2009 Annual Report

Office of the Auditor General of Ontario

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To the Honourable Speaker
of the Legislative Assembly

In my capacity as the Auditor General, I am pleased
to submit to you the *2009 Annual Report* of the
Office of the Auditor General of Ontario to lay
before the Assembly in accordance with the provisions of section 12 of the *Auditor General Act*.

Jim McCarter, FCA
Auditor General

Fall 2009

Ce document est également disponible en français.

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Overview and Summaries of Value-for-money Audits and Reviews

Overview

SPEND TAXPAYER MONEY LIKE IT WAS YOUR OWN

In this overview of my seventh Annual Report to the Legislative Assembly, I want to highlight an issue that was apparent in a number of our value-for-money audits this year—specifically, public funds were often not being spent with enough due diligence and oversight to ensure that taxpayers were getting full value for their hard-earned tax dollars. For instance, we expressed concerns about ministries overpaying for goods or services, not ensuring that only those entitled to government benefits actually received them, not being diligent enough in collecting money owing to the government, and not ensuring that the level of user fees and premiums being charged is regularly reviewed and set at appropriate levels.

It is not the absence or inadequacy of rules or guidelines that was the problem. Rather, I believe that there is a culture or mindset among some of those accountable for managing and delivering government programs that does not always prioritize getting maximum value for the taxpayer's dollar. So, what's required to fix the problem? Essentially, the government and its employees—from the top leadership to those on the front lines delivering services to the public—must spend taxpayer money like it was their own. Maximizing value for taxpayer dollars must be a priority at the top or it will certainly not be first and foremost in the minds of those responsible for actually delivering services to the public.

In recent years, the economy has been strong and government revenues have often exceeded expectations. As a result, there has been sufficient cash available to ensure that all government programs and services could be delivered or even expanded, even if funds were not always being spent as well as they could have been. However, times have changed and revenue projections over the next few years are not rosy. Usually in such circumstances, individuals in a household instinctively adopt a belt-tightening mindset to ensure that the necessities can be provided for. Adopting this mindset throughout government will be more challenging, but it will be no less essential if we are to ensure that the services that Ontarians have come to rely on can continue to be provided.

It is a theme woven through a number of the value-for-money audits in this Annual Report—and in the *Special Report on Ontario's Electronic Health Records Initiative* that we published in October— that the government needs to do a better job of monitoring how it spends taxpayers' money and how it collects it. Some of the areas where we had concerns of this nature are summarized in the following sections.

Assistive Devices Program

The Ministry of Health and Long-Term Care sets prices for assistive devices such as mobility devices, respiratory devices, and computer systems with the intent that the device suppliers obtain about a 33% rate of return. However, the prices that the Ministry has set for these assistive devices actually give vendors a rate of return that is often in the 100% range. As well, the Ministry was not being vigilant enough in following up on potential abuses in this program.

Ontario Disability Support Program

Income and employment support payments to individuals with eligible disabilities have risen by 42% to more than $3 billion since our last audit in 2004. Staff of the Ministry of Community and Social Services were often not performing the required third-party verification of information provided by applicants to confirm their eligibility. Unrecovered overpayments increased substantially, to $663 million, up 37% since our last audit. Many of these overpayments could have been avoided if the Ministry had more effectively assessed the eligibility and the amounts to be paid to those individuals and if it had followed up more diligently on tips received from the public.

Ontario Works Program

The Ministry of Community and Social Services paid out $1.7 billion in benefits for the Ontario Works Program last year. As with the Ontario Disability Support Program (ODSP), the Ministry did not have adequate procedures in place to ensure that the required verification of third party information provided by applicants was being done. For the Ontario Works program, this is the responsibility of municipal service managers. As well, unrecovered overpayments have increased 45% since our last audit in 2002, from $414 million to $600 million, and there have been only minimal efforts to recover these overpayments. Given the challenge of recovering overpayments from both Ontario Works and ODSP recipients, it is all the more essential that

appropriate safeguards and controls be in place to prevent overpayments in the first place.

OntarioBuys Program

The purpose of the OntarioBuys Program is to help broader-public-sector (BPS) institutions such as hospitals, school boards, colleges, and universities achieve savings in their purchases of goods and services. The program funds "shared-service organizations" that arrange for group purchasing of goods and services as well as projects aimed at improving organizations' supply-chain practices. However, despite the program spending $148 million since its inception in 2004, the level of participation by BPS institutions, especially in the education sector, was well below targeted levels. We also noted that the March 2009 Ontario Budget announced that OntarioBuys had helped BPS entities redirect $45 million in savings toward frontline services— but much of the $45 million in savings could not be substantiated, and almost all of those savings that could be substantiated were not actually spent on delivering frontline services to the public.

Ontario Research Fund

Since the Fund's inception in 2004, about $300 million in research funding has been paid out, with total announced program commitments of more than $600 million. When the Fund was established, the Minister of Economic Development and Trade stated that one of the key objectives was to place a greater emphasis on commercialization and to "take good ideas out of our labs and ensure they get to the marketplace." However, most of the research commitments to date have been theoretical in nature as opposed to research that has commercial potential. Given the Minister's stated objective for this program—and in light of the impact of the recent recession on employment in Ontario— commercialization and the creation of new jobs should be more of a focus in order to fully meet the objectives of this program.

Government User Fees

We identified issues with the way the government manages programs that bring in revenues through user fees, worth about $2.2 billion to the provincial treasury in the 2008/09 fiscal year. A user fee is generally charged to recover all or part of the cost of providing a specific good or service, such as a driver's licence. In contrast, a tax is applied to produce revenues for general government purposes and for goods and services that the government deems to be a "public good," such as health care.

A 1998 Supreme Court of Canada decision concluded that a user fee could be considered unlawful—and therefore may have to be repaid to the user—either if it is determined by a court to be a tax with no law on the books to support it or if the amount charged is excessive when compared to the cost of the services provided. We noted that user fees worth more than $500 million a year might be invalid under the Supreme Court's criteria. Although the government requires that user fees be regularly reviewed to keep them up-to-date, we found that there were generally no formal processes in place to ensure that this was being done effectively.

Unfunded Liability of the Workplace Safety and Insurance Board

One key objective of the Workplace Safety and Insurance Board (WSIB) is to run an insurance fund, funded by employers and investment returns on fund assets, that is used to provide income support and medical assistance to workers injured on the job. As of December 31, 2008, the assets available to pay the projected costs of injury claims were short by $11.4 billion. This is known as the fund's "unfunded liability." The challenge of trying to satisfy both workers—who want higher benefits—and employers—who want lower premiums—has contributed to this significant unfunded liability. The WSIB may need to find a new approach to dealing with this problem. Failure to do so could result in the WSIB ultimately being unable to meet its commitments to provide workers with the benefits to which they are entitled.

THE SAFETY AND PROTECTION OF ONTARIANS

Several of this year's audits focused on programs that have an impact on the safety and protection of the public. While we noted some areas where good initiatives were being undertaken, we also noted areas where processes could be improved.

Bridge Inspection and Maintenance

Ontario has about 14,800 bridges. The Ministry of Transportation is responsible for ensuring that the approximately 2,800 bridges located within the provincial highway system are safe. Municipalities are responsible for the other 12,000 bridges. There is a legislative requirement that all bridges must be inspected every two years, using the detailed inspection standards established by the Ministry. Although the Ministry was conducting these inspections every two years, we noted weaknesses in the oversight and follow-up of inspection results. In addition, to conduct the required close-up inspections, lane closures are sometimes necessary. However, there have been no requests for lane closures whatsoever for the last three years in the Greater Toronto Area. As well, the Ministry does not have the authority to assess whether municipalities are inspecting their bridges every two years in accordance with the required inspection standards.

Infection Prevention and Control at Long-term-care Homes

There is a high risk of infectious diseases, such as *C. difficile*, spreading among residents of long-term-care homes. This is because residents often share rooms and participate in activities together and older people are generally more vulnerable to illness. At the long-term-care homes we visited, we noted that a number of processes had been instituted to prevent and control the spread of infectious diseases. However, improvements were required with respect to the screening of new residents,

ensuring that resident rooms were being properly cleaned, and monitoring the use of antibiotics to reduce the incidence of *C. difficile*.

Consumer Protection

The Ministry of Consumer Services oversees business practices for the protection of consumers and the ensuring of public safety. Our independent external consumer survey indicated that the Ministry needs to better promote its mandate and the services it makes available to consumers. As well, it needs to be more proactive in overseeing problem industries and repeat offenders. Although the Standing Committee on Public Accounts had recommended in 2004 that the Ministry conduct a review of how well industry-sponsored oversight authorities were protecting the public, it was only after a tragic propane explosion in August 2008 that the Ministry launched a comprehensive review of this area.

Social Housing

Social housing is rent-subsidized accommodation provided to people who, without such financial support, would have difficulty putting a roof over their heads. Social housing has been primarily a municipal responsibility since 2000. However, from both a value-for-money perspective and from the perspective of those who live there, it is critical that the province monitor whether such housing is being maintained in a reasonable and safe condition. Given that the average age of the social-housing stock is about 40 years, the deteriorating condition of many of the housing units has been a significant and growing concern. Furthermore, we found that the Ministry had no information on the actual condition of the social-housing portfolio across Ontario.

Teletriage Health Services

Ontario's teletriage services (comprised of Telehealth Ontario and the Telephone Health Advisory Service) provide callers with free, confidential telephone access to a registered nurse. Although our independent survey indicated that those who used Telehealth Ontario were generally satisfied, only a small portion of Ontario's population used the

services. Furthermore, there are improvements that could be made to enhance the services provided, such as ensuring that newly hired nurses have the required clinical experience and conducting independent reviews of the quality of the advice provided by nurses.

THE OFFICE'S FINANCIAL AUDIT RESPONSIBILITIES

In addition to value-for-money auditing, we audit the province's consolidated financial statements and the financial statements of numerous Crown agencies to "close the accountability loop" and ensure that the Legislature and the people of Ontario receive credible financial information about the state of public finances. We discuss our work relating to our audit of the province's financial statements in Chapter 2. The Crown agencies we either directly audit or which are audited by other accounting firms under our direction are listed in Exhibit 1.

Two of the more significant observations discussed in greater detail in Chapter 2 this year are as follows:

- For the 16th straight year, we were able to report that the province's financial statements were presented fairly, in accordance with generally accepted accounting principles for governments in Canada. This means that legislators and the public can have confidence that the province's financial condition and annual operating results as reflected in those statements is a fair portrayal of the government's management of the "public purse" over the past fiscal year.

- As discussed previously, the Workplace and Safety Insurance Board (WSIB) has a growing and significant unfunded liability of $11.5 billion. Because the WSIB is currently classified as a trust for accounting purposes, this unfunded liability and its annual operating results are not included in the consolidated results of the province. However, given the

size of the unfunded liability and the fact that the government controls the WSIB under current accounting standards, we questioned whether the WSIB meets the definition of a true trust. If it does not, it should be included in the province's consolidated financial statements. We recommended the Ministry of Finance formally assess this issue.

OTHER WORK DONE DURING THE YEAR

Each year, we follow up on actions taken to implement our recommendations from value-for-money audits published two years earlier. The results of this follow-up work are in Chapter 4. In a number of instances, we noted that considerable progress had been made in addressing our recommendations.

We also fulfilled our responsibilities this year under the *Government Advertising Act, 2004*, as discussed in Chapter 5. This Act requires us to review proposed government advertising intended for television, radio, newspapers, magazines, and billboards, as well as items to be delivered to households by bulk mail delivery, to ensure that they do not have as a primary objective the promotion of the partisan political interests of the governing party.

The Legislature's all-party Standing Committee on Public Accounts held hearings on a number of value-for-money audits published in our *2008 Annual Report.* The Committee's work enhances the accountability of ministries, agencies, and broader-public-sector organizations to the Legislature and the citizens of this province. An overview of the Committee's work is presented in Chapter 6.

Summaries of Value-for-money Audits and Reviews

The following are summaries of the value-for-money audits and the review reported in Chapter 3 of this Annual Report.

3.01 ASSISTIVE DEVICES PROGRAM

The Ministry of Health and Long-Term Care (Ministry) administers the Assistive Devices Program. Its objective is to provide support and funding to Ontario residents with long-term physical disabilities to assist them in obtaining personalized assistive devices that enable them to function more independently. In the 2008/09 fiscal year, program expenditures were approximately $347 million, and the Program supported about 294,000 clients. Although the Ministry has improved service delivery to clients since our last audit of the Program, it should manage payments more economically and enforce eligibility and other policy requirements more rigorously. Some of our more significant observations were as follows:

- A majority of people getting oxygen at home use oxygen concentrators that cost between $400 and $1,000 and last five to seven years. These devices also require periodic servicing. The Ministry typically pays vendors about $23,000 over a five-year period for the purchase and servicing of these devices without analyzing whether the actual servicing costs incurred by the vendor support such a price differential.
- Vendors' rates of return in selling assistive devices were higher than the targeted return of 33% set by the Ministry. Average vendor mark-ups for mobility devices, respiratory devices, and computer systems were 84%, 117%, and 128%, respectively. In setting device prices, the Ministry had not taken into account the significant price decreases arising from technological advances and the potential for some vendors to obtain volume discounts.
- Vendors are receiving even greater returns from computer components such as monitors, printers, and scanners. For example, the Program-approved price for a monitor that often costs vendors only about $250 is $1,332, giving vendors a potential return of 400%. We also found that vendor price quotes for the

same computer system varied significantly and ranged from $1,300 to $4,400.

- The Ministry was not consistently monitoring scooter claims to identify unusual patterns, nor was it taking appropriate action to prevent potential abuses. We noted that scooter claims of some vendors increased by more than 800% over the last three years.

- In our sample, one-third of the assessments that ought to have been conducted by oxygen vendors to confirm clients' continued eligibility for home oxygen either had not been done or showed that the clients no longer met the criteria for long-term home oxygen supply. Yet the Ministry was not made aware of this and continued to pay for their home oxygen.

- Claims for Frequency Modulated (FM) hearing devices have risen dramatically among seniors, increasing from $250,000 in 2004/05 to $4.8 million in 2008/09. However, some clients indicated that they did not really need or use the FM systems.

- We noted cases where individual authorizers—health-care professionals who can authorize the subsidized purchase of assistive devices— were signing more than 90% of certain vendors' claims. One such vendor had claimed more than $10 million for hearing aids since 2000. Some authorizers continually referred clients to the same vendors, even if there were other vendors located much closer to where the client lived. The Ministry knew about some of these cases for several years yet took no remedial action.

- Ontario does not recycle used manual wheelchairs to lower the impact on the environment or save on costs. Other provinces, such as Alberta and Quebec, have achieved cost savings of $4 million to $5 million per year from recycling their manual wheelchairs.

3.02 BRIDGE INSPECTION AND MAINTENANCE

Ontario has about 14,800 bridges. Approximately 12,000 of these are located in municipalities and are the responsibility of municipalities. The remaining approximately 2,800 bridges are located within the provincial highway system and are the responsibility of the Ministry of Transportation (Ministry). The average age of the province's bridge infrastructure is about 40 years. Under the *Public Transportation and Highway Improvement Act*, all provincial and municipal bridges are required to be inspected every two years under the direction of a professional engineer, in accordance with the Ministry's Inspection Manual.

We noted that the Ministry was conducting the inspections every two years as required. We also noted that the Ministry had established comprehensive standards for bridge inspection in Ontario and that its standards had been adapted for use by a number of other Canadian jurisdictions.

However, we did find a number of areas where improvements to the Ministry's inspection and maintenance processes would help minimize safety risks and ensure that the bridges the province is responsible for remain safe. Our specific observations were as follows:

- According to the Ministry's assessment, more than 180 provincial bridges (7% of the total) were in poor condition, requiring repair or rehabilitation work within one year of inspection. However, we found that over one-third of these bridges were not included in the Ministry's capital work plan for the upcoming year.

- The Ministry had not ensured that information in its bridge inventory database with respect to critical elements of each bridge was accurate and complete. In addition, the database did not have information on the rehabilitation history for almost one-third of bridges 40 or more years old.

- The Inspection Manual requires a detailed visual "close-up" inspection of each bridge element. Normally, this requires the closure of lanes and road shoulders to traffic. Without closing a lane, close-up inspection of the critical elements of certain bridges on Highway 401 in the Greater Toronto Area, for example, is not possible, yet there have been no such lane closures for the past three years.

- We found several weaknesses in the process for ongoing oversight of inspections. For example, although the Inspection Manual stipulates that a typical bridge inspection take two to three hours, we found on 36 occasions between 2006 and 2008 that 10 or more bridges were inspected in one day. In other instances, we noted an improvement in the overall condition rating of over 300 bridges, even though little or no rehabilitation work had been done on those bridges since the last inspection.

- We noted that many of the maintenance recommendations resulting from biennial bridge inspections were not carried out. In two of the three regions that we visited, only about one-third of the recommended maintenance work was actually completed, and the third region did not track this work at all.

With respect to municipal bridges, there is currently no legislation that requires or even enables the Ministry of Transportation or any other provincial ministry to oversee municipalities' compliance with the required biennial inspections. There is no central database on the number of municipal bridges and the overall condition of these bridges. In response to a survey we conducted, 85% of municipalities indicated that they had a backlog of rehabilitation work. Municipalities with a large number of bridges relative to their population and revenue base had more difficulty funding the rehabilitation of bridge infrastructure and therefore had more significant backlogs.

3.03 CONSUMER PROTECTION

The Ministry of Consumer Services (Ministry) oversees business and industry practices in Ontario's consumer marketplace for the protection of consumers and public safety. It does this by establishing a regulatory and legal environment aimed at protecting consumers, educating the public and businesses, addressing complaints from the public, monitoring and inspecting businesses, and enforcing compliance with such consumer-protection regulations and laws as the *Consumer Protection Act, 2002*.

Eight designated administrative authorities, which are not-for-profit corporations, are responsible for a number of consumer and public-safety statutes relating to specific marketplace sectors. The Ministry monitors the performance and activities of these delegated authorities.

In 2008/09, the Ministry carried out these responsibilities with a staff of about 110 and operating expenditures of approximately $12.6 million.

The Ministry has made progress in addressing many of the recommendations in our 2003 audit, including recently improving its oversight of delegated authorities. Several changes to legislation have also strengthened consumer protection, and the Ministry has carried out initiatives to promote compliance with consumer-protection legislation by certain industries. Nonetheless, we noted that corrective action is required in the following areas:

- The Ministry needs to better promote its mandate and services to consumers. The almost 40,000 inquiries and written complaints it received in the 2008/09 fiscal year represent a 12% drop in volume from peak levels in 2004/05, but the Ministry has done no work to assess the reasons for this decline. Quebec's consumer protection agency, by comparison, receives more than 250,000 consumer inquiries and complaints annually. In addition, our own independent external survey indicated that the Ministry would not be among Ontarians' top choices for resolving a complaint.

- The Ministry needs to deal more effectively with problem industries and repeat offenders, such as collection agencies, which have consistently been on the Ministry's Top 10 Complaints list from 2000 to 2008. As well, limited staff inspection resources resulted in no proactive visits during 2008/09 to the types of businesses in the Top 10 Complaints list, and the Ministry initiated only 148 inspections and educational field visits as a direct result of the 6,000 written complaints it received. In addition, the Ministry's lack of inspection powers under the *Consumer Protection Act, 2002*, which covers most businesses, hinders it from identifying consumer-protection violations.

- The Ministry made some progress since our last audit in enforcing compliance by cemetery owners with reporting requirements under the *Cemeteries Act*. However, we identified a number of financial discrepancies that the Ministry had not followed up on.

- The Ministry launched a comprehensive review of delegated authorities on an urgent basis only after a tragic propane explosion in Toronto on August 10, 2008. However, the Standing Committee on Public Accounts had recommended four years earlier that the Ministry conduct such a review.

- The boards of directors of delegated authorities were dominated by representatives of the industries they regulate. The Ministry has not encouraged a greater balance of representation from government, consumers, the public, and industry on such boards.

- The Ministry has no right to access delegated authorities' information on matters such as quality-assurance programs, strategic plans, executive salary and compensation packages, and board minutes.

- We noted that only one performance measure is reported publicly to cover all consumer-protection programs delivered directly by the Ministry, and we questioned whether it was a reliable and meaningful measure.

3.04 EDUCATION QUALITY AND ACCOUNTABILITY OFFICE

The Ontario government established the Education Quality and Accountability Office (EQAO) as a Crown agency in 1996, with a mandate to develop and report on province-wide tests of student achievement. Such assessment results are intended to provide reliable and objective data that the Ministry of Education (Ministry) and the province's 72 school boards can use to plan ways of improving student learning.

Each year, the EQAO tests students in all Ontario publicly funded schools in Grades 3, 6, 9, and 10. Grade 3 and Grade 6 students are tested in reading, writing, and mathematics. Grade 9 students are tested only in mathematics. To graduate from high school, all students, including those in private schools, must pass the Ontario Secondary School Literacy Test (OSSLT), which is usually written in Grade 10. The EQAO spent $31.7 million in the 2008/09 fiscal year, all of it funded by the Ministry.

We found that the EQAO had adequate procedures and controls for ensuring that its tests accurately reflected the Ministry's curriculum expectations. We also noted that the EQAO, to ensure that the tests' level of difficulty was comparable between years, imposed strict criteria for the development and field-testing of questions, and thoroughly reviewed test content. The general consensus among stakeholders, including principals and teachers, was that the tests were generally an accurate reflection of students' achievement in meeting the curriculum expectations. However, there are areas where improvements can be made:

- The EQAO hires an external contractor to visit selected schools to review pre-test preparation, ensure test booklet security, observe the administration of the tests, and undertake other quality-assurance procedures. Overall, the external contractor has reported a high degree of compliance with EQAO administrative procedures, but an improved school selection process is required to reduce the

risk of student cheating and non-compliance with administrative procedures. For example, 10 of the province's 72 school boards had not received a visit from the external contractor over the past five years with respect to the Ontario Secondary School Literacy Test—while a number of private schools with as few as five students taking this test were visited.

- The EQAO must ensure that the up to 1,700 markers it hires and trains are consistent when grading test papers. To do so, it seeds "validity papers" (test papers previously scored by an expert panel) among the regular papers. The grades the markers give these validity papers are monitored to determine if retraining is required. The EQAO consistently meets its target of having 95% of the validity papers graded within one scoring level of the expert panel's score. However, on a per question basis, the EQAO often does not meet its target of 70% of the questions having the same grade as that given by the expert panel.

- The EQAO informally reviews results at the school and school board levels. However, formal analysis and follow-up may be required to ensure that the testing process can be used more effectively to evaluate the reliability of assessment results. For example, we noted that some schools' EQAO results fluctuated by as much as 50% from one year to the next, but these instances were not being systematically flagged for follow-up to determine what accounted for such a dramatic change.

- The EQAO annually reports student test results as well as results from questionnaires given to students, teachers, and principals on its activities. The school staff we interviewed stated that the questionnaires did not sufficiently allow for feedback on ways to improve the testing process. They also felt that the EQAO should take a bigger role in explaining the assessment process to parents and other stakeholders.

3.05 GOVERNMENT USER FEES

Ontario collected almost $2.2 billion in user fees in 2008/09, which represents about 2% of total provincial revenues. Compared to most other provinces, Ontario collects less in terms of percentage of total revenues obtained from user fees and user fees charged on a per capita basis.

