
CHAPTER TWO

Towards Better Accountability

Chapter Two of our Annual Report has traditionally been used to address issues of accountability in government. This year, the chapter focuses primarily on proposed legislation that the government has introduced and that if passed, will strengthen the Office's ability to better serve the Legislative Assembly. The chapter also highlights some recent government initiatives that help address recommendations we have made in previous years to improve public accountability in government and across the broader public sector.

PROPOSED AMENDMENTS TO THE *AUDIT ACT*

Amendments to the *Audit Act* were last made in 1978. The most significant amendment forming part of the 1978 *Audit Act* revision was the introduction of value-for-money auditing, whereby the Provincial Auditor was provided with the authority to report on the economy and efficiency of government programs and on procedures undertaken by ministries to measure the effectiveness of their programs.

Since 1978, we have been steadily increasing our value-for-money activities, largely because of the interest the Standing Committee on Public Accounts has shown in those activities by focusing its hearings on them. Currently, about two-thirds of our audit resources are directed to value-for-money audit activity.

While the 1978 amendments gave us the authority to conduct value-for-money work in ministries and Crown agencies, it did not extend this mandate to organizations receiving government grants, such as hospitals, universities, colleges, school boards, and thousands of smaller organizations. With regard to such organizations, the Act only allows for inspection audits, which are restricted to an examination of accounting records to determine whether grants provided were used for the intended purpose. While value-for-money-oriented observations may arise as a by-product of such audits, the audits cannot be value-for-money focused. Based on our experience in conducting inspection audits of major grant recipients in the community-college, university, hospital, and school-board sectors from 1984 to 1991, the Office came to the

conclusion that the legislated scope of such audits was too narrow to effectively serve as a vehicle for meaningful reporting to the Legislature.

Given that grants to fund the expenditures of organizations delivering health care, social services, education, and a multitude of other services to Ontarians constituted over 50% of total government expenditures, the Office's position was, and still is, that providing the legislative auditor with the authority to conduct discretionary value-for-money audits on these organizations would contribute to the overall accountability of these organizations to the Legislature and Ontario taxpayers.

The Office's proposed amendments to the *Audit Act* to address this issue were initially discussed with the Standing Committee on Public Accounts in 1989–90. In a 1990 Report to the Legislature, the Committee recommended that the *Audit Act* be amended to provide the Provincial Auditor with the discretionary authority to perform value-for-money audits of any government agency and all transfer-payment recipients. Over the years, former Provincial Auditors Doug Archer and Erik Peters both made presentations to the Committee on this proposal. The proposals presented to the Committee were fully supported by it each and every time. Three private members' bills, with a similar purpose, have also been introduced in the Legislature.

In recent years, legislators and the public across Canada are increasingly demanding that public accountability structures be strengthened. Legislative audit offices can play a very important role in enhancing the accountability structures in government. Many other Canadian legislative audit offices already have the legislated discretionary authority to conduct value-for-money audits of grant recipients. In fact, the mandates of the Auditors General of British Columbia and Prince Edward Island go even further by permitting the Auditor General to evaluate actual program effectiveness, not just the adequacy of procedures in place to measure effectiveness.

In fall 2003, we were advised by the Ministry of Finance that the Minister of Finance had decided to table amendments to the *Audit Act* in the Legislature. We were provided with the opportunity to provide our suggestions on the draft legislation at that time. On December 9, 2003, the Minister of Finance introduced Bill 18, entitled *An Act respecting the Provincial Auditor*, for first reading in the Legislature. At the time of this writing, the bill was at the second reading stage. We are hopeful that the bill will be referred to the Standing Committee on Public Accounts for review this fall.

Bill 18 is largely consistent with the principles underlying our proposed amendments to the *Audit Act* and with the recommendations over the years made by the Standing Committee on Public Accounts. The bill includes provisions that, if passed, will:

- expand the Auditor's value-for-money audit mandate to organizations in the broader public sector that receive government grants, such as hospitals, colleges, universities, school boards, and any other organization meeting the definition of grant recipient (the expanded mandate would not apply to grants to municipalities,

yet would allow the Auditor to determine whether a municipality spent a conditional grant for the purposes intended);

- change the title of Provincial Auditor to Auditor General, with other corresponding name changes;
- enable the Auditor to conduct value-for-money audits of Crown-controlled corporations such as the new Hydro corporations;
- change the term of appointment of the Auditor from a term ending at age 65 to a fixed, non-renewable term of 10 years; and
- modernize the provision regarding the expression of an audit opinion on the financial statements of the province to require that the Auditor opine on whether the statements are fairly presented in accordance with appropriate generally accepted accounting principles for governments as promulgated by the Canadian Institute of Chartered Accountants.

