body,

- (a) whose accounts the Auditor General is appointed to audit by its shareholders or by its board of management, board of directors or other governing body,
- (b) whose accounts are audited by the Auditor General under any other Act or whose accounts the Auditor General is appointed by the Lieutenant Governor in Council to audit,
- (c) whose accounts are audited by an auditor, other than the Auditor General, appointed by the Lieutenant Governor in Council, or
- (d) the audit of the accounts of which the Auditor General is required to direct or review or in respect of which the auditor's report and the working papers used in the preparation of the auditor's statement are required to be made available to the Auditor General under any other Act,

but does not include one that the *Crown Agency Act* states is not affected by that Act or that any other Act states is not a Crown agency within the meaning or for the purposes of the *Crown Agency Act*.

The Auditor General's audit rights and responsibilities with respect to Crown-controlled corporations are somewhat different—while Crown-controlled corporations are audited by other auditors, the Auditor General is to receive a copy of the final results and has full access rights to audit reports, working papers, and other related documents. Furthermore, as discussed earlier, Crown-controlled corporations are subject to the expanded value-for-money audit mandate of the Auditor General, and my Office began to exercise its right to perform such audits on Crown-controlled corporations this year.

Currently, the wording of the Act in defining “Crown-controlled corporation” excludes a number of corporations that are nevertheless controlled by government. Specifically, the definition in the Act ends with a reference to the Lieutenant Governor in Council making or approving appointments to a corporation's board of directors:

“Crown controlled corporation” means a corporation that is not an agency of the Crown and having 50 per cent or more of its issued and outstanding shares vested in Her Majesty in right of Ontario or having the appointment of a majority of its board of directors made or approved by the Lieutenant Governor in Council.

However, the government has established corporations whose boards of directors are appointed

by a minister, without the express approval of the Lieutenant Governor in Council. These include, for example, the Independent Electricity System Operator (IESO) and the Ontario Power Authority (OPA), both established as non-share capital corporations under the *Electricity Act*.

The accounts and financial transactions of both IESO and OPA are required to be audited annually by one or more auditors licensed under the *Public Accounting Act, 2004*. However, because the IESO and the OPA do not fit the Act's definition of Crown-controlled corporation, the Auditor General does not have any legislative audit-oversight responsibilities with regard to their operations nor the ability to access information and records from them.

While the government, through the minister, clearly controls the appointment of the directors to the boards of the IESO and the OPA, under the current wording in the Act these corporations cannot be considered Crown controlled.

It is our view that corporations such as the IESO and OPA are, for all intents and purposes, controlled by the government through the minister's board-appointment process and that the distinction between a corporation where the majority of the board is appointed by a minister and one where the majority of the board is appointed by the Lieutenant Governor in Council has little substance.

The foregoing was brought to the attention of the Minister of Finance, who indicated agreement with the Office's interpretation by including our requested amendment to the *Auditor General Act*, as part of Bill 151, the *Budget Measures Act, 2006* (No. 2), which was introduced for first reading on October 18, 2006.