A user fee is generally charged to recover all or a part of the costs of providing a specific good or service, such as a vehicle registration, to the individuals and businesses that request it. In contrast, a tax is used to produce revenues for general government purposes and for goods and services that the government deems to be a "public good," such as health care.

The Ministry of Transportation collects almost half of all user-fee revenues, for driver's and carrier licences and vehicle registrations. The Alcohol and Gaming Commission of Ontario collects another 22% for liquor licences and permits.

A 1998 Supreme Court of Canada decision concluded that user fees could be considered unlawful and therefore may be repayable if they were determined by a court to be a tax that was not established by enacted legislation or if the fee amounts charged were excessive and did not have a reasonable relationship to the cost of the services provided. Although the Ontario government has taken some action over the past decade to address this ruling, there are still user-fee revenues collected by the Alcohol and Gaming Commission and the Ministry of Government Services of over $500 million annually that may be at risk because they may not fit the Supreme Court's criteria for valid fees.

The Non-Tax Revenue Directive, established in 1991, is intended to maximize the Ontario government's non-tax revenues, including user fees, and ensure that ministries regularly review services and rates, and keep non-tax revenue rates up to date. However, we found that the existing processes were, for the most part, not effective in achieving the Directive's goals. In addition, unlike user-fee

legislation in place federally and in some other provinces, Ontario's existing policies and procedures lack transparency and public involvement in key decisions about changes to user-fee rates, nor is there sufficient public reporting on fees collected, their use, and the costs associated with providing the fee-related services.

A key principle of the Directive is that, when it is reasonable and practical to do so, the cost of providing services to the public should be borne by those who benefit from the service. In 2008, as part of the Budget process, the Ministry of Finance conducted a one-time review, which indicated that forecasted user-fee revenues would recover less than 75% of the costs identified for these fee-related services. In cases where a ministry decides not to charge the full cost of a service—such as when it is not practical or economical to do so, or users cannot afford to pay—the Directive requires that the ministry document the reasons for setting fees at reduced rates. We noted that, for the most part, this was not being done.

In addition, there were generally no recurring processes in place to keep user-fee rates up to date, as is required under the Directive. We noted many examples of fees that have had no rate increase for 10 to 20 years, despite the fact that the fees were set at amounts that recovered only from 23% to 45% of the full costs of providing the services.

Ministry of Finance guidelines require that ministries discount fees for services provided electronically to encourage their increased use by the public. We noted that no discounts were offered by the Ministry of Transportation for driver's licences and vehicle registrations via the Internet or at electronic kiosks. On the contrary, services at electronic kiosks across the province incur a so-called "convenience" surcharge of one dollar per transaction.

3.06 INFECTION PREVENTION AND CONTROL AT LONG-TERM-CARE HOMES

Long-term-care homes, such as nursing homes and charitable homes, provide care, services, and accommodations to individuals unable to live independently and requiring the availability of 24-hour care. There are more than 600 such homes in Ontario, caring for about 75,000 residents, most of whom are over 65 years old. In the 2008/09 fiscal year, funding to long-term-care homes by the Ministry of Health and Long-Term Care (Ministry) through the Local Health Integration Networks totalled $2.8 billion, with residents generally also making a co-payment of between $1,600 and $2,200 per month for accommodation.

There is a high risk of infectious diseases [such as *Clostridium difficile* (*C. difficile*), febrile respiratory illness (FRI), methicillin-resistant Staphylococcus aureus (MRSA), and vancomycin-resistant enterococci (VRE)] spreading among residents of long-term-care homes because they often share rooms and generally eat and participate in activities together. As well, older residents are generally more vulnerable to illness. When a resident acquires an infection in a home, it is considered a health-care-associated infection (HAI).

All three long-term-care homes we visited—Extendicare York in Sudbury, Nisbet Lodge in Toronto, and Regency Manor in Port Hope—had a number of processes in place to prevent and control HAIs. Furthermore, these homes had all recently conducted their first review of staff compliance with certain hand-hygiene policies, since hand hygiene is the most important activity for controlling the spread of infections. However, we noted areas where these homes could improve their practices. Some of our more significant observations included the following:

- The Ministry does not have information on the total number of cases of HAIs in long-term-care homes. The information collected at the homes we visited was generally not comparable because the homes defined and counted HAIs in different ways.

- Although the homes visited had policies to screen new residents for FRIs, documentation at two of the homes indicated that just 60%–80% of new residents sampled were screened. At the third home, there was no evidence of formal screening for FRIs.
- Each home had a policy to test new residents for tuberculosis within 14 days of admission, as required by legislation. One home tested all new residents in our sample, but the other two tested only 70% and 80%, and much later than required.
- Homes generally did not have unoccupied rooms to move infectious residents into.
- Although the Provincial Infectious Diseases Advisory Committee (PIDAC) recommends cleaning the rooms of residents who have *C. difficile* twice a day, none of the homes did this.
- In the 2008/09 fiscal year, 81 *C. difficile* outbreaks in homes were reported to the Ministry. The increased use of antibiotics has been shown to increase the risk of *C. difficile*. None of the homes had a formulary that lists the antibiotics that physicians can prescribe, as recommended by PIDAC.
- Unlike hospitals, long-term-care homes are not required to report publicly on certain patient-safety indicators, such as health-care-acquired cases of *C. difficile*, MRSA, and VRE, as well as hand-hygiene compliance among health-care workers.
- None of the Infection Prevention and Control Professionals designated by the homes had the specific training recommended by PIDAC.

3.07 LITERACY AND NUMERACY SECRETARIAT

The Ministry of Education (Ministry) is responsible for the system of publicly funded elementary and secondary school education in Ontario. Its responsibilities include developing the primary and secondary school curricula, setting requirements for student diplomas, and providing funding to school boards. The Ministry also set up the Education Quality and Accountability Office (EQAO)—a government agency—to provide independent assessments of student achievement by testing students in reading, writing, and mathematics. The Ministry's Literacy and Numeracy Secretariat (Secretariat), the subject of this audit, was established in November 2004 to help more than 4,000 elementary schools across 72 school boards to meet student-achievement targets. Since it was established in 2004, the Secretariat has spent $340 million, with almost $288 million transferred to school boards.

The Ontario government made a significant commitment to improving student achievement when, in 2004, it set a goal that 75% of all 12-year-olds (grade 6 students) would score a level-three standard (approximately a B average) on province-wide testing for reading, writing, and mathematics by 2008. Although the Ministry had not achieved this goal by 2008, substantial progress has been made over the last five years, and the percentage of 12-year-olds achieving the provincial standard increased from 56% in 2003/04 to 65% in 2007/08. Further increasing this percentage will be a challenging undertaking, but we noted a number improvements that could be made to help achieve this goal. Some of our more significant observations were:

- Although the Secretariat and the school boards we visited have done some limited assessment of the effectiveness of secretariat programs, further analysis is required if the Secretariat is to ensure that its spending of almost $288 million has been directed to the initiatives that provide the most benefit.

Chapter 1

- School board improvement plans were initiated to help teachers, principals, and school board staff plan and implement strategies to improve student achievement. The Ministry has developed a framework for an effective improvement planning process. However, neither the Secretariat nor the boards we visited documented, monitored, or reported on the plans to the extent necessary to assess whether the plans were contributing to improved student achievement. Also, because it exercised only limited oversight, the Secretariat did not have the information needed to identify patterns and trends among school boards, so it could not identify the most successful initiatives and share them with other boards.

- Secretariat program funding was not always allocated to school boards and schools with the greatest need. Rather, funding allocation was based on average daily enrollment or the reason a given amount of funding went to a school board could not be fully explained by the Secretariat. For instance, we found that, for one major program, the board with the greatest number of schools designated as low-performing received only $17 per student, while several boards with no schools designated as low-performing received more than twice this amount per student.

- The Secretariat routinely uses certain boards as "bankers" to act as distributors of funds to third parties or other school boards. We questioned the need for such arrangements and noted that there is no Memorandum of Understanding or agreement between the Secretariat and the banker boards outlining respective roles and responsibilities, accountability relationships, reporting requirements, and service levels to be provided. Also, the Secretariat paid banker boards administrative fees that in some cases appeared excessive.

3.08 ONTARIOBUYS PROGRAM

OntarioBuys is a government initiative launched in 2004 to help the broader public sector (BPS) save money when procuring goods and services.

Since 2004/05, OntarioBuys has provided funding of about $148 million for two areas: about $88 million for the formation and/or expansion of collaborative purchasing groups called "shared-service organizations" (SSOs) whose members are BPS institutions, and $61 million for 53 projects aimed at helping BPS institutions become more efficient and effective in their supply-chain and other back-office processes.

The government announced in its March 2009 Budget that OntarioBuys had helped BPS entities redirect $45 million in savings toward front-line services. We found, however, that almost $20 million of this reported amount was not redistributed to hospitals to provide front-line services but rather was retained by the SSO that generated the savings to develop information technology for its back-office processes. The balance of the reported savings came from a number of projects; however, OntarioBuys did not verify these savings nor was it able to demonstrate that they had actually been invested in front-line services.

Although OntarioBuys has undertaken significant efforts to promote its collaborative supply-chain initiatives, participation in the SSOs, particularly in the education sector, is currently well below the level required for OntarioBuys to achieve its goals. Our other significant observations included:

- OntarioBuys approved funding for projects on the basis of business cases prepared by BPS organizations that included estimated costs and potential savings. However, the reasonableness of the estimates were often not appropriately assessed. For example, the largest project approved for funding projected savings of $669 million over five years, but we found that $294 million of this amount was not included in OntarioBuys' funding review

and that the balance of $375 million was determined on an arbitrary basis. Subsequent to our audit fieldwork, OntarioBuys revised the estimated savings down to $113 million over five years.

- The education SSO, which has received $30 million in OntarioBuys funding since 2005, committed to sign up 13 of the province's educational institutions and 1,000 suppliers by June 2009 to participate in a new electronic purchasing system called e-Marketplace. As of June 2009, e-Marketplace had yet to become operational and no institutions had formally signed up to be members.

- We reviewed a list of project savings that OntarioBuys provided us and found some purported savings to be questionable. For example, our review of savings totalling $7.3 million for two projects, which were supposed to be completed by December 2006, showed that neither project had been completed by the time of our audit. Subsequent to our review, OntarioBuys revised the total savings for the two projects down to $1.1 million.

- OntarioBuys did not have program-specific guidelines for consistent and effective monitoring of project progress, with requirements for conducting site visits, documenting work performed, verifying deliverables prior to the release of final payments, and closing files for completed projects.

- Since the 2004/05 fiscal year, the SSOs and BPS organizations involved in the projects spent about $45 million of the funding provided to them to hire some 270 consultants for a variety of reasons. We reviewed $15 million of consulting contracts from various projects and found that over 40% did not comply with the competitive procurement requirements of the project funding agreements.

3.09 ONTARIO DISABILITY SUPPORT PROGRAM

The Ministry of Community and Social Services (Ministry) administers the *Ontario Disability Support Program Act* (Act), which provides income and employment support to approximately 250,000 individuals with eligible disabilities (as defined by the Act). Total annual Ontario Disability Support Program (ODSP) benefit payments have risen to more than $3 billion, a 42% increase since the time of our last audit in 2004.

ODSP income support is intended to assist with basic living expenses such as food, shelter, clothing, and personal-needs items. Although employment-support programs are available to ODSP recipients, participation in them is not required. As a result, relatively few ODSP recipients join such programs.

Although the Ministry had implemented a number of the recommendations contained in our *2004 Annual Report,* serious issues remain in determining an applicant's financial eligibility and the amount of assistance to be paid.

The Ministry has established a two-stage process to ensure that only qualified applicants receive income support. The first stage relies solely on applicants volunteering financial information. To compensate for the risks associated with this, the second stage is third-party verification of certain information provided by the applicant. However, this verification is largely ignored in practice. As a result, the Ministry is not adequately ensuring that only eligible individuals receive the correct payment amounts. We also noted the following:

- Although the Ministry has significantly reduced the average wait time for a medical-disability determination decision, 60% of recipients sampled still received late payments. On average, they experienced a 58-day delay after they had been determined to be medically qualified for payments, which is almost three times longer than the outside limit of 21 days established by the Ministry. These delays in receiving approved benefits offset to a significant degree the good

progress made since our last audit in expedit-
ing the initial medical determination.

- Oversight procedures are lacking to monitor
  and assess the fairness and consistency of
  decisions made by individual adjudicators
  at the Disability Adjudication Unit (DAU).
  Consequently, the rates at which adjudicators
  determined that applicants were eligible gen-
  erally varied from 11% to 49%.

- In the 2008/09 fiscal year, 55% of applicants'
  appeals to the Social Benefits Tribunal led to
  the Ministry's initial decision to not approve
  an applicant for benefits being overruled.

- Since 2002, the Ministry has not performed
  any of the periodic medical reassessments—
  required by legislation—to ensure continuing
  eligibility for disability support payments.

- The Ministry relies on one individual to do all
  the assessment and reassessment work for any
  given file, yet the individual's work is neither
  supervised nor reviewed to ensure that the
  decisions made comply with ministry and
  legislative requirements.

- The total amount of overpayments for both
  active and inactive accounts has increased
  substantially, from $483 million in 2004 to
  $663 million as of March 31, 2009. In many
  cases, overpayments resulted from what
  would appear to be recipients fraudulently
  misrepresenting their circumstances. These
  overpayments might often have been avoided
  if the Ministry had more effectively reassessed
  the eligibility and the amounts to be paid
  to those individuals whom its own systems
  identified as high-risk or followed up on tips
  received from the public.

- The Ministry's computerized Service Delivery
  Model Technology (SDMT) information
  system still lacks key internal controls, and
  regional and local offices are not receiving, in
  an easily understandable format, the informa-
  tion they need to effectively oversee program
  expenditures.

3.10 ONTARIO RESEARCH FUND

The Ontario Research Fund (Fund) was created in
2004 to "support scientific excellence by supporting
research that can be developed into innovative
goods and services that will boost Ontario's econ-
omy." It funds the direct and indirect operational
costs of research through its Research Excellence
Program, and the capital costs of research through
its Large Infrastructure Program and Small Infra-
structure Program. The Fund is the responsibility of
the Ministry of Research and Innovation (Ministry),
which was created in 2005 and focuses its efforts
on activities that support Ontario's knowledge
economy and create high-value jobs. Since the
Fund's inception in 2004, and up to March 31,
2009, expenses for the capital and operating com-
ponents have amounted to $303 million, with total
announced program commitments of $623 million.

In our 2003 audit of the Science and Technol-
ogy Division of the former Ministry of Enterprise,
Opportunity, and Innovation, we reported signifi-
cant concern over the lack of effective governance
and accountability mechanisms. The consolidation
of operating and capital research funding into one
program managed and administered by the Min-
istry has helped address these concerns. However,
there are still a number of areas where improve-
ments are required, noted as follows:

- The Fund's overall mandate emphasizes sup-
  porting research that will provide economic
  and social benefits for the people of Ontario
  through the commercialization of research.
  However, most of the $623 million committed
  to research projects in the province funded
  basic (that is, theoretical) research that was
  not focused on commercial potential.

- The Ministry reports on how its programs are
  performing against three targets: the dollar
  value of investments made by the private sec-
  tor; the number of individuals with enhanced
  skills involved in Ministry-funded projects;
  and active licences for intellectual property
  rights that have resulted from Ministry-funded

projects. However, the Ministry does not measure or report publicly on the program's contribution to the Ministry's overall strategy of creating high-paying jobs and commercializing research.

- The Ministry did not have an adequate process to ensure that the projects funded through the Large Infrastructure Program supported Ontario's strategic priorities or provided strategic benefits to Ontario. In fact, the province funded $41.5 million worth of projects that did not directly support Ontario's strategic priorities. Also, $65 million of program funding under the Research Excellence Program was allocated to some very large projects for which it was questionable whether they met the program's eligibility criteria.

- The Ministry relied on the the Canada Foundation for Innovation (CFI) to monitor Research Infrastructure Program grants and did not sufficiently assess or review the CFI's work to ensure that the more than $300 million in program funding commitments to date were being spent for the approved purpose.

- Ontario's colleges tend to focus on applied programs and research and helping small-to-medium-sized businesses develop technologies and processes for the marketplace. However, no funding has been awarded directly to Ontario's colleges. The Ministry should assess the potential benefits of applied research projects that address both the unique needs of Ontario's colleges and offer enhanced commercialization potential.

- As part of the monitoring process for the Research Excellence Program, the Ministry receives various reports from grant recipients. However, we found that the Ministry had not performed any formal monitoring or clarified its expectations for independent audits to verify the information submitted by recipients to ensure that program funds were being spent for the intended purpose.

3.11 ONTARIO WORKS PROGRAM

Under the *Ontario Works Act, 1997*, the Ministry of Community and Social Services (Ministry) provides income and employment assistance to approximately 200,000 individuals who are unemployed or underemployed. The income assistance is intended to help recipients with basic living expenses such as food, clothing, and shelter while the employment assistance includes a variety of activities designed to increase employability and help recipients obtain paid employment in order to become self-reliant. For the 2008/09 fiscal year, the Ministry's Ontario Works expenditures totalled almost $1.9 billion—$1.5 billion for income assistance, $171 million for employment assistance, and $194 million for program administration.

The Ontario Works program is delivered on behalf of the Ministry by 47 Consolidated Municipal Service Managers and District Social Services Administration Boards as well as 100 First Nations, all referred to as service managers. A service manager is typically either a large municipality or a grouping of smaller ones, and each is accountable to one of the Ministry's nine regional offices.

Although the Ministry had implemented a number of the recommendations contained in our last audit of the program in 2002, there has been limited improvement in the overall administration of the program since that time. It remains our view that the Ministry still has inadequate assurance that only eligible individuals are receiving the correct amount of financial assistance.

Our more significant concerns about the Ministry's oversight of Ontario Works program delivery by the service managers included the following:

- During the Ontario Works application process, service managers relied on individuals to provide almost all of the information used to assess their eligibility for assistance and seldom undertook the required third-party verifications designed to help assess the completeness and accuracy of the information provided by applicants.

- Benefits for such things as community and employment start-up activities were often paid without any evidence that the activity had occurred and in amounts that exceeded the established maximums.
- Many special dietary allowances were paid under questionable circumstances. The total amount spent on the allowances has increased from $5 million in the 2002/03 fiscal year to more than $67 million during 2008/09.
- Unrecovered overpayments to about 350,000 current and former Ontario Works recipients increased 45%, from $414 million in February 2002 to $600 million as of March 31, 2009. Efforts by service managers to recover these overpayments have been minimal.
- Many tips from the fraud hotline were either inadequately investigated or ignored.
- The Ministry did not have enough information to assess whether employment assistance funds were being used as intended and were helping people obtain employment.
- The Ministry's examination of a sample of service managers' reimbursement claims for the Ministry's share of program costs did not occur annually as required, nor did the examinations ensure that submitted claims were complete, accurate, and based on actual payments made to assistance recipients.

Despite improvements to the Ministry's Service Delivery Model Technology information system (SDMT), which has been used by service managers to deliver the Ontario Works program since 2002, there continue to be concerns about the system's reliability and its known deficiencies.

3.12 SOCIAL HOUSING

Social housing is rental accommodation developed with government assistance for a range of low- and moderate-income households, including families with children, couples, singles, and seniors. It can be owned by governments, as in the case of public housing, or by non-profit or co-operative organizations. In Ontario, households in social housing that receive a subsidy to help pay rent typically pay a maximum rent equal to about 30% of their total pre-tax income.

Most social housing in Ontario was built between the mid-1960s and the mid-1990s by the Canada Mortgage and Housing Corporation (CMHC) and the provincial government. In December 2000, the province passed the *Social Housing Reform Act, 2000* (Act), which required municipalities to assume responsibility for social-housing programs previously administered by the Canada Mortgage and Housing Corporation and the province. The province designated 47 regional Consolidated Municipal Service Managers (Service Managers) to administer social-housing programs at the local level. As of the end of 2008, there were about 260,000 units of social housing in Ontario, consisting of 100,000 public-housing units and 160,000 non-profit and co-operative units.

From both a value-for-money perspective and from the perspective of those who live there, it is critical that social housing be maintained in good condition. As well, sufficient and affordable social housing can have a significant impact on the health and safety of those Ontarians who depend on subsidized housing for a place to call home. However, the Ministry of Municipal Affairs and Housing (Ministry) collects little information on how well the $40 billion in social-housing stock is being maintained or whether there is an adequate supply to meet local needs. Our observations included:

- As of December 31, 2008, the number of households on waiting lists for social housing across the province totalled about 137,000. In many urban centres, the average wait time

to secure accommodation was more than five years—and one municipality had reported a wait time of 21 years for all categories of tenants except seniors.

- The deteriorating condition of social-housing stock—particularly the public-housing portfolio, whose units are an average of 40 years old—has been a significant and growing concern for municipalities. In 2006, for instance, the Toronto Community Housing Corporation identified immediate capital-repair needs of $300 million for its 60,000 public-housing units. However, the Ministry had no up-to-date and reliable information on the overall condition of the social-housing stock on a province-wide basis.

- A large number of the federal government's funding agreements with housing providers will start to expire in 2015, with no guarantee that they will be renewed. Without continued funding, some existing social-housing projects will not be financially viable, even though Service Managers will still be required by law to maintain the prescribed minimum number of housing units. The Ministry had no firm plans to address Service Managers' concerns regarding the possible ending of federal funding.

- In partnership with the federal government, Ontario has in recent years provided Service Managers with some additional funding for new housing programs. There was a general lack of reporting on the success of these programs. For example, although one such program did increase the supply of housing, the stipulated rent to be charged for more than half the units would not be considered affordable for households on, or eligible to be on, waiting lists. Better reporting and oversight will be needed to effectively manage the significant new stimulus investments in social and affordable housing.

3.13 TELETRIAGE HEALTH SERVICES

Ontario's teletriage services provide callers with free, confidential telephone access to a registered nurse for health-care advice and information. The services comprise Telehealth Ontario—available to all Ontario callers 24 hours a day, seven days a week—and the Telephone Health Advisory Service (THAS)—available Monday to Friday, 5 p.m. to 9 a.m., and all day on weekends and holidays, to 8.4 million patients enrolled with physicians participating in various primary-health-care arrangements.

The Ministry of Health and Long-Term Care (Ministry) contracts with a private service provider to deliver the services. The service provider employs almost 300 registered nurses at its five call centres located throughout Ontario. The nurses use their clinical judgment in conjunction with medical-decision-support software to assist callers. During the 2008/09 fiscal year, 905,000 calls were responded to by nurses, and payments to the service provider totalled $35.1 million.

We found that the Ministry had appropriately contracted for the delivery of teletriage services using a competitive process. The contract included a number of key performance requirements, mostly dealing with timely access to services, which the service provider reported that it met in the 2008/09 fiscal year. Although only a small portion of Ontario's population uses the services, our independent survey indicated that those who used Telehealth Ontario were generally satisfied. However, we believe that improvements could be made to enhance the services. Our observations included:

- Not only has the number of calls to teletriage services been declining over the last few years, the number of calls as a proportion of the population is significantly less in Ontario than is the case in Alberta and Quebec. Furthermore, although over 60% of Ontarians were eligible to use THAS, only 1% of eligible individuals used it in 2008/09.