We are satisfied that, aside from one issue of concern, Bill 18 generally addresses those areas of the current *Audit Act* that we felt required amendment. The one area that is not being amended and that has for many years caused us serious operational problems relates to the statutory requirement that the salaries of our staff must be comparable to the salary ranges or classifications in the Ontario public service. Unlike public service employees, almost all of our staff, because of the specialized work they do, are professional accountants—primarily chartered accountants—who are in great demand both in the private sector and across the broader public sector. However, the government's classification levels often do not provide our Office with the flexibility to pay competitive salaries. For years, this restriction on our ability to compensate our staff in line with the salaries offered in the competitive Toronto job market has been a contributing factor to a continually high turnover rate of our professional staff. This is particularly problematic given our heavy emphasis on value-for-money auditing, which requires technical and managerial skills developed through years of experience.

We believe the successful implementation of the expanded mandate proposed in Bill 18 will depend largely on our ability to both retain our current experienced staff and offer competitive salaries to attract additional experienced professionals.

If the Legislative Assembly passes Bill 18 in its present form, it should be noted that the broad new powers granted to audit grant recipients will be exercised with a great deal of discretion and, as with all our audits, based on an assessment of risk. Such audits will obviously include value-for-money issues; however, the scope, objectives, and approaches that we take in discharging our proposed expanded mandate will be the subject of further discussions with the Standing Committee on Public Accounts and with representatives of the grant-recipient organizations.

In conclusion, we are very encouraged by the tabling of Bill 18, as our quest to achieve the goal of expanding the Provincial Auditor's value-for-money mandate to those

organizations receiving government grants has been a long and sometimes arduous one. I am therefore pleased to be able to report that this goal, which enhances our ability to better serve the Legislature, may finally be reached in the near future.

PROPOSED LEGISLATION ON GOVERNMENT ADVERTISING

The distinction between government advertising and partisan advertising can sometimes be unclear. In order to provide adequate public accountability on this subject, legislators and public servants need the tools to distinguish between government advertising appropriately funded by the taxpayer and political or partisan communications.

Accordingly, in 1999 we reviewed this area. In our *1999 Annual Report*, we pointed out that the Management Board Directive on Advertising and Creative Communication Services did not provide criteria to help distinguish between informative government advertising and partisan advertising. We recommended, based on research we conducted of practices in other jurisdictions, that in the interest of improving public accountability, the government should consider establishing principles, guidelines, and criteria that clearly define what the nature and characteristics of taxpayer-funded advertising should be.

In November 2003, we were advised that legislation was being considered to address the partisan-advertising issue and that the government would like the Provincial Auditor to review proposed advertising to ensure it is not partisan in nature.

We had discussions with the Chair of the Management Board of Cabinet and with Management Board Secretariat staff regarding the draft legislation. On December 11, 2003, the Chair of the Management Board of Cabinet introduced Bill 25, entitled An Act respecting government advertising, for first reading in the Legislature. The purpose of the bill is to ban partisan government advertising.

Government advertising would have to meet the following standards as proposed in the bill:

- It must be a reasonable means to achieving one or more of the following purposes:
 - to inform the public of current or proposed government policies, programs, or services available to them;
 - to inform the public of their rights and responsibilities under the law;
 - to encourage or discourage specific social behaviour, in the public interest; and/or
 - to promote Ontario or any part of Ontario as a good place in which to live, work, visit, study, or invest.

-
- It must include a statement that the item is paid for by the government of Ontario.
 - It must not include the name, voice, or image of a member of the Executive Council or a member of the Assembly (this would not apply with respect to proposed advertising whose primary audience is located outside of Ontario).
 - It must be non-partisan.
 - It must not be a primary objective of the item to foster a positive impression of the governing party or a negative impression of a person or entity that is critical of the government.

Items covered by the bill would include advertising that the government pays to have appear on television, radio, billboards, and in print, and printed material that the government pays to have distributed by bulk mail to households.

Advertising and printed material done on an urgent matter affecting public health or safety, public notices required by law, government of Ontario tenders, and job advertisements are exempt under the proposed legislation.

With respect to our Office, the bill proposes the following:

- The Office of the Provincial Auditor is to review specified proposed government advertising and printed material within a prescribed number of days.
- Subject to the approval of the Board of Internal Economy, the Provincial Auditor may appoint a person to act as Advertising Commissioner, who may exercise such powers and shall perform such duties as the Auditor may delegate to him or her.
- An item reviewed by the Provincial Auditor, or his/her designee such as the Advertising Commissioner, and deemed to promote partisan interests could not proceed under the requirements of the bill.
- The Provincial Auditor would be required to report annually to the Legislature on any matters of non-compliance with the Government Advertising Act and on the total cost of advertising that is subject to the Act.

In explaining why the government wanted the Office of the Provincial Auditor to perform this function, the Chair of the Management Board of Cabinet advised us that:

The high importance that our government places on this initiative is reflected in the choice of your Office, as a guardian of public trust, to assure the integrity of government advertising.

At the time of this writing, Bill 25 was at the second reading stage. Should the bill be passed by the Legislature, we expect that there will be a phased-in proclamation in order to allow the Office time to establish the necessary review processes, including the appointment of an Advertising Commissioner.