- British Columbia and Quebec use the easily remembered "811" phone number for their teletriage services, and certain other provinces are planning to adopt this phone number. Quebec reported a 15% increase in call volume following its implementation. At the time of our audit, Ontario had no plans to adopt the "811" phone number.
- The service provider indicated that about 25% of the callers in the live queue hung up before their call was answered. We calculated that 85% of callers who waited spoke to a nurse within 23 minutes. Eighty-five percent of callers who left a call-back number spoke to a nurse within 34 minutes.
- Physicians who were on call to THAS had to be paged more than once in over 70% of calls requiring a page during 2008, and 9% of pages were never returned.
- Although the service provider's proposal, submitted to the Ministry in 2007, indicated that the service provider's nurses would have at least three years of any type of nursing experience, 20% of our sample of nurses hired in 2008 had less than this.
- Unlike most provinces we spoke with, Ontario generally does not tape calls for subsequent quality assurance review. Rather, the service provider's quality assurance reviewers sampled calls only as they were taking place and seldom did so during peak periods when nurses experience pressure to respond to waiting callers. The quality of advice was also not independently evaluated.
- In 2008/09, the Ministry paid the service provider about $39 for each of the first 900,000 registered calls to teletriage services and about $27 per call after that. Teletriage services costs for the three other provinces that shared cost information with us were about $20 per call. The Ministry had not determined the reason for the significant difference.
- The Ministry did not have performance standards relating to the quality of nurses' advice or how long callers wait in the live queue.

3.14 UNFUNDED LIABILITY OF THE WORKPLACE SAFETY AND INSURANCE BOARD

The Workplace Safety and Insurance Board (WSIB) is a statutory corporation whose primary purposes are to provide income support and fund medical assistance to workers injured on the job. The workplace safety and insurance system receives no funding from the government; it is financed through premiums charged on the insurable payrolls of employers. The government has the sole responsibility for setting benefits and coverage through legislation, while the WSIB has responsibility for setting premium rates.

In our *2005 Annual Report*, we noted that the assets in the WSIB's insurance fund were substantially less than what was needed to satisfy the estimated lifetime costs of all claims currently in the system, thus producing what is known as an "unfunded liability," which stood at $6.4 billion at that time.

In our current review, we observed that, as of December 31, 2008, the unfunded liability stood at $11.5 billion, an increase of $3.4 billion from the previous calendar year. One factor that had a significant negative impact on the unfunded liability during 2008 was the global economic downturn.

Failure to effectively control and eliminate the unfunded liability could result in the WSIB being unable to meet its existing and future financial commitments to provide worker benefits. Eliminating or reducing the unfunded liability requires that four key levers—legislated benefits, coverage, premium rates, and investments—work effectively in tandem. The WSIB and the government may have to commit to a different strategy with respect to these levers if the unfunded liability is to be eliminated within a reasonable period of time.

Our other observations included the following:
- The WSIB's funding ratio of assets to liabilities was 53.5%, considerably lower than that of any of the four other large provincial boards we reviewed in British Columbia, Alberta,

Manitoba, and Quebec, which averaged 102%.

- The WSIB and governments have sought over the last two decades to satisfy simultaneously two major stakeholders: employers, who wanted lower premiums, and workers, who wanted higher benefits. This has undoubtedly affected the size of the current unfunded liability.

- The WSIB's ability to eliminate the unfunded liability has to some extent been limited by the government's control over benefit changes and over which businesses and industries are covered by the system. For example, in Ontario, 72.6% of the workforce was covered by the system as of 2007, compared to 93.1% in British Columbia and 93.4% in Quebec.

- Annual premium revenues in recent years have not been enough to cover benefit costs. Premiums have increased by an average of only 1% each year since 2001, at the same time as the WSIB was reporting average annual deficits of more than $900 million.

- Benefit and health-care costs have risen steadily over the last 10 years as a result of workers staying on benefits longer and receiving increases in those benefits as a result of legislative changes.

- The WSIB's 15-year average rate of return on its investments from 1994 to 2008 was 6.6%. Given that future benefit costs are expected to rise at 7% annually, investments must earn more than 7% before any reduction of the unfunded liability can be realized solely from investment returns.

Chapter 1

Chapter 2

Public Accounts of the Province

Introduction

Ontario's Public Accounts for each fiscal year ending on March 31 are prepared under the direction of the Minister of Finance, as required by the *Ministry of Treasury and Economics Act* (Act). The Public Accounts comprise the province's annual report, including the province's consolidated financial statements, and three supplementary volumes of additional financial information.

Preparing the consolidated financial statements is the Ontario government's responsibility. This responsibility encompasses ensuring that the information, including the many amounts based on estimates and judgment, is presented fairly. The government is also responsible for ensuring that a system of control, with supporting procedures, is in place to provide assurance that transactions are authorized, assets are safeguarded, and proper records are maintained.

My Office audits these consolidated financial statements. The objective of our audit is to obtain reasonable assurance that the statements are free of material misstatement—that is, that they are free of significant errors or omissions. The consolidated financial statements, along with my Auditor's Report on them, are included in the province's annual report.

The province's 2008/09 annual report also contains a Financial Statement Discussion and Analysis section that provides additional information regarding the province's financial condition and fiscal results for the year ending on March 31, 2009, including some details of what the government accomplished in the 2008/09 fiscal year. Providing such information enhances the fiscal accountability of the government to both the Legislative Assembly and the public.

The three supplementary volumes of the Public Accounts consist of the following:

- Volume 1—statements from all ministries and a number of schedules providing details of the province's revenues and expenses, its debts and other liabilities, its loans and investments, and other financial information.
- Volume 2—audited financial statements of significant provincial corporations, boards, and commissions whose activities are included in the province's consolidated financial statements, as well as other miscellaneous financial statements.
- Volume 3—detailed schedules of ministry payments to vendors and transfer-payment recipients.

My Office reviews the information in the province's annual report and in Volumes 1 and 2 of the Public Accounts for consistency with the information presented in the province's consolidated financial statements.

The Act requires that, except in extraordinary circumstances, the government deliver its annual report to the Lieutenant Governor in Council on or before the 180th day after the end of the fiscal

year. The three supplementary volumes must be submitted to the Lieutenant Governor in Council before the 240th day after the end of the fiscal year. Upon receiving these documents, the Lieutenant Governor in Council must lay them before the Legislative Assembly or, if it is not in session, make the information public and then, when the Legislative Assembly resumes sitting, lay it before the Legislative Assembly on or before the 10th day of that session.

This year, the government released the province's 2008/09 Annual Report and Consolidated Financial Statements, along with the three Public Accounts supplementary volumes, on September 25, 2009, meeting the 180-day deadline.

The Province's 2008/09 Consolidated Financial Statements

The *Auditor General Act* requires that I report annually on the results of my examination of the province's consolidated financial statements. I am pleased to report that my Auditor's Report to the Legislative Assembly on the province's consolidated financial statements for the year ended on March 31, 2009 is clear of any qualifications or reservations and reads as follows:

> To the Legislative Assembly of the Province of Ontario
>
> I have audited the consolidated statement of financial position of the Province of Ontario as at March 31, 2009 and the consolidated statements of operations, change in net debt, change in accumulated deficit, and cash flow for the year then ended. These financial statements are the responsibility of the Government of Ontario. My responsibility is to express an opinion on these financial statements based on my audit.

I conducted my audit in accordance with Canadian generally accepted auditing standards. Those standards require that I plan and perform an audit to obtain reasonable assurance whether the financial statements are free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements. The audit also includes assessing the accounting principles used and significant estimates made by the Government, as well as evaluating the overall financial statement presentation.

In my opinion, these consolidated financial statements present fairly, in all material respects, the financial position of the Province as at March 31, 2009 and the results of its operations, the change in its net debt, the change in its accumulated deficit, and its cash flows for the year then ended in accordance with Canadian generally accepted accounting principles.

[signed]

Jim McCarter, FCA
Toronto, Ontario   Auditor General
July 31, 2009   Licensed Public Accountant

Deficits and Debt

EFFECT OF THE GLOBAL ECONOMIC DOWNTURN ON THE PROVINCE'S FINANCES

The global economic downturn over the past year has severely impacted the province's economy, causing tax revenues, especially from corporate taxes, to fall significantly. This was the main reason the province reported a deficit of $6.4 billion in its March 31, 2009 consolidated financial statements. The province's total debt, which includes all provincial borrowing, has risen to $176.9 billion from

$162.2 billion a year earlier. At the same time, Ontario's net debt, which measures the extent to which the province's total liabilities exceed its financial assets, is $153.3 billion, up from $142.4 billion a year earlier. Debt has increased more than this year's deficit primarily because of the province's investments in capital assets.

In its 2009 Budget, the government projected a deficit of $14.1 billion by the end of 2009/10, $12.2 billion for 2010/11, and $9.7 billion for 2011/12. The government said reduced revenues due to the global economic downturn and planned increases in government spending on provincial infrastructure and skills training over the next few years are primarily responsible for the projected deficits. Since the release of the 2009 Budget, Ontario, like other jurisdictions such as the federal government, has had to update its financial projections. The Ministry of Finance (Ministry) in its Ontario Finances, First Quarter Update of June 30, 2009, increased the 2009/10 fiscal-year deficit projection to $18.5 billion from the $14.1 billion in the March budget. The Ministry attributed this higher deficit projection to a weaker-than-expected economy and higher expenses arising from its support of the automotive sector. In its 2009 Ontario Economic Outlook and Fiscal Review, released on October 22, 2009, the Ministry further increased its deficit projections to $24.7 billion for 2009/10, $21.1 billion for 2010/11, and $19.4 billion for 2011/12. The Ministry attributes these higher deficits to further reductions in projected revenues due to a weaker economy than was previously anticipated and further increases in government spending.

Figure 1 presents a summary of Ontario's annual deficits and surpluses since the 1993/94 fiscal year when the province reported an $11.2 billion deficit, the highest ever recorded.

The annual deficits and infrastructure spending that the government is projecting over the next few years will substantially increase the province's debt. Although in its 2009 Budget the government projected its net debt would increase to $169.8 billion by the end of the 2009/10 fiscal year, the

October 2009 Fiscal Review raised that projection to $184.1 billion, a 20% increase over the $153.3 billion as of March 31, 2009.

MINISTRY RESPONSE

Like many governments around the world, Ontario continues to face significant economic challenges, and the government will need to establish a plan to return the province to a sustainable and firmer fiscal footing. In order to create jobs, help families, and position the province for future growth, the government has chosen to invest in infrastructure, in skills training, and in reshaping the tax system. As announced in the 2009 Ontario Economic Outlook and Fiscal Review, the government is taking additional steps to ensure the sustainability of our public services. These initiatives will support the continued relevance and effectiveness of government programs over the longer term. An update to the government's plan to eliminate the deficit will be presented in the 2010 Budget.

THE PROVINCE OF ONTARIO BORROWING PLAN

The government must borrow in order to finance its deficits. It must also borrow to replace maturing debt and fund its investments in built or acquired capital assets. The borrowing outlook presented in the 2009 Ontario Budget projected that the government will need to borrow $34.8 billion in the 2009/10 fiscal year. This projection was increased to $42.6 billion in the October 2009 Fiscal Review.

The 2009/10 borrowing program reflected in the October 2009 Fiscal Review is significantly larger than last year's $28.7 billion in borrowing and more than twice as large as in 2007/08. The 2009/10 projected borrowing reflects the large deficits and planned increases in infrastructure spending over the next few years.

Figure 1: Provincial Surpluses/Deficits, 1993/94–2015/16 ($ billion)

Sources of data: *Province of Ontario Consolidated Financial Statements, 2009 Ontario Budget*, and *2009 Ontario Economic Outlook and Fiscal Review*

- ■ actual
- ■ projected per 2009 Ontario Budget
- □ projected per 2009 Ontario Economic Outlook and Fiscal Review
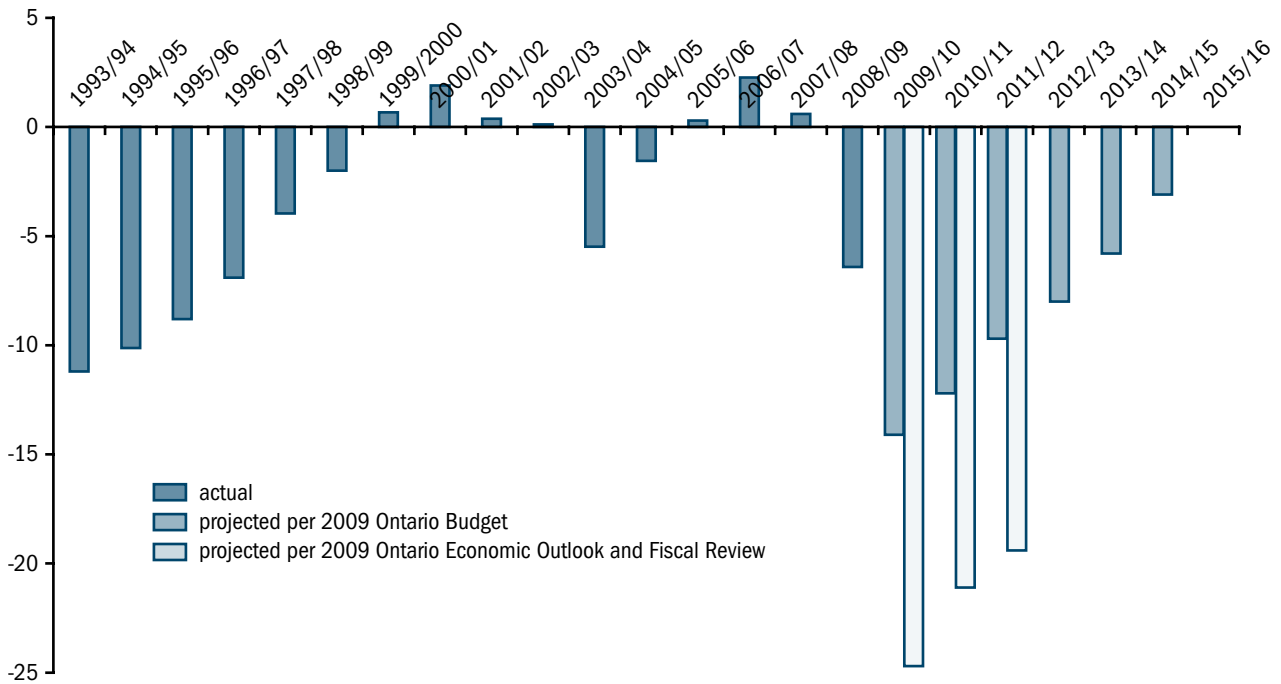
ONTARIO'S PLAN TO ELIMINATE THE DEFICIT

The *Fiscal Transparency and Accountability Act, 2004* requires the government, when it projects a deficit, to outline its plan to balance the budget. In the 2009 Ontario Budget, the government set out its plan to eliminate the deficit by the 2015/16 fiscal year. Figure 2 provides a summary of the future deficits projected in this recovery plan.

The government plan was based on managing expenditures; specifically, by holding the average annual rate of growth in program expenses to less than the average annual growth in total revenue over the period of the recovery plan and by finding efficiencies to reduce the costs of running programs. However, given the size of the projected deficits reported in the October 2009 Fiscal Review of $24.7 billion, $21.1 billion, and $19.4 billion in 2009/10, 2010/11, and 2011/12, respectively, the government will need to prepare an updated plan to eliminate the deficit.

Figure 2: Provincial Deficit Elimination Plan, 2009/10–2015/16 ($ billion)

Source of data: *2009 Ontario Budget*
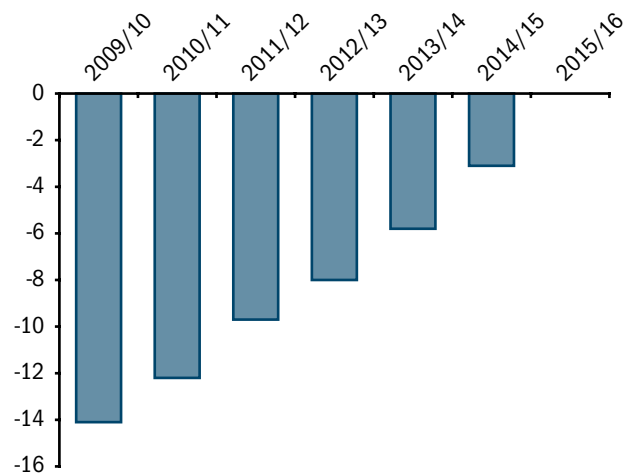
FINANCIAL CONDITION INDICATORS

In 1997, the Canadian Institute of Chartered Accountants (CICA) published a research report, *Indicators of Government Financial Condition*, which suggested that a core set of indicators, common to

all governments and presented on a consistent basis over time, would reduce the subjectivity of determining whether a government's financial condition is improving or deteriorating.

In September 2008, the CICA's Public Sector Accounting Board (PSAB) issued a draft statement of recommended practices. In March 2009, PSAB approved this draft and expects to release it in final form to the public in the near future. The draft recommends that a government adopt a specific framework when reporting on indicators of its financial condition. It defines the government's financial condition as its "financial health as assessed by its ability to meet its existing obligations both in respect of its service commitment to the public and financial commitment to creditors, employees, and others."

PSAB also suggests that governments calculate many of their specific financial indicators from information contained in their consolidated financial statements, often in combination with public information about the economy. The province is currently reporting a number of these financial indicators in its Budget and Annual Report.

ONTARIO FINANCIAL CONDITION IN BRIEF

Ontario's overall financial condition, as determined by PSAB's recommended measures, will undoubtedly deteriorate over the next few years, based on the government's current projections. This is to be expected, given the recent slowdown in the provincial economy.

It is important to note that the question of what the budgeted surplus or deficit should be or how much debt the government should incur is a policy decision outside the mandate of my Office. Therefore, our analysis of the province's financial health is presented in order to demonstrate how this type of information can be useful to governments, legislators, and the public in assessing the province's deteriorating financial condition.

PSAB has recommended the use of several indicators to measure the sustainability, flexibility,

and vulnerability of government finances. Below, we concentrate on those indicators we consider most significant to help explain the impact of the large looming deficits and debt increases on the province's financial condition.

Sustainability

Sustainability is the degree to which a government can maintain its existing financial obligations, both with respect to its service commitments to the public and financial commitments to creditors, employees, and others without increasing the debt or tax burden. Sustainability addresses the government's ability to manage its financial and program commitments and debt burden. The cost of servicing increased debt levels can also have an impact on government programs as interest costs consume a greater proportion of revenues. Two key sustainability indicators are as follows.

Net Debt as a Percentage of GDP

Net debt, or liabilities minus financial assets, is a particularly significant measure of a government's financial position as it reflects the future provincial revenues that will be required to dispose of its liabilities. Gross Domestic Product (GDP), the total value of all goods and services produced, is the critical measure of an economy's output or wealth, which, over time, correlates to future expected provincial revenues.

The net-debt-to-GDP ratio indicator measures the relationship between a government's obligations and its capacity to raise funds to meet them. When the ratio is rising, it means that the government's net debt is growing at a faster rate than the provincial economy.

The province's net-debt-to-GDP ratio is expected to increase over the next three years, reflecting the government's decision to significantly increase its borrowings in order to fund its deficits and infrastructure investments. However, as shown in Figure 3, the net-debt-to-GDP ratio has been

Figure 3: Ratio of Net Debt to Gross Domestic Product (GDP), 1999/2000–2015/16 (%)

Source of data: *2009 Ontario Budget*
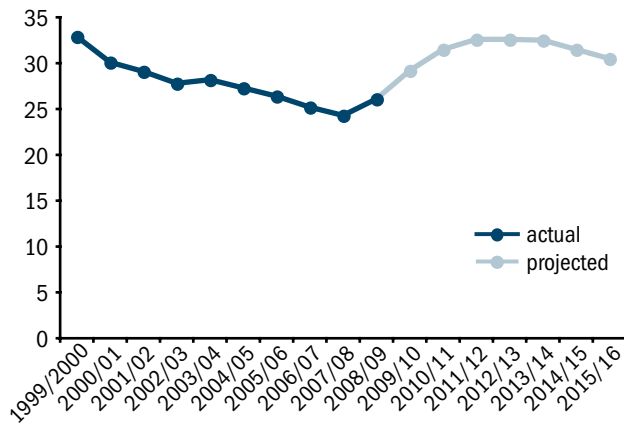
Note: Projections reflect amounts reported in the 2009 Ontario Budget but do not reflect the impact that the higher deficits reported in the 2009 Fiscal Review will have on this ratio because the information is not presented in the 2009 Fiscal Review.

Figure 4: Net Debt as Percentage of Total Annual Revenues, 1999/2000–2011/12

Source of data: *2009 Ontario Budget*

Note: Projections reflect amounts reported in the 2009 Ontario Budget but do not reflect the impact that the higher deficits reported in the 2009 Fiscal Review will have on this ratio because the information is not presented in the 2009 Fiscal Review.

falling steadily since the turn of the last decade. As reflected in the 2009 Ontario Budget, the ratio was projected to increase by more than one-third, from a low of 24.3% in the 2007/08 fiscal year to a high of 32.6% in 2011/12. However, given the revised deficit projections in the October 2009 Fiscal Review, the ratio is now expected to be higher and to increase to around 37% by 2011/12.

The province's March 31, 2009 annual report and consolidated financial statements use the ratio of the accumulated deficit to GDP as a key measure of Ontario's fiscal economic health, consistent with the definition of provincial debt outlined in the *Fiscal Transparency and Accountability Act, 2004*. The net-debt-to-GDP ratio is also a key indicator of government sustainability because it deals with the debt that must be repaid relative to the value of the output of Ontario's economy.

Ratio of Net Debt to Total Annual Revenues

The net-debt-to-total-annual-revenues ratio is an indicator of how much time would be needed to eliminate the province's debt if all revenues could be devoted to it. As shown in Figure 4, the ratio of Ontario net debt to total annual revenues was

quite stable from the 1999/2000 fiscal year through 2003/04, averaging 200% over the period. From 2004/05 through 2007/08, there was a steady decline in the ratio to 147%, reflecting the fact that, while the province's net debt remained essentially the same, annual provincial revenues were increasing. Although this positive trend was encouraging, we note from the 2009 Ontario Budget that from 2008/09 onward, the ratio of net debt to total annual revenues was projected to increase each year and was expected to return to the 200% level by 2011/12. However, given the revised deficit projections in the October 2009 Fiscal Review, the ratio is now expected to be 238% by the end of the 2011/12 fiscal year.

Flexibility

Flexibility measures the degree to which a government can change its debt or tax burden to meet existing financial obligations. Current borrowings reduce the government's future ability to respond to adverse economic circumstances. Similarly, increasing taxes or government fees may reduce the government's ability to levy such measures in the

future as the government approaches the limits that the public is willing and able to bear.

Again, we examine two indicators for this measurement.

Interest Expenses as a Percentage of Provincial Revenues

Increases in the cost of servicing total debt, or interest expenses, can directly affect the quantity and quality of programs and services that government can provide. The more government revenues that are needed to pay interest costs arising from past borrowing, the less will be available for program spending.

The interest-expense-to-revenue ratio illustrates the extent to which servicing past borrowing takes a greater or lesser share of total revenues.

As noted in Figure 5, the province's interest-expense-to-total-revenues ratio has been decreasing steadily over the past decade, even as provincial net debt has been increasing. In fact, even with the significant increases in net debt over the next few years, the projected ratio is still much lower than what it was in the early 2000s due to an increasing revenue trend and lower projected interest rates.

Figure 5: Interest Expense as Percentage of Total Revenues, 1999/2000–2011/12
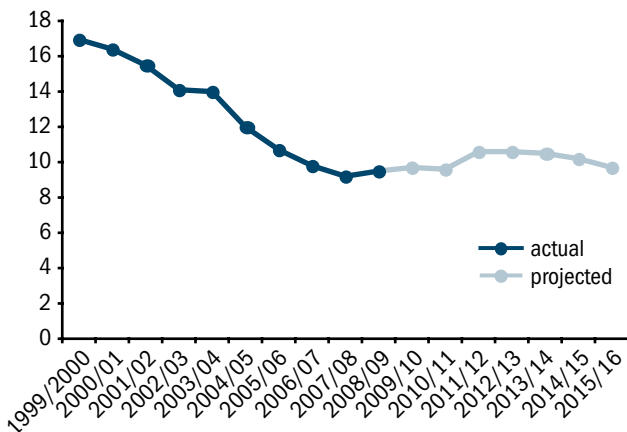
Source of data: *2009 Ontario Budget*

Note: Projections reflect amounts reported in the 2009 Ontario Budget but do not reflect the impact that the higher deficits reported in the 2009 Fiscal Review will have on this ratio because the information is not presented in the 2009 Fiscal Review.

Based on the projected revenue and expense details provided in the 2009 Budget, and subsequently updated in the October 2009 Fiscal Review, the lower ratio is projected to continue through to the 2011/12 fiscal year, although it is projected to increase from the low in 2007/08. If this indicator increases for an extended period of time because of increased borrowing or higher interest rates, it will reduce the amount of flexibility the government has to spend money on programs providing public services.

Interest rates have been relatively low and falling over the past several years, recently approaching record low levels. This has enabled the government to keep interest expenses relatively consistent even as its total borrowing has been increasing.

The Risk Management and Derivative Financial Instruments note to the province's March 31, 2009, consolidated financial statements states: "Based on floating rate interest-bearing financial instruments at hand at the balance sheet date plus planned refinancing of maturing debt in the coming year, a one-percent-increase in interest rates would result in an increase in interest expenses of $230 million." In other words, if interest rates increase, even if debt levels remain constant, the government will pay more to carry this debt and thus have less flexibility to respond to future program needs.

Own-source Revenue as a Percentage of GDP

The ratio of own-source revenues, primarily tax and fee revenues, to GDP is important because it shows the extent to which a government is taking income out of the economy, either through taxation or user charges. If the indicator is increasing, it demonstrates that the government may have less room to raise taxes or increase fees. From the 2002/2003 fiscal year to projections for 2011/12, the government's own-source revenue as a percentage of GDP will likely hold steady, and, on the basis of projections in the 2009 Ontario Budget, we estimate that it will range between 11.7% and 13.0% and average 12.3%. The ratios are expected to remain in this

range on the basis of the updated projections in the October 2009 Fiscal Review.

Vulnerability

Vulnerability refers to the degree to which a government becomes dependent on outside revenue sources or is exposed to risks that could impair its ability to meet existing obligations, both with respect to its service commitments to the public and its financial commitments to creditors, employees, and others. It is an important aspect of financial condition because it provides insight into a government's reliance on funding sources that are beyond its control and influence, such as revenue transfers from other levels of government. A government whose vulnerability is relatively low has greater control over its finances.

Ratio of Federal Government Transfers to Total Revenues

Although revenue projections have not been published beyond the 2011/12 fiscal year, the proportion of revenue that the Ontario government receives from the government of Canada has become more significant over time. Although 11.7% of the province's revenue came from the government of Canada in the 2001/02 fiscal year, this percentage has increased in each subsequent year and is projected to reach a high of 20.1% in 2009/10, falling back somewhat to 19.6% in 2011/12, as has been reported in the 2009 Ontario Budget. In reviewing the revised projection in the October 2009 Fiscal Review, we note that the proportion of revenue that the Ontario government receives from the federal government follows the same pattern as projected in the 2009 Ontario Budget, with the ratio standing at 21.2% in 2009/10, 23.1% in 2010/11, and 20.5% in 2011/12. This illustrates the dependence of the province on the government of Canada and that over the last decade the province's vulnerability to Ottawa's fiscal decisions has increased. The federal government is facing fiscal

problems of its own, and any future reductions in federal transfers could result in the province having to issue more debt or raise taxes or fees if it wishes to maintain its spending plans.

THE CHALLENGES AHEAD

Our analysis indicates that the province's financial condition has generally been improving since the 2001/02 fiscal year. However, this trend will reverse over the next few years due to the large deficits and debt increases the government is projecting. Although the resulting financial indicators at the end of the 2011/12 fiscal year based on the 2009 Budget are not significantly out of line with the same indicators of a decade ago, the latest government projections indicate that further deterioration in the province's financial condition is anticipated.

Unspent Grants

BACKGROUND

Over the years I have expressed two concerns with respect to government year-end spending practices.

The first related to the government flowing hundreds of millions, and even billions, of dollars at year-end to fund activities of future periods while expensing such grants as current-year expenses in its consolidated financial statements. This accounting presentation could convey that monies had been spent providing programs and services during that fiscal year, while in reality, little or no services had been provided and little or no benefits had been received by the public. However, I have acknowledged that accounting for such transfers as expenses was acceptable under Public Sector Accounting Board standards.

My second concern focused on the weakening of normal accountability controls over transfers that occurred with these year-end grants, as the government, to meet accounting criteria allowing for their

immediate expense recognition, often eliminated or significantly reduced the conditions under which such grants were provided to recipients. I was pleased to report last year that, after working with the Ministry, we were able to agree on a number of accountability and control provisions that could be included in these year-end transfers, addressing many of my concerns in this area.

EXPENDITURES AND 2007/08 FISCAL YEAR-END TRANSFERS

Year-end Grants

In last year's Annual Report, I also expressed concerns about the *Investing in Ontario Act, 2008* (Act, in this section). My primary concern was that, through this legislation, the government granted itself the power to determine how transactions would be accounted for in the province's consolidated financial statements. My objection was that generally accepted accounting standards, not government legislation, should determine how transactions are accounted for. I indicated that we would not support the use of legislative provisions to override generally accepted accounting standards.

In the 2007/08 fiscal year, the government provided an additional $1.1 billion in transfers to municipalities under the Act to fund infrastructure investments. The proposed transfers were announced and committed to by the government before March 31, 2008, and, therefore, were properly recorded as an expense in the 2007/08 fiscal year. The funds were actually transferred after the tabling of the 2007/08 Public Accounts in late August 2008.

Municipalities generally had the discretion to spend these funds on their own infrastructure priorities. The transfers were subject to a number of accountability provisions, including: the requirement to report by March 31 of each year, until the money was fully spent, how the funds were used; the right of the province to independently verify or audit the municipal expenditures; and the right of

the province to recover the funds if they were not used as intended.

In addition to the $1.1 billion in transfers to municipalities under the Act, expenditures in the 2007/08 fiscal year included $1.9 billion in year-end grants provided to a number of other transfer payment recipients. These included grants of $400 million to communities outside of Toronto for roads and bridges, $200 million to universities to maintain and upgrade their facilities, and $100 million in transfers for social housing infrastructure. Accountability provisions similar to those included with the transfers made under the Act were also incorporated into these grant awards.

Unspent Grants

In its 2009 Budget, the government indicated that it planned to make significant investments over the next two years to stimulate the provincial economy. This included some $32.5 billion in spending on infrastructure projects. The government noted this stimulus spending must not only be significant in size but must be effective in restoring growth. The government noted that, to be effective, the grants should support quick-start projects. In other words, the fund should not sit for extended periods in the bank accounts of transfer-payment recipients.

Given the massive amount of stimulus spending that the government is planning to undertake over the next two years, the potential for some of these funds not to be spent cost-effectively is undoubtedly a program risk. As well, economists and other academics have recently expressed concerns that despite governments' stimulus spending commitments, many projects will be slow to start and that the actual investments may not be made for several years. In such cases, the "stimulus effects" will also not be felt for several years. As the following examples relating to last year's year-end investments indicate, these concerns may have some merit.

During our audit of the 2008/09 Public Accounts, we noted that much of the $1.1 billion

in infrastructure money provided to municipalities under the Act remained unspent.

In accordance with PSAB standards, the amounts transferred to municipalities under the Act were recognized as a provincial expense for the 2007/08 fiscal year. We reviewed funding provided to 25 of the 445 municipalities, representing over 70% of the funds transferred under the Act, to determine the amounts that had been used as of March 31, 2009, approximately six months after the transfers flowed to the municipalities. Our observations included:

- Only two of 25 municipalities had fully spent 100% of their funding, totalling $22 million. In fact, 15 municipalities had not spent any of the nearly $330 million they had received.
- Seven municipalities had spent only a small portion of their grant monies: for example, one municipality spent only $141,000, or less than 0.2% of its $77.3 million; another spent only about $17,000, or less than 0.1% of its $20.2 million; and another spent $390,000, or 3.8% of the $10.3 million it had received. In total these seven municipalities spent only $10.8 million, or approximately 6%, of the total grants received of over $180 million.
- One municipality was given permission to apply its $238 million grant to repay existing capital debt.

At the time of our review, 390 of the 445 municipalities had reported on the amount of funds used as of March 31, 2009. On the basis of these reports—and after removing the $238 million in debt repayments made by the one municipality—only $56 million of the remaining $910 million transferred to municipalities under the Act, or 6.2% of the total, had been spent. The Ministry explained that many municipalities had not used their funding by March 31, 2009, because of construction-timing issues. As well, a number of municipalities were waiting to see if the funds provided under the Act could be used as the municipal portion for any federal stimulus funds available.

To summarize, although $1.1 billion was expensed in the 2007/08 fiscal year, only a fraction of the infrastructure investments have as yet been made.

With respect to the $1.9 billion in other year-end grants, we reviewed seven of the more significant transfers, totalling $1.4 billion or approximately 75% of the total, and noted that approximately $315 million, or only 22%, was spent by the end of the 2008/09 fiscal year.

Enhancing Accountability

Public accountability for any major year-end transfers and future stimulus funding that is to be spent over a multi-year period would be enhanced if the government publicly reported on the status of the money that it provided. Such reporting could be presented in the province's annual report to clearly indicate the extent to which the funds transferred have actually been spent on infrastructure investments.

MINISTRY RESPONSE

Since 2003, investing in infrastructure has been a priority for the government. Infrastructure investments are being made in all key sectors—including highways, roads, transit, environment, health, education, culture, tourism, sport, recreation, and social housing projects. As part of the stimulus initiatives announced in the 2009 Budget, Ontario is supporting not only longer-term infrastructure investment but quick-start projects to help ensure that the stimulus investments are most effective. Of the $32.5 billion in planned infrastructure spending over the next two years, $6.9 billion represents short-term federal–provincial stimulus spending. This stimulus funding was distributed using an application-based process for which a key selection criterion was applicants' attestation of their ability to complete projects by the March 31, 2011 deadline. To

date, the federal and provincial governments have already allocated about 75% of the stimulus funding to recipients, and as indicated in the government's 2009 Economic Outlook and Fiscal Review of October 22, more than 650 new projects are already under construction. Many municipalities were awaiting federal and provincial infrastructure stimulus allocations before directing the money provided to them under the *Investing in Ontario Act, 2008* to projects to optimize the value achieved for dollars spent. As announced in the 2009 Ontario Economic Outlook and Fiscal Review, the Ministry of Energy and Infrastructure will be launching a Revitalizing Ontario's Infrastructure website that will allow Ontarians to see a list of infrastructure projects in their community and allow them to track the progress of these projects. This initiative is part of the government's efforts to further enhance transparency and accountability in reporting to the public.

Significant Accounting Issues

The Public Sector Accounting Board sets out the objectives of government financial statements. The first and most fundamental of its standards is that: "Financial statements should provide an accounting of the full nature and extent of the financial affairs and resources which the government controls, including those related to the activities of its agencies and enterprises."

To meet this objective, the Ontario government's annual financial statements currently include, through a consolidation process, the financial position and operating results of more than 300 of its most significant controlled agencies and enterprises. These include its seven government business enterprises, including Ontario Power Generation,

the Ontario Lottery and Gaming Corporation, and the Liquor Control Board of Ontario; 47 other government organizations, such as the Ontario Electricity Financial Corporation, Ontario Place, and the Royal Ontario Museum; and, in the broader public sector, each of Ontario's 153 public hospitals, its 103 school boards or local school authorities, and its 24 colleges.

However, there are currently five provincial entities that are considered trusts and are therefore not included in the reporting of the province's financial results. As such, the assets, liabilities, revenues, and expenses of these entities do not form part of the government's consolidated financial statements. However, concerns regarding the deteriorating financial condition of two of these entities—the Workplace Safety and Insurance Board and the Pension Benefit Guarantee Fund—may warrant reconsideration of their exclusion.

WORKPLACE SAFETY AND INSURANCE BOARD

This year, we undertook a review of the Workplace Safety and Insurance Board's (WSIB's) unfunded liability. The result of our review is found in Chapter 3 of this Annual Report. Our review provides information on the significant recent growth in the unfunded liability, the factors contributing to this growth, and WSIB initiatives to control it. As of December 31, 2008, the WSIB's unfunded liability was $11.5 billion—an increase of $3.4 billion, or 42%, from the unfunded liability of $8.1 billion a year earlier. The WSIB is projecting that its unfunded liability will continue to grow over the next few years.

Generally, trusts are excluded from the province's financial results because the province has no access to the assets of the trust and has no responsibility to pay for any liabilities of the trust. However, given the WSIB's current unfunded liability, we believe a re-examination of the WSIB's exclusion from the government reporting entity is warranted. Inclusion of the WSIB in the government's financial

reporting would have a material impact on its financial statements. As of March 31, 2009, Ontario's Statement of Financial Position reported provincial liabilities totalling $196.6 billion. These liabilities were offset by government assets of some $83.4 billion, leaving a reported accumulated provincial deficit of $113.2 billion. As of December 31, 2008, the WSIB had liabilities of $24.7 billion, offset by assets of $13.2 billion, leaving it in a net unfunded liability of $11.5 billion. Accordingly, if the WSIB's operations were to be included in the province's financial statements, Ontario's reported accumulated deficit would be increased by more than 10%.

Inclusion of the WSIB would have had an even more dramatic effect on the province's Statement of Operations, which reports the government's total revenues and expenses for the year, thus providing an accounting of the province's annual deficit or surplus. The government reported a surplus of $600 million for the 2007/08 fiscal year and a deficit of $6.4 billion for 2008/09. However, the WSIB, whose results are excluded from the province's expected results, lost $2.1 billion in 2007 and a further $3.4 billion in 2008. Accordingly, inclusion of the WSIB would have had a significant impact on the government's reported results.

Government Control of the WSIB

The Public Sector Accounting Board sets out the principles and criteria governments and auditors should use in determining which organizations' financial affairs and resources are to be included in the government's financial statements. The key criterion for inclusion is that "the government reporting entity should comprise the organizations that are controlled by the government."

Accordingly, the first question to consider is whether the Ontario government controls the WSIB.

PSAB defines control as the "power to govern the financial and operating policies of another organization." This power need not be exercised, yet "control exists by virtue of the government's ability to do so." Whether this control exists is a

question of fact to be determined by the particular circumstances of each case, requiring an assessment of the substance of the relationship between the government and the organization, along with the application of professional judgment. PSAB outlines a number of control indicators that should be considered, adding that "it is the preponderance of evidence that would be considered in assessing whether a government controls an organization."

These control indicators are divided into two categories: ones that provide "more persuasive evidence of control" and others that "may provide evidence of control." Figure 6 summarizes our assessment of the WSIB against both sets of indicators. Our assessment makes extensive reference to provisions in the *Workplace Safety and Insurance Act, 1997* (Act, in this section), the WSIB's governing legislation.

Based on the "preponderance of evidence" presented in Figure 6, the government meets the PSAB indicators that indicate it does "control" the WSIB. However, PSAB does provide one exception to its general rule that all controlled entities be included in the government reporting entity—"Trusts administered by a government or government organization should be excluded from the government reporting entity."

Is the WSIB a Trust?

The government of Ontario has classified the WSIB as a trust under this exception. Accordingly, the second question to consider is whether the WSIB is, indeed, a trust. Although PSAB standards provide some guidance to help assess whether this trust classification is appropriate for specific government organizations, the guidance is quite limited. It defines a trust as: "Property that has been conveyed or assigned to a trustee to be administered as directed by agreement or statute. In a trust relationship, the trustee holds title to the property for the benefit of, and stands in a fiduciary relationship to, the beneficiary."

Figure 6: Assessment of Whether, under PSAB Definitions, the Government Controls the Workplace Safety and Insurance Board

Prepared by the Office of the Auditor General of Ontario

Public Sector Accounting Board Control Indicator	Discussion	Assessment
I. More Persuastive Indicators		
The government has the power to unilaterally appoint or remove a majority of the members of the governing body of the organization.	The government appoints all WSIB members, including its president, as per section 162(1) of the Act.	indicator met
The government has ongoing access to the assets of the organization, has the ability to direct the ongoing use of those assets, or has ongoing responsibility for losses.	The government does not have ongoing access to the assets of the WSIB. Rather, most of the WSIB's assets are in an insurance fund that provides benefits to injured workers. However, under the Act, the government has the ability to direct the WSIB's assets' ongoing use to fulfill the purposes of the Act. The most specific section of the Act in this regard is section 167. ● Section 167(1) of the Act states: "The Minister may issue policy directions that have been approved by the Lieutenant Governor in Council on matters relating to the Board's exercise of its powers and performance of its duties under this Act." ● Section 167(2) then requires the Board to adhere to these policy directions, as follows: "In exercising a power or performing a duty under this Act, the Board shall respect any policy direction that relates to its exercise." The Act makes it clear that the WSIB is to be entirely funded by employer premiums. To date, the WSIB has never received any funds from the province. Section 96(4) of the Act states: "If the Lieutenant Governor in Council is of the opinion that the insurance fund is not sufficient to meet the standards described in subsections (2) and (3), the Lieutenant Governor in Council may direct the Board to increase employers' premiums to the extent that the Lieutenant Governor in Council considers necessary to ensure that the funds meet those standards." However, the Act also makes clear that the government is the ultimate backstop for the WSIB's financial obligations, as section 100, in part, states: "The following rules apply if there is not sufficient money available in the insurance fund to make the required payments as they become due... the Lieutenant Governor in Council may direct that an amount be advanced to the Board from the Consolidated Revenue Fund to make the payments." Given the significant recent unfunded liability, we believe it is no longer certain that the province's "backstop" will not be required. The province also appeared to recognize this as, in referring to responsibility for the unfunded liability of trusts, the 2007 financial statements stated, "they will be discharged by external parties," while the 2008 statements noted that "it is intended they be discharged by external parties." As noted in our review of the WSIB's unfunded liability in Chapter 3, the government does influence the setting of employer premium rates and the level of benefits to be paid. As such, the actions of the government can have a significant impact on the annual operating results of the WSIB and its unfunded liability position.	indicator met

Chapter 2

Public Sector Accounting Board Control Indicator	Discussion	Assessment
The government holds the majority of the voting shares that confers the power to govern the financial and operating policies of the organization.	As indicated above, the government appoints the WSIB's chair, its president, and all other board members. Also, as indicated above, section 167(1) of the Act gives the Minister broad powers to direct the WSIB, and the WSIB is obligated under the Act to adhere to such orders. The combination of these two powers is equivalent to the "golden share" concept, which the Public Sector Accounting Board defines as, "powers or rights generally exceeding those normally associated with the holder's ownership interest or representation on the governing body."	indicator met
The government has the unilateral power to dissolve the organization and thereby access its assets and become responsible for its obligations.	The original Worker's Compensation Board (WCB) and the more recent WSIB were both created by the provincial government through legislation. Unlike some of the other entities the government consolidates, such as many of Ontario's public hospitals, the WSIB was not established by a party outside the government, nor has it any outside ownership or equity interests. Given that the WSIB was created solely by the government of Ontario and is accountable only to it, and although highly unlikely, the government has the power to dissolve it, solely at its discretion. The control criteria clearly states that the government merely has to have the power and does not require any assessment of whether this power would be exercised.	indicator met

II. Other Indicators

The government has the power to provide significant input into the appointment of members of the governing body of the organization by appointing a majority of those members from a list of nominees provided by others or being otherwise involved in the appointment or removal of a significant number of members.	As indicated above, under section 162.1, the government appoints all members of the WSIB's governing body.	indicator met
The government has the power to appoint or remove the CEO or other key personnel.	Under section 162(1)(b), the government appoints the WSIB's president.	indicator met
The government has the power to establish or amend the mission or mandate of the organization.	The government has the power to amend the WSIB's underlying legislation. For instance, in 1997, the *Workers' Compensation Act* was significantly revised, including revisions to the board's mission and mandate, as well as its name.	indicator met
The government has the power to approve the business plans or budgets for the organization and require amendments, either on a net or line-by-line basis.	No section of the Act speaks directly to the government's power to approve the WSIB's business plans or budgets. However, section 167, as indicated above, requires the WSIB to adhere to any policy direction issued by the government. This section provides the government with sufficient power to direct any aspect of the WSIB's operations, including the specifics of its business strategy or its spending plans.	indicator met
The government has the power to establish borrowing or investment limits or restrict the organization's investments.	Under section 97(4), the WSIB's investments are restricted to those authorized under the *Pension Benefits Act*, another provincial statute. Section 166 requires that the WSIB and the Minister enter into a memorandum of understanding and requires that the memorandum state that "the Board must give the Minister an annual statement of its investment policies and goals." The government also has the authority to restrict the WSIB's investments further at any time by virtue of section 167, which allows it to issue policy direction to the Board.	indicator met

Public Sector Accounting Board Control Indicator	Discussion	Assessment
The government has the power to establish or amend the policies that the organization uses to manage, such as those relating to accounting, personnel, compensation, collective bargaining, or deployment of resources.	Historically, the government has left it up to the WSIB to establish its internal administration policies. However, the Act does provide the government with the power to influence these policies should it so desire. As noted earlier, section 167(1) states: "The Minister may issue policy directions that have been approved by the Lieutenant Governor in Council on matters relating to the Board's exercise of its powers and performance of its duties under this Act." This section is sufficiently broad to cover any of WSIB's management policies, such as those to relating to accounting practices or employee compensation. The memorandum of understanding requirements under section 166 are also another legislative mechanism by which the government can (and does) establish or amend WSIB's management policies. With respect to administrative matters, section 131(1), in part, states: "...With the approval of the Lieutenant Governor in Council, the Board may make rules governing its practice and procedure."	indicator met

After this somewhat legalistic definition, PSAB's commentary on trusts is limited to a few subsequent paragraphs. It says:

> To meet the definition, the property conveyed or assigned to the government or government organization acting as trustee must be provided to fulfill a particular objective of the donor of the property conveyed or assigned. The government or government organization would merely administer the terms and conditions embodied in the agreement and has no unilateral authority to change the conditions set out in the trust indenture.

Furthermore, PSAB also says: "Often the term 'trusts' is applied to assets earmarked as a result of a government policy decision when no trust liability exists. Such assets are special funds that comprise part of the government reporting entity and would be consolidated."