PROPOSED LEGISLATION ON FISCAL TRANSPARENCY AND ACCOUNTABILITY

As announced in the 2004 Budget, on May 18, 2004 the Minister of Finance introduced Bill 84, entitled An Act to provide for fiscal transparency and accountability, for first reading in the Legislature. If passed, the bill would repeal the *Balanced Budget Act, 1999* and, according to the Minister's budget address, would require that the Ministry of Finance release to the public a pre-election report about Ontario's finances and that the Provincial Auditor review the report to determine whether it is reasonable and release a statement describing the results of the review.

The bill also includes a requirement that the Minister publicly release:

- a multi-year fiscal plan in the Budget papers;
- a mid-year review of the fiscal plan;
- periodic updated information about Ontario's revenues and expenses for the current year;
- Ontario's economic accounts each quarter; and
- a long-range assessment of Ontario's fiscal environment, no later than two years after each provincial election.

The government has also taken steps under its democratic renewal initiatives to fix the dates for future elections. In this regard, the government has introduced Bill 86, which, if passed, would, among other things, amend the *Election Act* so that provincial elections would occur at four-year intervals on the first Thursday in October, starting October 7, 2007.

The deadline for the release of a pre-election report is to be established by regulation. We expect that the deadline will provide the Provincial Auditor with sufficient lead time to complete the required review of the report before the election date.

OTHER INITIATIVES TO IMPROVE ACCOUNTABILITY IN THE BROADER PUBLIC SECTOR

HEALTH-CARE SECTOR

In our *1999 Annual Report*, we recommended that the Ministry of Health and Long-Term Care “should ensure that an accountability framework that clarifies its expectations of hospitals and their accountability to the Ministry is implemented as soon as possible.” In response to our recommendation, the Ministry advised us that it was working with the Ontario Hospital Association to develop a formal accountability framework to accomplish this and that the framework was expected to be completed in 1999. In our 2001 follow-up to this recommendation, we were advised that a framework that defined respective roles and responsibilities had been developed but that defining and agreeing on performance expectations would require additional work over the next 12 to 18 months.

While we have not conducted additional audit work in this area since that time, we were encouraged by the passage of Bill 8, the *Commitment to the Future of Medicare Act, 2004*, in June 2004. The Act provides for the establishment of the Ontario Health Quality Council and provides a framework for entering into accountability agreements with health-resource providers.

With respect to the Health Quality Council, the Minister of Health and Long-Term Care stated that:

The council will provide Ontarians with meaningful information so they can measure our government’s performance and hold us to account. The Ontario Health Quality Council exists to serve the broad and diverse interests of Ontarians by measuring across a broad array of indicators how our health care system is performing. We will, for once, finally have an annual, at-a-glimpse opportunity to measure how we’re doing to mark the continuous improvement that we’re involved in.

With respect to the accountability agreements, the Minister stated that:

Bill 8’s accountability agreements clarify expectations in order to secure mutual benefits for both health providers and the Ontarians they serve. The accountability agreements are about a new mature relationship with our health care providers, a relationship that for the very first time ties funding to results, rewards good performance, and has real consequences for poor performance.

We believe that the *Commitment to the Future of Medicare Act, 2004* is a positive step in addressing our 1999 recommendation for enhanced accountability measures in the health-care sector.

EDUCATION SECTOR

While under the current *Audit Act* we have not been able to conduct value-for-money audit work at universities and colleges of applied arts and technology, we have previously reviewed the adequacy of the accountability mechanisms in place between the Ministry of Training, Colleges and Universities and such institutions. Our work indicated that, for both universities and colleges, the Ministry did not yet have adequate accountability frameworks in place to ensure these institutions were cost-effectively meeting provincial needs and expectations, although some progress has been made since our reviews.

Consequently, we noted with interest that the 2004 Ontario Budget announced the commencement of a comprehensive review of postsecondary education in Ontario. The mandate of the review is to recommend to the government how best to provide Ontarians with a high-quality, accountable, and affordable system of postsecondary education. One of the key objectives of the review will be the development of an accountability and performance measurement framework that supports recommendations on system design and funding models. It is expected that the review's final recommendations will be presented to the government in January/February 2005.

With respect to the elementary/secondary education sector, in July 2004 the Minister of Education announced measures to ensure that special education investments get to the students who need them. Included in the announced measures is a proposal to establish an Effectiveness and Efficiency Office (EEO) within the Ministry of Education.

In our 2001 audit of special education grants to school boards, we concluded that the accountability framework for these grants was evolving and noted that the Ministry was in the process of taking steps to design a system for the provision of special education grants and services. However, the Ministry of Education and school boards did not yet have the information and processes needed to determine whether special education services were being delivered effectively, efficiently, and in compliance with requirements. Accordingly, we were encouraged to learn that the EEO will be working with school boards to assist them in adopting best practices, including those in the area of special education services.