To supplement this guidance, we reviewed the characteristics of both private- and public-sector trusts and assessed their resemblance to the WSIB. The WSIB does not operate like a trust. One feature of almost all trusts is the absence of significant business risk. Property is almost invariably conveyed to trusts for limited time periods and for eventual disposition under specified conditions to one or more beneficiaries known to and specified by the donor. The trust manages the conveyed property until the conditions for transfer specified by the donor arise. Accordingly, for every asset of significance held by a trust, there is a comparable offsetting liability to a specified beneficiary. Given this offsetting nature of trust assets and liabilities, exclusion of trusts administered by a government from its financial statements makes sense, as inclusion would unnecessarily clutter the statements with extraneous "noise" on both sides of the balance sheet that would be of little use in assessing the government's own financial position or condition.

The Office of the Public Guardian and Trustee is arguably the best example of a trust administered by the province. This government office manages the assets of financially incapable individuals and the estates of persons who die intestate without adult heirs. It also manages funds for minors until they reach the age of majority and administers the property of dissolved corporations. Finally, it acts as the depository for all monies, mortgages, and securities paid into the Superior Court of Justice awaiting court disposition. As of March 31, 2009, this office held total assets and offsetting liabilities

of some $1.3 billion. These were appropriately excluded from the province's consolidated statement of financial position.

Another key PSAB requirement states that to be a trust the property conveyed must "fulfill a particular objective of the donor," and that the government as trustee must have "no unilateral authority to change the conditions set out in the trust indenture." In fact, the Ontario government has unilateral authority, which it exercises periodically, to legislate changes to, among other things, the benefits paid to the WSIB's "beneficiaries."

Particularly given the recent significant increase in the size of the unfunded liability, we are becoming increasingly of the opinion that the government is running an insurance business through the WSIB rather than administering a trust. If so, the government is subject to the same business risks as the owners of any insurance company. Like insurance companies, the WSIB charges and collects premiums that it establishes based on its actuarial projections of expected future claims. These projections take into account both past claims experience and management's beliefs about the future. These premiums are not then maintained for eventual return to a beneficiary specified by the donor. Rather, as with insurance organizations, premiums are pooled in insurance funds and invested. Significant business risk arises from this operation, because the claims that may eventually arise and have to be paid from insurance funds may far exceed the value of premiums collected and the investment returns these premiums were able to generate. That the WSIB is subject to considerable business risk is obvious from the very fact that it has now accumulated an unfunded obligation that is $11.5 billion and growing.

The bottom line is that if the WSIB was operating like a true trust, it would not have such a significant unfunded liability.

There is a final point to be made regarding this trust classification issue. Even if one accepts the classification of the WSIB as a trust, it is worth examining the accounting standards for defined benefit pension plans, another type of trust administered by most governments. Unlike trusts such as the Office of the Public Guardian and Trustee, sponsors of defined benefit pension plans are also subject to significant business risk. This is because defined benefit pension plans ultimately provide their beneficiaries with pensions that are not directly and necessarily related to or derived from the specific contributions received on their behalf. Pensions payable from such defined benefit plans are typically based on a formula driven by such factors as the employee's average salary during the years just preceding his or her retirement and the number of years of employment service. The pension obligation arising from the application of this formula may differ significantly in value from the value of contributions received on the employee's behalf and the investment returns the plan has been able to earn on these contributions over the course of the employee's career.

To reflect these business risks appropriately, while continuing to respect the fact that the assets in pension plans are held in trust, accounting standards for defined benefit pension plans require that the plan sponsors include on their statement of financial position not all of the plan's assets and liabilities, but rather only the net surplus or shortfall in the pension plans they sponsor. A pension asset on the plan sponsor's books reflects the fact that the assets are currently in excess of its obligations, while a pension liability reflects the fact that its liabilities are currently in excess of its assets.

The government of Ontario applies these standards in accounting for each of the defined benefit pension plans it sponsors, the three largest of which are the Public Service Pension Plan, the Ontario Public Service Employees Union Pension Plan, and the Ontario Teachers' Pension Plan. As of March 31, 2009, the province in its consolidated financial statements disclosed that its pension benefit liabilities, primarily for these three plans, amounted to $68.1 billion. The province further disclosed that these liabilities were offset by plan fund assets, unamortized actuarial gains, and other adjustments

of $72.9 billion, resulting in a net asset position for the government of $4.8 billion. This $4.8 billion net asset was appropriately included along with all the other government assets on its statement of financial position.

Government Accountability

No other jurisdiction in Canada has a workers' compensation board with such a large unfunded liability. It is often said that what gets measured gets more attention than what does not. Inclusion of the WSIB in the government reporting entity would mean that its annual surplus or deficit would form part of the province's overall annual surplus or deficit, the prime measure used by the media, the public, and the government itself of its overall fiscal performance. It would also mean that the WSIB's unfunded liability would form part of the government's overall accumulated deficit, a key measure of its net financial position. Exclusion may convey the message that the WSIB's financial chal-lenges are not the government's problem. Exclusion may also provide less of an incentive for the govern-ment to help address the WSIB's financial problems. Consequently, and notwithstanding the technical accounting arguments for inclusion or exclusion, inclusion of the WSIB in the province's consolidated financial statements would enhance government accountability and transparency.

In conclusion, we believe that, particularly in light of the recent significant increase in the WSIB's unfunded liability, the government should formally re-evaluate its current policy of excluding the WSIB from the province's financial statements.

PENSION BENEFITS GUARANTEE FUND

The Pension Benefits Guarantee Fund (PBGF), established in 1980 under the *Pension Benefits Act* (Act, in this section), is the only fund of its kind in Canada. Its purpose is to act as the guarantor of last resort for certain pension benefits when eligible defined benefit plans are wound up under conditions specified in the Act. The Superintendent of the Financial Services Commission of Ontario is responsible for the administration of the fund.

The PBGF is funded through premiums charged to and paid by private-sector pension plan sponsors. Similar to the WSIB, the PBGF is classified as a trust in the province's consolidated financial statements because PBGF liabilities are not considered to be obligations of the province. As such, its assets, liabilities, and operating results are excluded from the government reporting entity but are disclosed in the notes to the province's consolidated financial statements.

2008/09 Fiscal Year Financial Condition

Similar to our concerns with respect to the WSIB, we believe recent events necessitate a review of the PBGF's exclusion from the financial statements.

As the result of claims made over the last few years, the PBGF has an unfunded liability of over $47 million as of March 31, 2009. This means that bona fide claims exceed the assets available to pay them. This liability position is in spite of the PBGF receiving a $330 million non-interest-bearing loan from the province in the 2003/04 fiscal year. The government has discounted this loan to its effective value of $162 million to reflect its non-interest-bearing nature and its repayment arrangements of $11 million in annual instalments over a 30-year period. Since the $330 million loan was made, the province has provided the PBGF with an additional loan of $30 million.

The PBGF's financial health continues to be of concern because a number of companies spon-soring pension plans are in significant financial distress and could make claims which, according to the notes to the PBGF's March 31, 2009, finan-cial statements, "could significantly exceed [its] existing assets." These potential claims would in all likelihood put the fund in the position where it would be unable to meet its claim obligations or repay its provincial loans. The government has partially recognized this risk by increasing its

provision for uncollectible loans in the province's books. This reflects the increasing risk that the PBGF could default on its scheduled future loan repayments.

The current poor financial condition of the PBGF raises the further risk that its remaining liabilities will become the responsibility of the province. The continued direct provincial assistance to the PBGF implies that its trust classification may no longer meet generally accepted accounting standards for treatment as a trust.

The government is fully aware of the PBGF's financial difficulties. Its Expert Commission on Pensions in November 2008 recommended that an examination be conducted to determine the appropriate fees and guarantees needed to ensure the PBGF is governed on self-financing principles. The commission also recommended that the PBGF be administered at arm's length from the pension regulator.

In response to these recommendations, the government has appointed an independent actuary to review the stability and the financial status of the PBGF. Once the study is completed, the government is expected to consider establishing an independent PBGF agency. Its objective would be to ensure that the PBGF operates on sound business principles with coverage and assessment levels that are sustainable over the long term.

The government has since amended the Act to clarify that the PBGF is a self-sustaining fund independent of the government. The amendments include provisions allowing, but not requiring, the government to provide grants or loans to the PBGF. The amended Act also emphasizes that the PBGF's liabilities are limited by its assets.

Similar to our concern about the significant deteriorating financial condition of the WSIB and whether it should continue to be excluded from the province's financial statements, we recommend the government formally re-evaluate the continued exclusion of the PBGF from the province's financial statements.

MINISTRY RESPONSE

The Ministry, in conjunction with the Office of the Auditor General, will review the province's current accounting treatment for the Workplace Safety and Insurance Board and the Pension Benefits Guarantee Fund, taking into consideration the current economic circumstances.

Status of Public Accounts Issues Raised in Prior Years

INTRODUCTION

As noted last year, from time to time my Office and the Ministry of Finance may have differing views on the most appropriate accounting treatment of certain issues. This is not uncommon between the preparers and the auditors of an entity's financial statements, and typically we work together to resolve our differences. As a result, my predecessor and I have been able to issue an unreserved or "clean" opinion on the annual consolidated financial statements of the government since the province first adopted Public Sector Accounting Board standards in the 1993/94 fiscal year—a period of 16 years. In my view, this demonstrates the commitment of the government to prepare consolidated statements in accordance with generally accepted accounting principles for governments.

During this year's audit of the government's consolidated financial statements, we again dealt with a number of accounting issues. Of particular note were two issues raised in prior years where we had a difference of opinion: accounting for certain transfers to the province by other levels of government for investments in provincial capital infrastructure, and accounting for rate-regulated assets and liabilities. Because of the size of the government of Ontario and the dollar value of its transactions, these issues were not significant enough

to affect my opinion on the overall fairness of the province's consolidated financial statements. However, we indicated we would continue to work with the Ministry in an attempt to resolve these matters in the 2008/09 fiscal year. Both of these issues are discussed below.

ACCOUNTING FOR CAPITAL TRANSFERS

We noted in last year's Annual Report that the government was not accounting for all capital transfers it received from other levels of government in accordance with PSAB standards. Under these standards, capital transfers should be recognized as revenues when the province incurs the expenditures that make it eligible to receive the grant. We noted the province had received significant federal grants, accumulated over several years, that in our view should have been recognized as revenue because the government had incurred the expenditures making it eligible for the grants in question. However, the recognition of these revenues has been deferred, reflecting the government's view that these revenues should be recognized over the useful lives of the related assets. As of March 31, 2009, these deferred amounts continued to grow but are not yet significant enough to impact the fairness of the consolidated financial statements.

We are awaiting the new standards regarding accounting for capital transfers because the PSAB standards on government transfers are currently being revised.

RATE-REGULATED ASSETS AND LIABILITIES

Rate regulation refers to an arrangement whereby a government-established authority approves the prices that a regulated entity can charge its customers for its products or services. Regulators often prohibit regulated entities from immediately recovering all of their current costs in their current rates, ordering rather that such costs be "deferred" (and recorded as an asset) for recovery in future

periods. Rate-regulated accounting practices were developed to recognize the unique nature of regulated entities and these types of transactions.

In last year's Annual Report, we discussed our concerns regarding the use of rate-regulated accounting in the government's consolidated financial statements. The discussion focused on a number of our technical arguments against the practice. Our concerns remain unresolved. However, rather than repeat our previous arguments, this year we would like to approach the issue at a more conceptual level.

A key purpose of government consolidated financial statements is to provide an objective, consistent, comparable, and sound measure of the government's surplus or deficit for the fiscal period and of its accumulated deficit at the end of the fiscal period. Arguably, the essential principle that must be applied to ensure that credible results are arrived at is the use of a consistent appropriate criterion for revenue and expense recognition. This is often referred to as the "basis of accounting." PSAB calls for government financial statements to be prepared using the accrual basis of accounting. Under this approach, revenues are recognized in the periods they are earned, and expenses are recognized in the periods they are incurred.

We fully support the accrual basis of accounting and believe that, with one exception, it is being applied consistently in the government and its consolidated entities. The exception is the government's electricity sector.

The government owns and controls all of the major entities in Ontario's electricity sector, including Ontario Power Generation Inc. (OPG), Hydro One Inc., the Ontario Electricity Financing Corporation, the Ontario Energy Board, and the Ontario Power Authority (OPA). Each of these entities was created by the government to deliver on particular aspects of its overall energy policies. The basis of accounting used by three of these entities—OPG, Hydro One, and OPA—is rate-regulated accounting. The financial results of each of these three entities are combined with those of all other

significant government-controlled organizations to arrive at the government's consolidated financial position and results of operation. However, although expenses are recorded when incurred for, all other consolidated entities such as ministries, large Crown agencies, school boards, colleges, and hospitals, electricity entities can recognize certain expenses as assets through the regulatory process.

Although we acknowledge that the use of rate-regulated accounting may be acceptable in the entities' individual financial statements, we believe that using the same basis of accounting as the province for determining its consolidated results would be more conceptually sound. The rationale for allowing certain expenses to be deferred and recorded as assets is that the expenses will be recovered from future revenues from electricity consumers. In essence, the anticipated revenues are being recorded as assets in advance in the accounting of the province.

PSAB standards contain no allowances for the advance recognition of any other types of future revenues such as revenues from taxes, liquor sales or profits, casino revenues or profits, government fees or fines, or any other government revenues that may be as assured or even more assured than future electricity-sector profits. They also contain no allowances for the deferral of any current government costs to future periods, regardless of the degree of certainty that such costs can or will be recovered. In fact, the government's annual reported deficit or surplus would have little meaning if such cost deferrals and future revenues recognition were allowed under PSAB accounting standards. Yet this is what rate-regulated accounting allows for in the electricity sector. And the numbers are significant—the two biggest electricity-sector entities recognized $877 million in rate-regulated assets and $661 million in rate-regulated liabilities between them as of their December 31, 2008, year end.

We believe this issue needs to be specifically addressed by PSAB—not from the perspective of the regulated entity but from the perspective

of the government's own consolidated financial statements.

To précis some of the technical arguments we made in last year's Annual Report, we do not believe that rate-regulated assets and liabilities meet the definition of bona fide assets or liabilities under generally accepted accounting principles for governments. We also believe that, from the perspective of the government as opposed to that of the regulated entity, there is no independence of the regulator from the organization being regulated and from the government itself. Both the regulator and the regulated entity are owned and controlled by the government that created them. Without such independence, one could argue that the government itself is deciding what costs do not need to be recognized as expenses rather than applying established accounting principles in making that determination. From this perspective, assets and liabilities arising from rate-regulated gains and losses should be removed as part of the consolidation adjustment process just like all other inter-organizational gains and losses to arrive at a fair presentation of the government's transactions with external parties.

We noted last year that the Canadian Institute of Chartered Accountants was adopting international accounting standards as part of its move to harmonize Canada's accounting practices with those found around the world. At that time, these new international standards did not contain provisions supporting rate-regulated accounting, and the CICA's Accounting Standards Board had indicated that it did not intend to amend these standards with regard to such accounting practices. Rather, it indicated that all assets and liabilities would have to meet the CICA's conceptual framework definitions to be included in financial statements. We were encouraged by these developments because rate-regulated assets and liabilities do not meet these definitions.

However, this year, the International Accounting Standards Board issued an exposure draft that, if approved, would allow rate-regulated entities

to continue recognizing regulatory assets and liabilities under certain conditions. This proposed accounting standard will in all likelihood be used by the province's electricity-sector businesses. Accordingly, our hope that our concerns with respect to rate-regulated accounting would be addressed through the adoption of international standards no longer appears as likely. This makes it all the more important for PSAB to address the issue directly and to do so from the perspective of the government's consolidated financial statements. For now, we acknowledge that we have little choice under existing standards but to allow the continued use of rate-regulated accounting in accounting for government business enterprises in the province's consolidated financial statements, even though we question its conceptual basis.

The Government Reporting Entity

FULL LINE-BY-LINE CONSOLIDATION OF THE BROADER PUBLIC SECTOR

Under the Public Sector Accounting Board's reporting entity standard, governments have been permitted to consolidate broader-public-sector (BPS) organizations on a modified equity basis of accounting up to and including the 2008/09 fiscal year. Under modified equity accounting, BPS net assets have been reported as a single line item on the province's Consolidated Statement of Financial Position, and each sector's net expenses are included as a single line on the province's Schedule of Expenses. Currently, there are three BPS sectors that are affected in Ontario: hospitals, school boards, and colleges.

For all fiscal years that commence on or after April 1, 2009, the PSAB standard requires BPS organizations to be fully consolidated. Full consolidation means that the accounts of BPS organizations are to be included using the same accounting policies as the province, with each revenue and expense item, as well as each asset and liability item, being combined with the corresponding item in the province's consolidated financial statements. One key consequence of this line-by-line approach is that the $33.9 billion in BPS tangible capital assets and $15.5 billion in BPS net debt from these three sectors would form part of the province's total capital assets and net debt, respectively.

In January 2009, PSAB extended the transition period for the consolidation of these organizations on a line-by-line basis by one year. The government views a one-line consolidation for these sectors as best representing the bottom-line fiscal accountability of these organizations to the province for managing these public funds.

We reviewed the 2008/09 financial statements of the other provinces to see how other jurisdictions are dealing with this standard and note that the majority of Canadian jurisdictions have already adopted full line-by-line consolidation of their BPS.

We are currently working with the Ministry of Finance on the presentation of these BPS organizations in the province's consolidated financial statements and of the impact on the consolidated financial statements if full line-by-line consolidation is not adopted.

Capital Asset Accounting and Reporting

In January 2003, PSAB revised a 1997 standard setting out the rules for the recognition, measurement, amortization, and presentation of capital assets in a government's financial statements. The standard recommends that governments, in a manner similar to the approach taken in the private sector, record acquired or constructed capital items as assets and amortize their cost to operations over their estimated useful lives.

The government's approach has been to phase in the adoption of these recommendations over time. In its 2002/03 fiscal year, the government valued and capitalized the province's land holdings, buildings, and transportation infrastructure, and for the first time recognized over $13 billion of its net capital investments in these assets. As of March 31, 2009, the province's net investments in these capital assets had grown to $21.7 billion, and these assets are now appropriately recorded on the province's consolidated statement of financial position.

The government has advised us that it is completing the capitalization project for its remaining tangible capital assets, including computer systems, vehicles, aircraft, and marine fleet, in the 2009/10 fiscal year. We have met with ministry officials a number of times to address the scope of this project and the method of valuing and accounting for these assets.

Public Sector Accounting Board Initiatives

This section briefly outlines some of the more significant issues that the Public Sector Accounting Board has been dealing with over the last year that may in future affect the province's consolidated financial statements.

INTRODUCTION

The Canadian Institute of Chartered Accountants' Public Sector Accounting Standards Board (PSAB) has the authority to set accounting standards for the public sector. PSAB is working to address a number of complex financial accounting and reporting issues, including accounting for financial instruments, government transfers, foreign exchange, and how the adoption of International Financial Reporting Standards by government business enterprises and public-sector not-for-profit

organizations should be accounted for in the government's consolidated financial statements.

The Accounting Standards Board of the CICA, the national organization responsible for establishing Canadian accounting and financial reporting standards, is implementing a number of financial reporting changes to be used by all publicly traded companies. By 2011, the current Canadian generally accepted accounting principles used to prepare the financial statements of publicly accountable, profit-oriented enterprises will be replaced by an accounting framework set out in International Financial Reporting Standards. The Accounting Standards Board is also reviewing and updating the standards applicable to not-for-profit organizations. These changes reflect the ongoing globalization of financial markets and the movement toward worldwide standards in several areas of business and government.

STANDARDS

Financial Instruments

The province uses financial instruments and derivatives such as foreign-exchange forward contracts, swaps, futures, or options to manage or hedge against risks related to debt it has issued in foreign currencies and/or at variable interest rates. Currently, PSAB guidance on accounting for derivatives is limited to their application in hedging foreign-currency items, such as managing the foreign-currency risk associated with holding a debt repayable in U.S. dollars.

In January 2005, the CICA's Accounting Standards Board approved three new handbook sections relating to such activities: "Financial Instruments," "Comprehensive Income," and "Hedges." Although these handbook sections were developed for the private sector, and governments were not required to apply them, they underscored the need to eventually address these issues from a public-sector perspective. Accordingly, PSAB created a task force to consider how governments should account for

financial instruments. One of the key issues it will address is whether changes in the fair market value of derivative contracts, similar to fluctuations in the market value of equities and bonds, should be recognized in a government's financial statements. A key aspect of this issue is whether such changes should affect the determination of a government's annual surplus or deficit.

The main rationale for recognizing changes in the fair market value of financial instruments is to ensure that assets and liabilities of an organization are recognized at their current value rather than their historical acquisition value at the end of each fiscal period. However, if such changes in value were recognized as immediate gains or losses, they could have a significant impact on the organization's annual surplus or deficit, even though such gains or losses may not have been realized and could be reversed in future years.

PSAB issued its exposure draft on financial instruments in September 2009. Among its more significant recommendations is that all gains and losses from fair value re-measurement be recorded in the Statement of Operations and that these re-measurement gains and losses be reported separately from the province's other revenues and expenses so that the province's surplus or deficit clearly distinguishes the impact of re-measurement gains and losses. PSAB notes that the recommendations contained in it will bring the financial accounting and reporting of financial instruments, including derivatives, in line with international developments. These proposed standards are essentially consistent with the accounting used by the private sector.

Foreign Currency Translation

At present, PSAB standards include recommendations allowing gains and losses on foreign-currency-denominated items to be deferred and amortized to operations over time. PSAB notes that its accounting standard is the only one among the major accounting standards used throughout the world that allows deferral and amortization of such foreign-exchange gains and losses, and that this accounting is not consistent with its conceptual framework or asset and liability definitions.

PSAB has indicated that, as part of its plan to address financial instruments, it will need to revisit these recommendations. Specifically, it is expected that the current deferral provisions will be replaced with the requirement that such gains and losses be immediately recognized as re-measurement gains and losses in the determination of the annual surplus or deficit. PSAB has indicated that it intends to approve an exposure draft on foreign currency translation in the near future. We expect it to incorporate the changes discussed above.

Government Transfers

PSAB has been working over a number of years to amend its standard on government transfers to address a number of issues raised by the government community. Although there are a number of issues that need to be addressed, the main issue to be resolved is how multi-year funding for capital transfers provided by one government to another should be accounted for. Given the billions of dollars in government transfers made annually, the revised standard has the potential to significantly affect a government's reported financial results.

A variety of views have been expressed and PSAB has faced challenges in obtaining a consensus on what revisions should be made to the existing standard. The more recent re-exposure draft, issued in April 2009, proposed that operating transfers be recognized as revenue in the period the transfer is authorized and any eligibility criteria is met, unless the transfer gives rise to a liability for a recipient government. The proposal is consistent with PSAB's conceptual framework but allows for more professional judgment in assessing whether a liability exists. PSAB is currently reviewing responses to this second re-exposure draft.

Financial Reporting by Government Not-for-profit Organizations

Currently, government not-for-profit organizations, such as hospitals, colleges, and universities, are directed by PSAB to follow the CICA standards for not-for-profit organizations. The Accounting Standards Board is in the process of evaluating options for future financial reporting and accounting standards for private-sector not-for-profit organizations. In June 2009, the Accounting Standards Board and PSAB issued a joint invitation to comment on financial reporting by not-for-profit organizations. There are a number of financial reporting options available for these entities, and a key issue is whether all not-for-profit organizations should apply the same standards. Although this would enhance comparability, some believe not-for-profit organizations should have the flexibility to choose from alternative sets of standards based on their particular circumstances.

The options for public-sector not-for-profit organizations under consideration include using PSAB standards alone or PSAB standards supplemented by certain CICA not-for-profit standards. Both the Accounting Standards Board and PSAB have rejected developing a set of stand-alone standards to accommodate all not-for-profit organizations.

PSAB has indicated that it intends to issue an exposure draft on this subject in the near future.

Liability for Remediation and Mitigation of Contaminated Sites

Canadian accounting standards currently provide no guidance on accounting for environmental liabilities. In recognition of the unique complexities associated with such liabilities, PSAB approved an environmental liability project in June 2006. As the project progressed, it decided to limit the scope of the project to the development of a proposed accounting standard on the remediation and mitigation of contaminated sites. In January 2009, PSAB approved a statement of principles for this proposed standard and in April 2009 issued it for public comment.

The statement of principles notes that only legal obligations should be recognized as liabilities. Obligations that may arise from intention or policies that are not legally enforceable should not be recognized in the financial statements. PSAB has indicated that the next stage in the process will be to issue an exposure draft on liability for contaminated sites.

Tax Revenue

Given the importance and magnitude of tax revenue, PSAB approved an exposure draft in November 2007 to address many of its unique issues. A re-exposure draft was released in April 2009 that took into account stakeholder responses to the first exposure draft. The re-exposure draft proposes an accounting standard that calls for the recognition of tax revenues when they meet the definition of an asset, are authorized, and the taxable event occurs. PSAB expects to approve a final standard on tax revenues later this year.

Revenue from Exchange Transactions

Revenue in the public sector is generated from both exchange and non-exchange transactions. PSAB is currently addressing certain revenues arising from non-exchange transactions, such as government grants received, in its government transfers project and its tax revenue project. Exchange transactions are not currently defined by PSAB. However, the International Accounting Standards Board (IASB) currently has a project on revenue recognition and has established a definition for exchange transactions as those "in which one entity receives assets or services, or has liabilities extinguished, and directly gives approximately equal value (primarily in the form of cash, goods, services, or use of assets) to another entity in exchange." Examples of Ontario government exchange transactions include liquor and lottery ticket sales.

Chapter 2

Revenue recognition has a direct impact on the measurement of the surplus and deficit reported by governments. Although governments receive a significant portion of their revenue from non-exchange transactions, many governments still receive a substantial portion of their revenues from exchange transactions, as do government organizations. Accordingly, PSAB approved a project proposal on this topic in June 2009.

GUIDANCE

Assessment of Tangible Capital Assets

In November 2008, PSAB released a statement of recommended practice to assist governments in reporting on their major assets and to improve the comparability and reliability of financial and non-financial information about such assets. It is also intended to assist governments in evaluating their financial condition and their financial and non-financial performance.

Existing guidance on reporting financial and other information about tangible capital assets is limited. Appropriate information about the use and condition of a government's tangible-capital-asset infrastructure assists users in understanding the ongoing maintenance, renewal, and replacement costs associated with this infrastructure. It is therefore a major factor in assessing a government's financial ability to maintain existing levels of services.

Statutory Matters

Under section 12 of the *Auditor General Act*, I am required to report on any Special Warrants and Treasury Board Orders issued during the year. In addition, section 91 of the Legislative Assembly Act requires that I report on any transfers of money between items within the same vote in the Estimates of the Office of the Legislative Assembly.

LEGISLATIVE APPROVAL OF EXPENDITURES

Shortly after presenting its budget, the government tables detailed Expenditure Estimates in the Legislative Assembly outlining, on a program-by-program basis, each ministry's spending proposals. The Standing Committee on Estimates (Committee) reviews selected ministry estimates and presents a report on them to the Legislature. The estimates of those ministries that are not selected for review are deemed to be passed by the Committee and are so reported to the Legislature. Orders for Concurrence for each of the estimates reported on by the Committee are debated in the Legislature for a maximum of two hours and then voted on.

Once the Orders for Concurrence are approved, the Legislature provides the government with legal spending authority by approving a *Supply Act*, which stipulates the amounts that can be spent by ministry programs, typically those set out in the estimates. Once the *Supply Act* is approved, the individual program expenditures are considered to be Voted Appropriations. The *Supply Act* pertaining to the fiscal year ended March 31, 2009, received Royal Assent on April 23, 2009.

The *Supply Act* is typically not passed until well after the start of the fiscal year—and sometimes even after the related fiscal year—but ministry programs require interim funding approval prior to its passage. The Legislature authorizes these payments by means of motions for interim supply. For the fiscal year ending March 31, 2009, the Legislature passed a motion of interim supply on December 6, 2007 that covered the period April 1, 2008 to July 31, 2008. The government also passed two acts allowing interim appropriations—the *Interim Appropriation Act, 2008*, and the *Supplementary Interim Appropriation Act, 2008*. These two acts received Royal Assent on May 14, 2008, and November 27, 2008, respectively, and authorized the government to incur up to $87.5 billion in public service expenditures, $2.6 billion in investments in capital assets, and $195.9 million in legislative

office expenditures. Both acts were made effective as of April 1, 2009, and provided the government with sufficient temporary appropriation authority to allow the government to incur expenditures from April 1, 2008 to March 31, 2009. The motion of interim supply provided the government with temporary approval to incur expenditures until the *Interim Appropriation Act, 2008* received Royal Assent.

Because the legal spending authority under the *Interim Appropriation Act, 2008* and the *Supplementary Interim Appropriation Act, 2008* was intended to be temporary, the acts were repealed under the *Supply Act, 2009*, and the authority to incur expenditures provided under the acts were subsumed into the authority provided under the *Supply Act, 2009*.

SPECIAL WARRANTS

If motions for interim supply cannot be approved because, for instance, the Legislature is not in session, section 7(1) of the *Treasury Board Act, 1991* allows for the issuance of Special Warrants authorizing the incurring of expenditures for which there is no appropriation by the Legislature or for which the appropriation is insufficient. Special Warrants are authorized by Orders-in-Council approved by the Lieutenant Governor on the recommendation of the government.

There were no Special Warrants issued for the fiscal year ended March 31, 2009.

TREASURY BOARD ORDERS

Section 8(1) of the *Treasury Board Act, 1991* allows the Treasury Board to make an order authorizing expenditures to supplement the amount of any voted appropriation that is expected to be insufficient to carry out the purpose for which it was made. The order may be made only if the amount of the increase is offset by a corresponding reduction of expenditures to be incurred from other voted appropriations not fully spent in the fiscal year. The

order may be made at any time before the books of the government of Ontario for the fiscal year are closed. The government considers the books to be closed when any final adjustments arising from our audit have been made and the Public Accounts have been tabled in the Legislature.

Subsection 5(4) of the *Treasury Board Act, 1991* allows the Treasury Board to delegate to any member of the Executive Council or to any public servant employed under the *Public Service of Ontario Act, 2006* any power, duty, or function of the board, subject to limitations and requirements that the board may specify. For the fiscal year ended March 31, 2009, the Treasury Board delegated its authority for issuing Treasury Board Orders to ministers for making transfers between programs within their ministries and to the Chair of the Treasury Board for transfers between programs in different ministries and making supplementary appropriations from contingency funds. Supplementary appropriations are Treasury Board orders whereby the amount of an appropriation is offset by reducing the amount available under the government's centrally controlled contingency fund.

Figure 7 summarizes the total value of Treasury Board Orders issued for the past five fiscal years. Figure 8 summarizes Treasury Board Orders for the fiscal year ended March 31, 2009, by month of issue.

According to the Standing Orders of the Legislative Assembly, Treasury Board Orders are to

Figure 7: Total Value of Treasury Board Orders Issued, 2004/05–2008/09 ($ million)

Source of data: Treasury Board
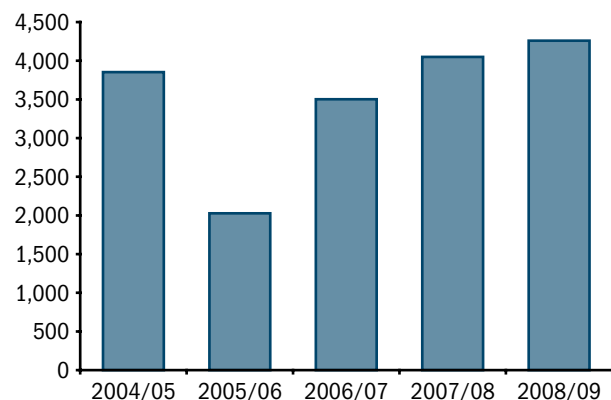
Figure 8: Treasury Board Orders by Month of Issue, 2008/09

Source of data: Treasury Board

Month of Issue	#	Authorized ($)
April 2008–February 2009	67	2,436,569,000
March 2009	22	1,293,912,900
April 2009	18	65,003,200
September 2009	2	464,855,800
Total	**109**	**4,260,340,900**

be printed in *The Ontario Gazette*, together with explanatory information. Orders issued for the 2008/09 fiscal year are expected to be published in *The Ontario Gazette* in December 2009. A detailed listing of 2008/09 Treasury Board Orders, showing the amounts authorized and expended, is included as Exhibit 3 of this report.

TRANSFERS AUTHORIZED BY THE BOARD OF INTERNAL ECONOMY

When the Board of Internal Economy authorizes the transfer of money from one item of the estimates of the Office of the Assembly to another item within the same vote, section 91 of the *Legislative Assembly Act* requires that we make special mention of the transfer(s) in this Annual Report.

Accordingly, with respect to the 2008/09 Estimates, the following transfers were made within Vote 201 and Vote 202, respectively:

From:	Item 2	Office of the Clerk	$ 20,700
To:	Item 3	Legislative Services	$ 20,700
From:	Item 10	Members' Office Support Services	$ 132,200
To:	Item 8	Caucus Support Services	$ 132,200
From:	Item 2	Office of the Information and Privacy Commissioner	$ 30,400
To:	Item 1	Environmental Commissioner	$ 30,400

UNCOLLECTIBLE ACCOUNTS

Under section 5 of the *Financial Administration Act*, the Lieutenant Governor in Council, on the recommendation of the Minister of Finance, may authorize an Order-in-Council to delete from the accounts any amounts due to the Crown that are deemed uncollectible. The amounts deleted from the accounts during any fiscal year are to be reported in the Public Accounts.

In the 2008/09 fiscal year, receivables of $390.2 million due the Crown from individuals and non-government organizations were written off (in 2007/08, the comparable amount was $199.6 million). The major portion of the write-offs related to the following:

- $138 million for uncollectible corporate tax (2007/08 – $59.8 million);
- $126.5 million for uncollectible retail sales tax (2007/08 – $92.4 million);
- $40.9 million for uncollectible motor fuel, tobacco, and land transfer tax (2007/08 – $0.5 million);
- $25.9 million for uncollectible employer health tax (2007/08 – $10.4 million);
- $15.7 million for uncollectible Criminal Code fines (2007/08 – $7.3 million);
- $14.9 million for uncollectible receivables under the Student Support Program (2007/08 – $9.9 million); and
- $12 million for uncollectible receivables under the Ontario Disability Support Program (2007/08 – $5.6 million).

Volume 2 of the 2008/09 Public Accounts summarizes the write-offs by ministry. Under the accounting policies followed in the preparation of the consolidated financial statements of the province, a provision for doubtful accounts is recorded against accounts receivable balances. Accordingly, most of these write-offs had already been expensed in the government's consolidated financial statements. However, the actual deletion from the accounts required Order-in Council approval.

Chapter 3

Reports on Value-for-money Audits

Our value-for-money (VFM) audits are intended to examine how well government, organizations in the broader public sector, agencies of the Crown, and Crown-controlled corporations manage their programs and activities. These audits are conducted under subsection 12(2) of the *Auditor General Act*, which requires that the Office report on any cases observed where money was spent without due regard for economy and efficiency or where appropriate procedures were not in place to measure and report on the effectiveness of service delivery. This chapter contains the conclusions, observations, and recommendations for the value-for-money audits conducted in the past audit year, except for those previously published in a special report during the year.

The ministry programs and activities and the organizations in the broader public sector audited this year were selected by the Office's senior management on the basis of various criteria, such as a program's or organization's financial impact, its significance to the Legislative Assembly, related issues of public sensitivity and safety, and the results of past audits and related follow-up work.

We plan, perform, and report on our value-for-money work in accordance with the professional standards for assurance engagements, encompass-ing value for money and compliance, established by the Canadian Institute of Chartered Accountants. Accordingly, our audits include such tests and other procedures as we consider necessary in the circumstances, including obtaining advice from external experts when needed. Our testing generally focuses on activities and transactions conducted in the most recently completed fiscal year.

Before beginning an audit, our staff conduct in-depth research into the area to be audited and meet with auditee representatives to discuss the focus of the audit. During the audit, staff maintain an ongoing dialogue with the auditee to review the progress of the audit and ensure open lines of communication. At the conclusion of the audit field-work, which is normally completed by late spring of that audit year, a draft report is prepared, reviewed internally, and then discussed with the auditee. Senior Office staff meet with senior management from the auditee to discuss the draft report and to finalize the management responses to our recommendations. In the case of organizations in the broader public sector, discussions are also held with senior management of the funding ministry. All responses are then incorporated into the report in each of the VFM sections.

Ministry of Health and Long-Term Care

Assistive Devices Program

Background

The Assistive Devices Program (Program) is administered by the Ministry of Health and Long-Term Care (Ministry). The primary objective of the Program is to provide support and funding to Ontario residents with long-term physical disabilities to obtain personalized assistive devices that enable them to function more independently.

Each category of device is funded differently. In general, devices can only be purchased from vendors who are registered with the Program. In most cases the client pays a portion of the equipment's cost at the time of purchase, and the vendor from whom he or she purchases it bills the Ministry for the balance. The exceptions are supplies for which the client receives a grant from the Program and may purchase supplies from any vendor he or she wishes.

A client's first access to the Program is often through a diagnosing physician. Another health-care professional who is registered with the Program as an "authorizer" then assesses the client's needs and prescribes the appropriate devices or supplies. The client then selects a vendor that sells him or her the prescribed device or supplies.

Figure 1 shows the 2008/09 fiscal year expenditures spread across various device categories for a

Figure 1: Assistive Devices Program Expenditures by Device Categories, 2008/09 ($ million)

Source of data: Ministry of Health and Long-Term Care
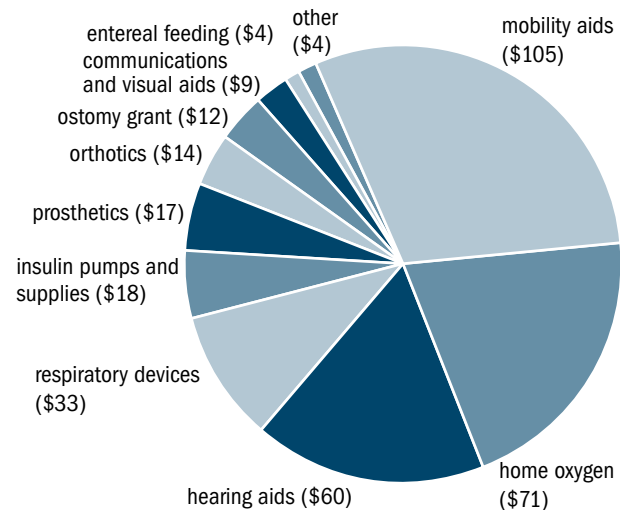
total of $347 million. Program expenditures have increased by more than 90% over the $181 million spent in 2001/02, the time of our last audit. This increase can be attributed to a price adjustment in 2004 to reflect fair market prices, as Program-approved prices had not been adjusted since 1993, an increase in the number of program clients from 173,000 to 294,000, and the introduction of a new insulin pump and supplies program in 2006.

Audit Objective and Scope

The objective of our audit was to assess whether the Ministry has effective systems and procedures to:

- ensure that program payments and resources are managed economically and efficiently, and in accordance with eligibility and other policy requirements; and
- measure and report on its achievement of program performance and objectives.

We developed audit criteria to assess the adequacy of the key systems, policies, and procedures that should be in place and operating effectively. Senior ministry management reviewed and agreed to these criteria. We then designed and conducted tests and procedures for meeting our audit objective and criteria.

To conduct our audit, we reviewed relevant ministry files, policies, and procedures. We interviewed appropriate ministry staff, reviewed supporting documents from vendors and health-care professionals, obtained relevant information from stakeholder groups and from comparable programs in other jurisdictions, and used computer-assisted audit techniques to analyze claims data. The work of the Ministry's Internal Audit Services did not affect the extent of our work because it had not recently conducted any audits of the Program.

Summary

Since our last audit in 2001, the Ministry of Health and Long-Term Care's Assistive Devices Program has improved its ability to monitor and enhance service delivery to clients. However, we believe that the Program can be run more cost effectively if the Ministry manages program payments more economically and enforces eligibility and other policy requirements more rigorously.

Specifically, the Ministry should more frequently review the prices it pays for goods and services and the prices and fees that vendors charge the Program's clients to ensure that they are reasonable. Because many of the clients who rely on this Program have to pay a portion of the cost of their devices, they are also adversely affected when the Ministry sets or accepts prices that are significantly higher than fair market value. The Ministry also needs to increase its efforts to identify and address the risks and costs related to ineligible claims, unusual claim patterns, and overpayments. Finally, the Ministry should be more proactive in identifying and addressing potential conflict of interest between authorizers and vendors and in pursuing other potentially questionable practices.

With respect to enhancing and monitoring services to clients:

- The Ministry has implemented several good initiatives to improve customer service. It has standardized claims-processing and response times, prioritized the assignment of work, and put procedures in place to investigate complaints and maintain complaint records.
- As a means of monitoring service-delivery levels, the Ministry conducts Customer Satisfaction Surveys every two years, and has re-instated standing committees to provide advice on policy, eligibility criteria, and the development of program-evaluation and monitoring strategies.

With respect to ensuring that competitive prices are being paid for assistive devices:

- In 2004, the Management Board of Cabinet granted the Ministry an exemption from competitive tendering for home oxygen after accepting the Ministry's proposal to negotiate a contractual agreement with representatives of home oxygen vendors. In its approval, the Management Board stated that annual expenditures are "not to exceed $54.6 million annually". We found the Ministry expenditures exceeded the approved amount by $6 million to $11 million for each of the fiscal years

from 2004/05 to 2007/08, and, although the Management Board approved a reallocation of funds from other program areas within the Ministry to fund this, there was no documentation to indicate that this issue had been specifically addressed. We also found, that from the 2002/03 to the 2008/09 fiscal years, the Ministry paid a total of $2.2 million more than the amount set in the existing agreement with vendors delivering home oxygen to clients in northern areas. The Ministry told us that the agreement was inconsistent with the intent of program policy and that it would seek to amend the agreement.

- The oxygen concentrators that are supplied to clients by vendors cost between $400 and $1,000 and last five to seven years. Based on the monthly fee ($389) that vendors receive for providing home oxygen, the Ministry pays them about $23,000 for each client over a five-year period. Although that Ministry indicated that a significant portion of the $23,000 related to other service-related costs incurred by the vendors, such as staffing and administration, the Ministry had not formally analyzed the reasonableness of this nor compared the price to that being paid by other provinces.

- We noted from our test sample that vendor mark-ups in all major device categories were higher than the reasonable target of 33% set by the Ministry. Average mark-ups for mobility devices, respiratory devices, and computer systems were 84%, 117%, and 128%, respectively, because the Ministry reviews and sets the Program-approved prices for these devices every two years without full consideration of significant price decreases in the marketplace arising from recent technological advances for certain types of devices. The prices set by the Ministry also do not take into account the potential for some vendors to obtain volume discounts.

- The Ministry allowed computer components such as monitors, printers, and scanners an

even higher mark-up, which enables vendors to bill computer equipment to the Program at significantly higher than market prices. For example, the Program-approved price is $1,332 for a monitor that often costs vendors only about $250, resulting in a potential mark-up of 400%. In our testing of the reasonableness of prices of computer systems with monitors and printers, we obtained price quotes from five Program-registered vendors. The prices quoted ranged from $1,300 to $4,400. The vendor that quoted $4,400 offered to cover the client's portion of $1,100 if the purchase was eligible for program funding.

With respect to the monitoring of claims:

- The Ministry reviewed scooter claims in 2004/05. Its review resulted in the termination of the agreement with an authorizer who had authorized scooters for individuals who were not eligible for program funding. The ministry review had a deterrence effect in the year immediately following, as evidenced by a 13% drop in total scooter claims, but the effect was short-lived, as indicated by an increase in scooter claims of 109% from 2005/06 to 2008/09. We reviewed three vendors (two of whom were also reviewed by the Ministry in 2004/05) whose scooter claims had increased by more than 800% over the last three years, going from $88,000 to $805,000. Our review indicated that the Ministry was not consistently monitoring scooter claims to identify unusual claim patterns and take appropriate action to prevent potential abuses.

- Certain other provinces use independent respiratory therapists to assess clients' continued eligibility for home oxygen, but Ontario uses respiratory therapists employed by oxygen vendors to perform such assessments. The obvious risk associated with vendor-employed respiratory therapists assessing clients' eligibility is that it is in the vendor's interest for the client to continue to receive home oxygen.

- Respiratory therapists employed by home oxygen vendors perform annual assessments of home oxygen clients to support their continued need for home oxygen, but they are not required to submit the results to the Ministry unless requested. One-third of the sample of client assessments we requested from vendors had either not been done or had results indicating that the clients no longer met the criteria for long-term home oxygen supply. Yet the Ministry continued to pay for these clients to receive home oxygen.

- Claims for Frequency Modulated (FM) Systems, a type of hearing device that minimizes background noise to make the speech signal more pronounced, have risen significantly since 2004/05, especially in the senior age group (66 and over), whose claims increased by almost 1,800% from 187 claims or $250,000 in 2004/05 to 3,557 claims or $4.8 million in 2008/09. Some clients indicated that their FM systems came in "packages" with hearing aids and they did not really need or use the FM systems. The Ministry developed a plan of action in January 2009 to identify improper claims and investigate irregularities, to prevent further abuses.

With respect to detecting and deterring potential conflict of interest between authorizers and vendors:

- The Ministry should be more proactive and rigorous in detecting and deterring potential conflicts of interest among vendors, authorizers, and/or prescribers in all major device categories. We found that some vendors had more than 90% of their claims signed by only one or two authorizers or prescribers. One such vendor had claimed more than $10 million for hearing aids since 2000. We also found that some authorizers or prescribers had been continually referring clients to the same vendors, located more than 30 kilometres away, although many other Program-registered vendors were located much closer to where the clients lived.

- Even in cases where the Ministry did find potential conflict of interest or misconduct on the part of Program-registered health-care professionals, it seldom took action to terminate their agreements with the Program and alert the regulatory college or professional association. In some cases, the Ministry knew about a problem for several years yet took no remedial action.

With respect to recycling and refurbishing wheelchairs for reuse:

- The Ministry has contracted with a vendor to exclusively provide clients throughout Ontario with both new and recycled power wheelchairs from March 2007 to February 2010. The vendor guaranteed a recycling rate of 20% in its first year of operation and 25% thereafter, with any shortfall to be credited to the Ministry, but we found that the actual recycling rate in the first year was 8.4%, and the rate for the second year has yet to be determined. After we brought this issue to ministry staff's attention, they advised us that they would follow up with the vendor.

- Since 2002/03, manual wheelchairs have accounted for about 80% of the Program's wheelchair claims. However, the Ministry currently has no recycling initiative in place for used manual wheelchairs. We found that other jurisdictions such as Alberta and Quebec have programs in place to recycle and refurbish manual wheelchairs for reuse. Aside from the environmental impact, these provinces were able to achieve significant cost savings of $4 million to $5 million per year, because the average cost of a recycled wheelchair was only about one-third of a new one.

With respect to recovering overpayments:

- The Ministry has identified payments that were made to vendors as far back as 2001 for deceased clients whose home oxygen payments continued to be made after their death. The Ministry was already attempting to recover these funds.

- We identified potential duplicate payments for clients' claims made by the Ministry and the Workplace Safety and Insurance Board (WSIB). Since 2006, the Ministry has recovered about $110,000 in duplicate funding for hearing aids, but it was not aware of and had not recovered duplicate funding for other device categories until we brought this to the Ministry's attention. Ministry staff indicated that this was because there is no information-sharing agreement in place with the WSIB.

OVERALL MINISTRY RESPONSE

The Ministry is dedicated to the fair and responsible delivery of the Assistive Devices Program to ensure that program recipients, who are among Ontario's most vulnerable citizens, have access to the assistive devices and supplies that they require. The Program provides funding support to enable these clients to obtain competitively priced, personalized assistive devices appropriate for the individual's basic needs. Increasing utilization of the program is the result of Ontario's aging population, and the increased independence of seniors and people with long-term physical disabilities who are able to continue to live in their own communities instead of living in more costly institutional settings. The Ministry generally accepts the recommendations of the Auditor General and will continue its efforts to strengthen accountability and to ensure the efficient use of resources and the provision of high quality devices at reasonable prices.

The Ministry initiated work in the 2008/09 fiscal year to improve the transparency of the procurement of Home Oxygen services by moving to a Vendor of Record list, strengthening the registration requirements for home oxygen vendors, and clarifying the requirements for long-term oxygen therapy eligibility. As part of this work, the Ministry is reviewing the pricing structure for the provision of home oxygen. It is

continuing to increase its efforts in compliance and quality assurance and is implementing new procedures and across-the-board training in risk management. The number of confirmation letters sent to approved clients has been increased by 193% since the 2003/04 fiscal year, and a contact management system is being implemented to improve stakeholder relations. The amount and quality of information available to the public through the Ministry's website is being increased to improve transparency on device-listing, availability of vendors, and eligibility criteria. Beginning in the 2008/09 fiscal year, the Ministry has been working to implement a new information system to replace the current legacy system by spring 2011, which will help the Ministry to monitor patterns and trends of authorizer and vendor activity to ensure that program payments are managed in accordance with the Program's policy requirements.

Detailed Audit Observations

OVERVIEW OF MAJOR DEVICE CATEGORIES AND KEY PLAYERS

Each category of assistive device is funded differently and involves different players. Figure 2 provides an overview of how funding works for each major device category. Figure 3 defines and illustrates the key players (authorizers and vendors) involved in the program.

PROGRAM PERFORMANCE

Client Service Delivery

Since our last audit in 2001, the Ministry has improved its ability to enhance and monitor its service delivery to clients. Some of the initiatives the Ministry has undertaken include:

Figure 2: Overview of Major Device Categories

Source of inofrmation: Ministry of Health and Long-Term Care

Device Category	Types of Devices Funded	How Funding Works/ Who is Eligible	Who Assesses Client's Eligiblity for Device/ Supplies[1]	Where Client Can Purchase Device[1]	Who Receives Program Funds[1]	Claims ($ million) 2001/02	Claims ($ million) 2008/09	Change (%)
mobility aids	• ambulation aids (e.g., forearm crutches, wheeled walkers, standing frames) • wheelchairs and scooters • positioning or seating devices	• Program sets price for each type of device • vendors cannot charge more than Program-approved price, but can charge less • Program pays 75% of price, client pays remaining 25%	Program-registered authorizer: • occupational therapist • physiotherapist	Program-registered vendor	Program-registered vendor	47	105	124
home oxygen[2]	• concentrators • cylinders • liquid systems • related supplies (masks, humidifier, tubing)	• Program funds $389 per month per eligible person, with $25 premium tacked on for northern areas • Program covers 100% of home oxygen costs for seniors and those who: • receive social assistance • receive home-care services • reside in a long-term-care facility • Program covers 75% of home oxygen costs for all other eligible individuals	• initial assessment (arterial blood gas test) by physician • subsequent assessments (oximetry tests) by: • physician; or • respiratory therapist (who may be employed by vendor)	Program-registered vendor	Program-registered vendor	51	71	39
hearing aids	• hearing aids • Frequency Modulated (FM) Systems • related accessories (cords, inputs, etc.)	• funding covers 75%, up to a maximum of: • $500 toward cost of one hearing aid • $1,000 toward cost of two hearing aids • $1,350 toward cost of FM System • funding applicable toward: • device itself • ear mould (container for device) • accessories listed with program • dispensing fee • client pays vendor difference between total cost and amount of program funding	Program-registered authorizer: • audiologist; or • hearing instrument specialist	Program-registered vendor	Program-registered vendor	33	60	81

1. See Figure 3 for a description of registered authorizers and registered vendors
2. See Figure 4 for full description of this equipment

Chapter 3 • VFM Section 3.01

Device Category	Types of Devices Funded	How Funding Works / Who is Eligible	Who Assesses Client's Eligibility for Device/Supplies[1]	Where Client Can Purchase Device[1]	Who Receives Program Funds[1]	Claims ($ million) 2001/02	Claims ($ million) 2008/09	Change (%)
respiratory devices	• Continuous Positive Airway Pressure (CPAP) Systems	• Program sets price for CPAP System at $1,040 • vendors cannot charge more than Program-approved price, but can charge less • Program pays 75% of price, client pays remaining 25%	physician at sleep clinic registered with Program	Program-registered vendor	Program-registered vendor	13	33	147
	other respiratory devices: • compressors • postural drainage boards • percussors • resuscitators	• Program sets price for each type of device • vendors cannot charge more than Program-approved price, but can charge less • Program pays 75% of price, client pays remaining 25%	physician (usually a specialist in respiratory illnesses)	Program-registered vendor	Program-registered vendor			
ostomy supplies	• any supply that aids in collection of fecal or urinary waste which usually empties into a pouch attached to abdomen	• Program provides people with permanent ostomies (surgical openings required with loss of bladder or bowel function) an annual grant of $600	• physician; or • registered nurse qualified for primary health care provision	any Ontario vendor of ostomy supplies	client	11	12	3
communication and visual aids	• voice amplifiers • optical aids (e.g., specialized prescription glasses, magnifiers, telescopes) • reading and writing aids (e.g., computer equipment, audio book playback machines)	• Program sets a price for each type of device • vendors cannot charge more than Program-approved price, but can charge less; • Program pays 75% of price, client pays remaining 25%	Program-registered authorizer: • speech-language pathologist • ophthalmologist • optometrist • vision rehabilitation worker • specialist teacher of the blind • rehabilitation teacher; or • occupational therapist	Program-registered vendor	Program-registered vendor	7	9	40
insulin pumps and supplies	insulin pumps	• Program sets price for insulin pump at $6,300 • Program covers 100% of the price of one insulin pump for individuals with type 1 diabetes	multi-disciplinary team of diabetes health-care professionals (physician, registered nurse, registered dietitian) registered with the Program	Program-registered vendor	Program-registered vendor	n/a (funding only in place since 2006/07)	18	n/a
	insulin supplies	Program provides an annual grant of $2,400 for individuals with type 1 diabetes		any Ontario vendor of insulin supplies	client			

1. See Figure 3 for a description of registered authorizers and registered vendors

Figure 3: Assistive Devices Program - Key Players

Source of information: Ministry of Health and Long-Term Care

Key Players	Description	General Registration Requirements	Roles and Responsibilities
registered authorizer	• qualified health-care professional registered with Program • about 6,000 authorizers in various professions listed with Program: physicians, audiologists, occupational therapists, physiotherapists, speech pathologists, optometrists, and ophthalmologists • works in hospitals, home-care agencies, and practices assessing clients' needs and prescribing appropriate devices or supplies • in some device categories authorizer can also be vendor, eg., hearing aids	• sign and submit Authorizer Agreement, which stipulates terms and conditions of retaining authorizer status with Program • provide proof of professional qualifications and good standing with professional college or association	• meet all conditions specified in the Authorizer Agreement • authorize equipment that fits client's functional requirements and meets program eligibility criteria • inform client about program policies, eligibility criteria, and procedures • assess program applicants for eligibility, help client complete application forms, etc. • determine type of device/supplies that best suit client's need • provide client with list of Registered Vendors in his or her area • discuss client's equipment needs and technical support requirements with vendor • ensure that client receives appropriate assessment and trial equipment from vendor • follow up with client to ensure that correct authorized equipment has been delivered and client's needs are being met by prescribed device/supplies
registered vendor	• private business or non-profit organization registered with Program • supply assistive devices or supplies to persons eligible for program funding • about 1,000 vendors listed with Program; some sell products in more than one device category	• sign and submit the Vendor Agreement, which stipulates the terms and conditions of retaining vendor status with Program • complete an application and provide various business documents, including proof of ownership, insurance and banking information, manufacturers' agreements, proof of staff's professional qualifications, and floor plan/office layout • if vendor works out of multiple locations, each must be registered separately with Program	• meet all conditions specified in the Vendor Agreement • maintain up-to-date knowledge of Program-listed equipment • keep adequate stock of equipment it is authorized to sell • educate client and authorizer on makes and models of equipment available and maintenance it requires • provide reasonable variety of assessment equipment for client to try when requested by authorizer • work with client and authorizer to ensure that equipment meets the individual's needs • provide required price quotes to client and Program • notify authorizer when equipment has been delivered to client so authorizer can follow up • honour manufacturer warranties and provide after-sale service

- establishing a standard processing time for claims and a standard response time for telephone and written inquires, and monitoring timeliness and help-desk effectiveness against those standards.

- reporting to management on backlog and workload statistics for data entry and claims assessment in each device category. This has helped to prioritize and assign work, and, at the time of our audit, the backlog had largely been addressed. Claims in all device categories were being entered and adjudicated within the Ministry's standard timeframe of six to eight weeks.

- developing procedures for investigating complaints and maintaining records of the number and nature of complaints.

- re-instating standing committees in response to one of our 2001 audit recommendations. The committees meet twice a year to provide advice on policy, eligibility criteria, and program evaluation and monitoring strategies. There are currently four committees on the major device categories: mobility, prosthetics and orthotics, respiratory, and sensory. Committee members include health-care professionals, vendors, manufacturers, and consumers from across the province.

- conducting customer satisfaction surveys every two years to assess the level of client satisfaction and to improve service delivery models. Three surveys were completed since the 2002/03 fiscal year. More than 85% of respondents said that, overall, they were satisfied with the Program. Some respondents, however, said that they were concerned about the reasonableness of the amounts they had to pay for devices or supplies.

Program Cost Effectiveness

While the Ministry has improved its service delivery to clients, it has not focused enough attention on ensuring that the Program is being delivered as cost-effectively as possible. As outlined in the following sections of our report, we believe there are a number of areas where more rigorous oversight would yield significant savings.

PRICING

In 2004, the Program implemented a new pricing approach called the fixed pricing model, under which vendors are not allowed to charge more than the Program-approved prices. At the time of implementing this new approach, the Program-approved prices had not been adjusted since 1993. The goal of the Program's pricing policy is to ensure that prices are fair, consistent, and equitable across device categories. To achieve this goal, the Ministry is required to regularly review and update the prices it has set for the devices and supplies that the Program covers. Home oxygen is an exception because its prices have been fixed on the basis of a contractual pricing agreement with vendors.

Pricing of Home Oxygen

Reasonableness of Pricing

As illustrated in Figure 4, there are three different methods of providing home oxygen to clients: liquid oxygen, concentrators, and cylinders. The cost is not the same for all three methods. In general, liquid oxygen is the most expensive because of the high service costs associated with refilling and replacement.

The Ministry currently pays directly to home oxygen vendors a single rate of $389 per month per client, with a $25 premium for clients in northern areas. Instead of using competitive open tendering, the price was set on the basis of an agreement negotiated with vendors (see Compliance with Negotiated Pricing Agreements). Because Ontario currently pays a fixed monthly rate for delivery of home oxygen regardless of the method used, the Ministry indicated that it did not track oxygen use by delivery method. In its response to our follow-up report in 2003, however, the Ministry indicated

Figure 4: Types of Oxygen Systems

Source of information: Ministry of Health and Long-Term Care

Types of Oxygen Systems	Description
concentrator	• plug-in machine that extracts and accumulates oxygen from the air in a room • does not need to be replaced regularly or refilled, because it continually extracts existing oxygen from the air
cylinder	• cylindrical tank storing compressed oxygen • large tanks are used inside the home, and small tanks are used during outings or travel
liquid	• stores oxygen in liquid form in large stationary containers called reservoirs • liquid is turned into gas before it leaves the container • portable units for use during outings or travel are filled from the reservoir

that it intended to design a system for collecting statistics on the use of liquid oxygen and concentrators in preparation for negotiating the next pricing agreement.

Our review of invoices from vendors showed that the majority of clients were on a concentrator system. One major vendor indicated to us that almost 90% of its clients were on a concentrator system. Unlike cylinder or liquid oxygen systems, concentrators do not need to be refilled with oxygen, nor must they be replaced often. They are simply plugged in and start accumulating and delivering a continuous stream of oxygen from the air in a room. According to the manufacturers' invoices the vendors provided, the cost of a concentrator could range from $400 to $1,000. Concentrators generally last from five to seven years. Yet the total revenue that a vendor receives from the Program for a concentrator that lasts five years is approximately $23,000 ($389 x 12 months x 5 years). The Ministry advised us that most of the $23,000 relates to other ongoing client services that are not

directly related to the cost of the concentrator or routine maintenance. However, the Ministry has not assessed whether this is a reasonable amount for it to be paying nor compared it to what other provinces are paying for a similar service.

We noted that, although the Ministry had not done any cost analyses for the three different methods of delivering home oxygen, it had conducted a cross-jurisdictional study of home oxygen programs. However, the Ministry could not draw any meaningful comparisons from its study because it did not know how home oxygen delivery was divided up among the three different methods in each jurisdiction.

According to the Ministry's Home Oxygen Joint Utilization Committee, Alberta is the most comparable jurisdiction to Ontario, and Ontario's home oxygen prices are at the "high end" compared to other jurisdictions. We noted that Alberta's rate is $331 per month, 18% lower than Ontario's rate of $389.

Compliance with Pricing Agreements

The monthly rate for home oxygen was fixed on the basis of a pricing agreement negotiated with vendors represented by the Ontario Home Respiratory Services Association (OHRSA). The agreement was signed in 2004 after the Ministry requested an exemption from the competitive open tendering requirement of the Management Board of Cabinet's Procurement Directive for Goods and Services. The Ministry also requested approval for negotiations that would maintain annual program expenditures at $54.6 million for four years. The request indicated that if utilization increased by more than 3%, the Ministry would be able to lower the set price by 3% per year. With the approval of the Management Board of Cabinet, the Ministry negotiated and signed the agreement with OHRSA to maintain program expenditure on home oxygen at $54.6 million per year to March 31, 2008. The final agreement, however, did not contain any terms for a price reduction based on an increase in utilization.

For each of the fiscal years from 2004/05 to 2007/08, annual expenditures were $6 million to $11 million more than $54.6 million, or $33 million more in total. Ministry staff informed us that they felt the agreed-upon yearly amount of $54.6 million did not take into account the continually growing aging population and the prevalence of chronic obstructive pulmonary disease (COPD), a respiratory disease primarily caused by tobacco smoke. The Ministry further indicated that it was its understanding that the $54.6 million could be exceeded if utilization increased significantly. The Ministry confirmed that in those years where expenditures exceeded the contract amount, the excess amounts were approved through Treasury Board Orders, which authorize an increase in program expenditures if the increase is offset by a corresponding reduction of expenditures in another program area.

Our review found that the submission to the Management Board did not make reference to the annual limit of $54.6 million previously imposed by the Management Board or the existence of such a limit in the agreement with the vendors. The Ministry also advised us that it felt that the Management Board had been apprised of this during in-year updates, although there was little documentation to indicate this issue had been specifically raised.

In 2008, the Ministry sought and received approval to negotiate an extension of the existing agreement and a continued exemption from competitive tendering. The Ministry extended the existing agreement to 2009, with an option to renew for another year. We believe some clarification is needed with respect to whether continued exemption from competitive tendering is conditional on total annual expenditures not exceeding $54.6 million.

In addition, we found that the Ministry paid certain vendors the $25 premium for clients in northern areas even though, according to the agreement with the vendors, these clients were not eligible for the premium. This has resulted in potential overpayments of approximately $2.2 million from 2002/03

to 2008/09. When we brought this to the Ministry's attention, it noted that the agreement was in error because it was inconsistent with the intent of program policy. The Ministry is working with the vendor community to correct the agreement.

RECOMMENDATION 1

To ensure that prices for home oxygen are competitive, the Ministry of Health and Long-Term Care should perform a more rigorous analysis of the costs of delivering home oxygen under each method before negotiating the new rate for home oxygen. This analysis should consider the oxygen prices other provinces are paying to ensure that Ontario is getting good value, especially given the economies of scale that should result from being the largest province.

The Ministry should seek clarification from the Management Board of Cabinet with respect to the approval not to tender for home oxygen provided that "total expenditures for the program should not exceed $54.6 million annually". Specifically, it should confirm whether the maximum can be exceeded due to an increase in utilization provided the increase can be funded internally within the Ministry and approved through a Treasury Board Order.

MINISTRY RESPONSE

The Ministry is conducting an open and transparent procurement process to establish a vendor-of-record list for the provision of home oxygen services over the next five years, with the option to extend for up to two years. Reimbursement rates are under review, and the Ministry has retained the services of an independent consultant to provide expert advice on determining a fair price. The consultant conducted interviews with key health-care experts, studied the drivers that affect the cost of home oxygen services as well as how these cost drivers might change over the next seven years, and reviewed pricing models in other jurisdictions.

In 2008, the Ministry received approval to negotiate a one-year agreement with a possible one-year extension with home oxygen vendors. The approval noted the forecasted expenditures on home oxygen in 2008/09 and 2009/10 as projected based on current utilization growth rates.

The Ministry firmly believes that it has sought and received the appropriate approvals for program spending in all instances where expenditures exceeded the initially approved allocation, and the Ministry has approval to establish a Vendor of Record list and the pricing for home oxygen services. In addition, the Ministry will seek clarification from Treasury Board and Management Board Secretariat.

The Ministry's payments of the $25 premium for clients in northern areas were made correctly despite incorrect wording in the vendor agreement and did not result in a potential $2.2-million overpayment.

Pricing of Other Devices

According to the mark-up policy outlined in the Policies and Procedures Manual for the Assistive Devices Program, "the price for a product should be the manufacturer's unit cost to the vendor for that product plus a reasonable return up to 33.3%. The result will be a vendor margin of 25%." Ministry staff informed us that the purpose of this policy is to ensure that Program-approved prices are reasonable, appropriate, and consistent with fair market value. Hearing aids are an exception. Vendors of these devices are not allowed to mark them up at all. The price a vendor charges for a hearing aid device must be the same as that of the manufacturer. See Figure 2 for a detailed explanation of how pricing works in each device category.

Mobility Aids

We noted from our sample testing that the cost for mobility aids varied significantly from vendor to vendor, largely based on the size and buying power of each individual vendor. The average mark-up between the Program-approved price and the vendor cost was 84%, which was significantly higher than the 33.3% set out by the Program as reasonable. Our testing indicated that:

- the Ministry set the prices on the basis of the cost of a single unit, without taking into consideration the volume discounts vendors would normally get when purchasing multiple units of the same device; and
- the Ministry conducted pricing reviews in 2004 and 2006, but has not done one since although they are required every two years; therefore, current prices may not reflect possible decreases in manufacturers' unit costs because of technological advances.

Hearing Aids

As noted in Figure 2, program funding covers the cost of the hearing aids, ear moulds, options/accessories listed with the Program, plus the applicable dispensing fees charged by dispensers for duties such as ordering, fitting, and adjusting, and for instructing clients how to use hearing aids and care for them, but these fees cannot be for more than the amounts stipulated by their professional associations' fee schedules. We selected a sample of claims to assess vendors' and dispensers' compliance with program policies and procedures and the reasonableness of prices. We found that:

- Vendors are not allowed to mark up the price of hearing aids. The price they charge must be the same as the manufacturer's price. However, we noted cases where vendors did not adhere to this requirement. For example, a vendor charged a 50% mark-up of about $430. The vendor explained to us that the mark-up was for the "worry-free" program, but this was not apparent on the invoice. Another vendor did not pass on the savings to clients when manufacturers' discounts were obtained by buying hearing aids in bulk. This

vendor consistently charged a 30% mark-up amounting to about $200 on top of the manu-facturer's price.

- The Ministry does not check if dispensers are complying with fee schedules before it approves claims. The Ministry only examines dispensing fees if a vendor's claim is selected for review by the Compliance and Quality Assurance Unit. We noted instances where dispensers have been consistently billing a dispensing fee higher than the program average, which is about $650. In one case, a dispenser had an average dispensing fee of more than $1,700, which would result in the client overpaying his or her share of the cost because the maximum amount the program funds is $500 per hearing aid.

Respiratory Devices

More than 90% of program funding for respiratory devices helps pay for Continuous Positive Airway Pressure systems (CPAPs), which help people with obstructive sleep apnea symptoms breathe easier during sleep.

We reviewed a sample of invoices and noted that the average mark-up between the Program-approved price and the vendor cost of CPAPs was 117%, much more than the mark-up of 33.3% set out by the Program as reasonable. Many vendors claimed that the Program's mark-up policy does not take into account the additional indirect support costs of providing CPAP therapy to clients, such as set-up time, client visits, and maintenance. However, according to the Policies and Procedures Manual for the Assistive Devices Program, the Program-approved price is not intended to cover support or service fees but rather only the complete system, which consists of a CPAP device, a heated humidifier, a basic mask and headgear, a carrying case, six feet of tubing, the necessary caps and filters, a power cord, and an instruction manual. Ministry staff informed us that some vendors have a higher mark-up than is allowed because they obtain

savings by purchasing devices in bulk, yet this is not taken into consideration when the Ministry establishes the Program-approved prices. The Ministry advised us that it is currently in the process of conducting a review of CPAP device prices.

Vendors may offer to clients extra items or services that are not covered by the Program, such as service packages. The Ministry requires vendors to provide clients with itemized invoices for the additional services, and to explain to clients that they have the option to purchase only the Program-funded device if they wish. Our review of vendors' invoices to clients revealed that most clients were charged for additional items that were not covered by the Program. We were not able to confirm whether the vendors informed clients that they could choose to purchase only the Program-funded device, but we did note cases where they did not provide the required itemization on their invoices. Instead, the invoices showed a lump sum and subtracted the portion covered by Program funding. For instance, the invoice listed a charge of $1,600 for a "CPAP package" and subtracted the Program's $780 portion from this amount without providing any cost breakdown for the remaining portion that the client had to pay. We are concerned that ambiguous invoices may lead clients to mistakenly believe that the total price is for the basic device only. Ministry staff indicated that they have similar concerns and have begun to look into this issue.

Communication and Visual Aids

The Program funds the purchase of computer equipment to be used as communication aids or aids for the visually impaired. The Ministry informed us that it had done two pricing reviews, one in 2004 and one in 2006, but our review indicated that the Program-approved prices still appear to be significantly higher than fair market value. For example:

- We reviewed a sample of complaints and noted that excessively high prices for computer equipment have been a recurring issue.

The complaints revealed that vendors often charged inflated prices for computer equipment. Some clients found the same devices at much lower prices from vendors not registered with the Program. In one case, a client complained that the price quote a vendor provided was more than $4,100, nearly three times the price the client found online for the same device.

- We obtained price quotes from five Program-registered vendors for the same computer system with a comparable monitor and printer. The prices they quoted ranged from $1,300 to $4,400. The vendor that quoted $4,400 offered to cover the client's 25% portion of the cost ($1,100).

We reviewed a sample of claims from major vendors for computer equipment and related supplies. We noted the following questionable pricing practices:

- Prices of the computer equipment had been marked up much higher than the program maximum of 33.3%. In fact, the average mark-up was 128%. Component parts such as monitors, printers, and scanners had the highest mark-ups. For example, the Program-approved price for a monitor is $1,332, and a vendor can often obtain a comparable monitor for only $250, which amounts to a mark-up of more than 400% if the vendor sells it for the Program-approved price. Ministry staff acknowledged that Program-approved prices, last reviewed in 2006, probably exceed current fair market prices, and that vendors could therefore obtain returns greater than 33.3%. The Ministry indicated that it would determine appropriate prices for computers as part of its pricing review in the 2009/10 fiscal year.
- We noted some instances where vendors billed the Program separately for two devices (a printer and a scanner), but only supplied the client with one device (an "all-in-one" printer). In 2006, the Ministry had also identified this issue in its review of a vendor and

subsequently referred the case to the Ontario Provincial Police. Ministry staff acknowledged that this practice was improper, but explained that they lack the resources to thoroughly review vendors and discourage such practices from recurring.
- We noted some cases where vendors added service fees to the Program-approved price. One vendor required that clients sign an agreement indicating that a service fee of about $700 was included in the total the vendor had charged the Program. Ministry staff confirmed that other fees such as service charges are not supposed to be added to the fixed Program-approved price.

RECOMMENDATION 2

To ensure that the cost of equipment paid for by the Ministry and its clients is competitively priced, the Ministry of Health and Long-Term Care should:
- conduct regular pricing reviews for each device category and update Program-approved prices accordingly; and
- take volume discounts and technological advances into consideration when updating Program-approved prices.

MINISTRY RESPONSE

The Ministry's policy is to review prices every two years. As such, the Ministry will ensure that pricing reviews occur on a timely basis. A pricing review was initiated in 2008 and is scheduled to be completed in the 2009/10 fiscal year.

The Assistive Devices Program works to ensure that prices across device categories are fair, consistent, and equitable. The Program's funding model is also expected to take into consideration the economic and social environment within which the Program receives its share of public funds, and to enable clients to access needed devices. Prices set through the Pricing

> Policy must therefore be suitable for clients regardless of their location and their access to larger vendors that may have a purchasing advantage over small and remote vendors.

VERIFICATION AND REVIEW PROCESS

Monitoring of Claims

Home Oxygen Claims

Home oxygen applicants must meet specific eligibility criteria. Their eligibility is determined by the results of an arterial blood gas test or an oximetry test, both of which measure oxygen levels in the blood. In response to our audit in 2001, the Ministry changed the eligibility testing intervals in October of that year. Before that time, a person was required to submit results of an arterial blood gas test and to reapply annually for continued coverage by submitting the results of an oximetry test. Individuals are now required to be assessed on three separate occasions: the results of an arterial blood gas test must be submitted upon their initial application; the results of an oximetry test must be submitted three months afterwards; results of another oximetry test must be submitted 12 months after the initial application. Although no further submission of clients' test results is required after the third assessment, the policy outlined in the Program's Administration Manual for Home Oxygen states, "clients are required to have their oxygen requirements assessed annually once long-term funding assistance has been provided." These annual assessments were done by respiratory therapists employed by the vendors.

We reviewed a sample of client files from two major vendors. These vendors account for more than 60% of the home oxygen supply that is funded by the Program. We noted that more than one-third of the files showed that either no assessments had been done for the past 18 months, no test results had been recorded, or the results indicated that the clients no longer met the criteria for long-term

home oxygen supply. Perhaps not surprisingly, the vendors had not advised the Ministry of this—even in the cases where test results indicated home oxygen was no longer required. We also noted that:

- It is not clear who is responsible for discontinuing home oxygen supply for clients who no longer meet the eligibility criteria. Vendors told us that it is not their responsibility, even if they are aware that a client no longer meets the eligibility criteria. They indicated that only a physician could recommend discontinuing home oxygen.
- Ministry staff had also identified cases where long-term clients were receiving home oxygen even though they no longer met the eligibility criteria. In a report to program management, program staff recommended that clients submit the results of reassessments on a regular basis, but the Ministry has not yet taken any specific action to resolve this issue.

According to a cross-jurisdictional study the Ministry did in 2008, Ontario had among the largest proportion of home oxygen users of all the provinces: 150 users per 100,000, compared to the Canadian national average of 60 users per 100,000. Alberta requires more frequent and stringent assessment of home oxygen needs than does Ontario. During their first year of home oxygen use, clients in Alberta are required to be assessed three times with arterial blood gas tests. After that, they must be reassessed every six months to show that they still warrant home oxygen.

In Ontario, respiratory therapists employed by home oxygen vendors assess clients with oximetry tests. In other provinces, such as British Columbia and Saskatchewan, independent respiratory therapists at the Regional Health Authorities conduct oximetry testing. The Ministry informed us that Ontario's health-care system differs from that of other provinces with respect to the distribution of respiratory therapists in the community, and that Ontario currently does not have enough respiratory therapists working independently from vendors. The obvious risk associated with vendor-employed

respiratory therapists assessing clients for home oxygen eligibility is that it is in the vendor's interest for the client to continue to receive home oxygen.

RECOMMENDATION 3

To ensure that funding for home oxygen is provided only to individuals who require it for medical reasons, the Ministry of Health and Long-Term Care should:

- assess whether more stringent vendor oversight is required to ensure that the required periodic assessment tests are being appropriately conducted and reported, or, alternatively, consider the practicality of having independent respiratory therapists perform eligibility assessments, rather than vendors' staff; and
- establish procedures and assign clear responsibility for discontinuing home oxygen supply to clients who no longer meet the medical eligibility criteria.

MINISTRY RESPONSE

Respiratory therapists are regulated health professionals who are required to meet the standards of practice established by the College of Respiratory Therapists of Ontario. Their employment by home oxygen vendors does not mitigate their requirements to meet the standard of practice of their profession.

Home oxygen therapy is provided only to individuals who require it for medical reasons. The Ministry requires an assessment and prescription by a qualified physician, and the prescribed service continues until the physician deems it unnecessary on the basis of the individual's clinical needs. The Ministry will require annual written confirmation of the patient's continuing need for home oxygen therapy.

Mobility Aids—Scooter Claims

The Program funds power scooters, which are a type of mobility aid. Individuals are only eligible for scooters if they require them to meet long-term basic and essential mobility requirements; do not require specific postural support now or in the future; do not intend to use the scooter to replace a car or other mode of transport; and can get on and off the scooter without assistance.

In the 2004/05 fiscal year, the Ministry contracted with a third party to review scooter claims and found some clients who had been authorized for scooters did not meet the eligibility requirements. We noted that total scooter claims decreased by 13% from 2004/05 to 2005/06, the year after the Ministry's review. The review's deterrence effect did not last very long, however—we noted an increase in scooter claims of 109% from 2005/06 to 2008/09 (see Figure 5).

More than 150 vendors received program funding for power scooters in the 2007/08 fiscal year. We reviewed the top ten of these vendors and selected those with at least a 200% one-year increase in scooter claims. We found three vendors whose 2008/09 scooter claims had increased by more than 800% (from $88,000 to $805,000) compared to three years ago (see Figure 6).

One of the vendors had gone into business only four years ago, so the Ministry's last review of

Figure 5: Scooter Claim Trend, 2004/05–2008/09 ($ million)
Source of data: Ministry of Health and Long-Term Care
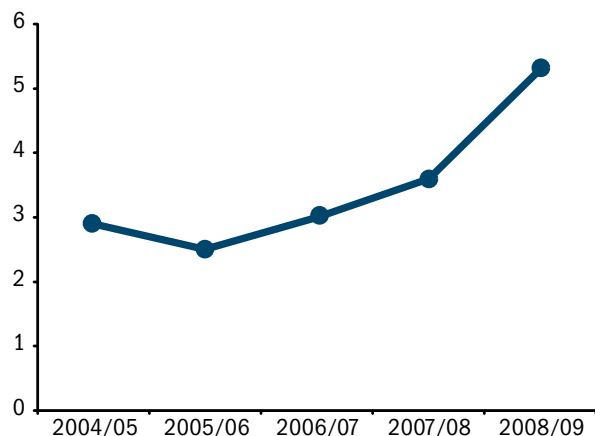
Figure 6: Scooter Claims of Sample Vendors from 2004/05–2008/09 ($ 000)

Source of data: Ministry of Health and Long-Term Care
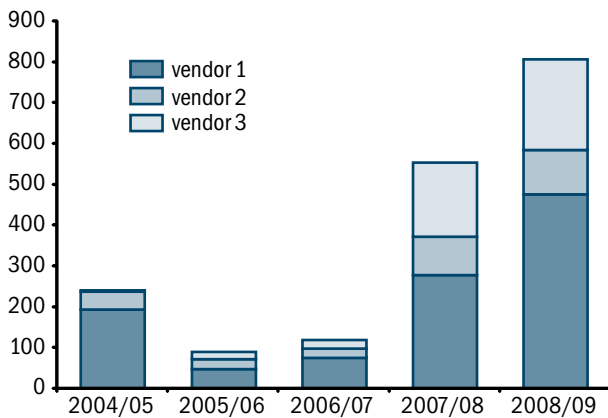
scooter claims pre-dated it. The other two vendors had been selected by the Ministry for a review in 2004/05, because of unusual claim patterns. The Ministry's review resulted in the termination of the agreement with the authorizer associated with these two vendors for authorizing scooters for clients who were not eligible for program funding, but the Ministry did not report its concerns regarding the authorizer's actions to the relevant regulatory college.

As noted in Figure 6, the Ministry's 2004/05 review of scooter claims had a deterrence effect, but this effect was short-lived. If the Ministry does not maintain a vigilant monitoring effort, it is unlikely to deter abuses of program funding for scooters. Ministry staff told us that they are planning a follow-up review of vendors with unusual scooter claim trends in 2009/10.

Hearing Aids—FM System Claims

FM systems make the speech signal more pronounced than background noise. They have been standard equipment for many years in educational settings for school-age children with hearing loss. To qualify for program funding for an FM system (or any hearing aid device the Program covers), an individual must have a long-term documented hearing loss that necessitates the use of an FM

system as part of his or her daily activities for more than six months.

Our review showed that claims for FM systems have risen significantly since 2004/05, especially in the senior age group (66 and over), whose claims increased by almost 1,800%, from 187 claims or $250,000 in 2004/05 to 3,557 claims or $4.8 million in 2008/09 (see Figure 7). The Ministry became aware of this issue in October 2008 when following up on a complaint. In January 2009, it developed a plan of action to identify improper claims and prevent further abuses. Ministry staff indicated that they had taken action to strengthen the review process for FM systems, such as requiring pre-approval for FM-system funding for adults and establishing a special committee to develop new eligibility criteria. However, the Ministry's actions could have been more timely, given that claims began to increase significantly more than three years ago.

We also noted that, in some cases, a manufacturer of FM systems offered a rebate to vendors for a Program client's 25% portion of the bill. The rebate would be in the form of a coupon or discount on the vendor's next purchase. This gave vendors an incentive to sell FM systems, and clients, who were getting them for no cost, had no reason to refuse the offer. The Ministry has also identified

Figure 7: Number of FM Systems Claims by Age Groups from 2002/03–2008/09

Source of data: Ministry of Health and Long-Term Care
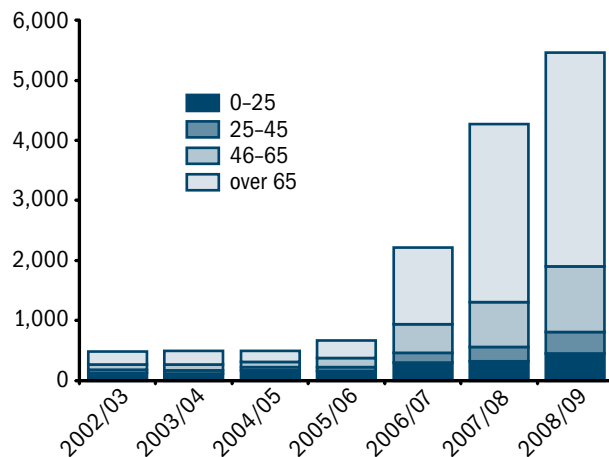
cases where vendors told clients that an FM system would come as part of a "package" with the clients' hearing aids. When asked, the clients told the Ministry that they never used the FM systems.

Ostomy Supply Claims

Individuals with permanent ostomies (surgical openings made necessary by the loss of normal bladder or bowel function) are eligible to receive a grant of $600 per year for each ostomy, up to a maximum of two ostomies, for the purchase of related supplies.

In addition to sending letters to 2% of the physicians who apply for ostomy grants on behalf of their patients—to confirm their eligibility—the Ministry has occasionally conducted reviews of ostomy supply grants to ensure that clients have used their grant payments for the intended purpose and that they still qualify for the grant. The Ministry's last review, done in 2005, examined ostomy claims from 2001 to 2004. Only 40 of the 287 clients under review were able to provide receipts. They indicated that either the Ministry told them that they did not have to provide receipts or they were not aware that they had to keep their receipts. Even though the 2005 review results indicated significant compliance problems, ostomy claims have not been reviewed since because of staff constraints. Ministry staff informed us that they would re-instate the review process and would instruct clients to keep their receipts.

Insulin Pump and Supply Claims

The insulin pump and supplies program was implemented in December 2006. Ontario was the first Canadian jurisdiction to fully fund insulin pumps for children and youth (age 18 and under) with type 1 diabetes, although Saskatchewan, Newfoundland and Labrador, and British Columbia now offer similar coverage. In September 2008, Ontario extended program coverage for insulin pumps and supplies to adults with type 1 diabetes.

We reviewed a sample of claims for insulin pumps and noted cases where the delivery date of the pump preceded the date the client's eligibility for the pump was assessed by a physician. The policy in the Program's Administration Manual for Insulin Pumps and Supplies is that "insulin pumps must be purchased after the client has been assessed by physician. Otherwise, the insulin pump will not be considered for funding. Clients who purchase an insulin pump prior to the assessment cannot then submit an application form and expect reimbursement from the Program." We suggested to the Ministry that it may want to re-examine the current policy, but if it is deemed appropriate it should be enforced.

RECOMMENDATION 4

To ensure that Assistive Devices Program funding for devices and supplies is provided only to individuals who are eligible for it, the Ministry of Health and Long-Term Care should:
- identify and investigate abnormal claim patterns through regular reviews;
- take action to deter authorizers or vendors that who are suspected of abusing or misusing program funding, including suspending their registration with the Program and bringing the matter to the attention of the appropriate regulatory college or professional association where professional misconduct is suspected.

MINISTRY RESPONSE

The Ministry notes that authorizers receive no funding from the Assistive Devices Program.

The Ministry agrees that it must continue to take actions to deter abuse and misuse of program funding and provide training and information to authorizers and vendors regarding program requirements.

In 2008, the Ministry received approval to develop a new information system to replace

its current legacy system; the new system is expected to be implemented in spring 2011. System re-development will support the Program by enhancing monitoring capacity. The new system will also help the Ministry to monitor patterns and trends of authorizer and vendor activity.

The Ministry will improve its statistical reporting to ensure that abnormal claim patterns are identified and appropriate actions are taken. The Ministry will also liaise with the appropriate regulatory colleges to determine contacts and protocols.

Post-payment Review Process

In response to our 2001 audit, the Ministry re-established its post-payment review process in the 2002/03 fiscal year. The objective of this process is to ensure economic, efficient, and effective operation of the Program; correctness and validity of claims paid; and compliance with program policies and procedures. The Ministry also expanded its verification process to cover all major device categories rather than just home oxygen and ostomy grant recipients, which was the case in our last audit. Ministry staff indicated that they use a risk-based review approach that focuses on areas where irregularities are prevalent, are expected to occur, or would result in substantial financial loss to the Program. Although the Program has completed 138 reviews and has identified about $2 million in recoverable overpayments since the 2002/03 fiscal year, we have concerns regarding review resources, coverage, and selection, as noted in the sections below.

Review Resources and Coverage

The Ministry currently has three compliance-and-quality-assurance staff to monitor the activities of more than 1,000 vendors and 6,000 authorizers. They conduct two types of reviews: desk reviews and field reviews. Desk reviews are performed in-house without any on-site inspection. A field

review is required only if material discrepancies are observed in a desk review. We noted that, of the 138 reviews completed since the 2002/03 fiscal year, only 22 were field reviews. We were informed that the number and the extent of reviews were limited by the resources available. Not only are hundreds of millions of dollars paid out annually, but expenditures have increased by more than 90% between 2001/02 and 2008/09. Yet the number of compliance-and-quality-assurance staff has been the same since 2002.

Although only 23 reviews were completed in 2008/09, they successfully identified overpayments of about $600,000. The high rate of overpayment identified by even a limited number of reviews suggests that expanded review resources are justified from a purely financial payback perspective and, if combined with a communication strategy, would send a clear message that inappropriate authorizing and billing practices will not be tolerated.

Review Selection

As noted above, the Ministry's audit selection process is supposed to target vendors that are at the highest risk of abusing the program, because the Ministry has limited compliance-and-quality-assurance resources. At the time of our audit, the Ministry had the capability to extract data from the assistive devices database according to specific risk-factors, but it was not using this capability in a systematic way. Our audit identified a number of high-risk areas that warrant more regular review effort (see sections on Monitoring of Claims and Conflict of Interest). We also felt that a lack of training on risk assessment partially accounted for deficient monitoring. We were informed that, although front-line staff such as claims assessors and program co-ordinators are responsible for informing compliance-and-quality-assurance staff if they observe irregularities, the front-line staff have received no formal training on risk-assessment techniques to identify "red flags" indicating potential fraud or misconduct. The Ministry informed us that

it would be working to improve awareness of fraud risks in staff's day-to-day roles by developing a comprehensive training program on the risk-assessment process early in the 2009/10 fiscal year and implementing a risk-assessment tool in summer 2009.

Fraud Investigation

The Program co-ordinates with the Ministry's Fraud Programs Branch (which became part of the Accounting Policy and Financial Reporting Branch after we completed our audit work) to refer potential cases of fraud to the Ontario Provincial Police (OPP). Since 2001, the Program has identified and referred 19 such cases to the OPP. We noted that, of the $1.8 million that has yet to be recovered, more than $900,000 involves two vendors that were referred to the OPP shortly after the start of our audit fieldwork in 2009. The Ministry indicated that it was only able to recover $43,000 out of $1.8 million because it has to wait for the OPP to complete its investigations and referrals to the court, through which restitution is to be made.

The referral and investigation process can take a long time. In our review of cases for which the investigations had been completed, we noted that they took on average about 530 days from the date of referral to completion. The Ministry can terminate the registration status of vendors and authorizers if there is any violation of their agreements and/or deviation from program policies not corrected to the satisfaction of the Program. However, during the investigation period in the above cases, the vendor continued to submit claims and bill the Program. Ministry staff told us this had been a matter of some concern to them, but they felt they could not take action until the OPP had completed its investigation. The Ministry also has the obligation to report authorizer misconduct to the respective professional colleges and associations, which have a strong incentive to maintain the good reputation of their membership and to protect the public. However, we noted that the Ministry has rarely taken such action.

RECOMMENDATION 5

To more effectively identify abuses, recover overpayments, and deter misconduct, the Ministry of Health and Long-Term Care should:

- expand its efforts and resources to better monitor vendors' and authorizers' compliance with program policies and procedures;
- take timely corrective action to terminate agreements with vendors and authorizers who have clearly violated program policies;
- work with the Ministry's Accounting Policy and Financial Reporting Branch to elevate staff risk-awareness and risk-assessment skills; and
- where there is clear evidence of potential misconduct, report its concerns to the appropriate regulatory associations or colleges, which are responsible for ensuring the public is protected.

MINISTRY RESPONSE

The Ministry agrees and is reviewing its policies and procedures to ensure that there is clarity on eligibility criteria, pricing, and charges to clients. As well, the Ministry will continue to educate vendors and authorizers on program policies and procedures, and will terminate agreements with vendors and authorizers who have acted fraudulently.

The Program is working with the Accounting Policy and Financial Reporting Branch to complete this work in the 2009/10 fiscal year and to provide staff with the risk-management skills and tools they need to help them more rigorously manage vendor and authorizer agreements. The Ministry will also liaise with the appropriate regulatory colleges to determine contacts and protocols.

CONFLICT OF INTEREST

The Program considers it is a conflict of interest whenever there is a financial relationship between an authorizer and a vendor (see Figure 3 for a description of authorizers' and vendors' roles and responsibilities). The Policies and Procedures Manual for the Assistive Devices Program states that it would be considered a conflict of interest where:

- a physician who prescribes a device for an eligible person has any financial relationship with the vendor selling that device;
- an authorizer who determines client eligibility refers clients to a specific vendor or receives any fee or benefit from a vendor, directly or indirectly; or
- a vendor gives any fee or benefit, directly or indirectly, to a person who determines client eligibility or refers clients to that vendor.

To ensure that clients are given a choice of vendors and to prevent conflict of interest, authorizers are required to provide clients with a list of vendors in their area rather than refer them to any one vendor. As a condition of their registering with the Program, vendors and authorizers are required to comply with the Program's conflict of interest policy by signing agreements with the Ministry:

- In the authorizer agreement, authorizers also agree not to influence eligible clients to purchase devices from any specific vendor, not to accept from any vendor payment in cash or kind (directly or indirectly) for recommending any device and/or their assessment services, and not to have a professional affiliation with a vendor. Failure to comply with these terms will result in the Ministry immediately revoking the authorizer's registration with the Program.
- In the vendor agreement, vendors agree to conduct their businesses without conflict of interest as described in the Policies and Procedures Manual for the Assistive Devices Program. Breach of this provision will result in termination of the vendor agreement.

Mobility Aids

As noted in the Monitoring of Claims sections, three vendors had scooter claims that increased by more than 800% over three years. Our analysis of these three vendors indicated that each of them had more than 70% of their claims authorized by only one or two authorizers. These authorizers and clients were often not located near the respective vendors. In many cases, the clients were located over 30 kilometres away. Clients typically purchase their devices from a vendor located near their homes; therefore, we questioned whether the authorizers had provided a list of vendors to the clients in all three instances. We noted that there were many other vendors located near the clients and authorizers in question. We suspect that the authorizers may have recommended these specific vendors, which would be a potential conflict of interest and a violation of program policy.

Hearing Aids

Applications for hearing aid funding must be signed by a prescriber (a physician or an audiologist) who confirms that the client has hearing loss. The application also requires the signatures of the authorizer, dispenser, and vendor. It is possible for these three roles to be fulfilled by one person, so to avoid a conflict of interest, the Program requires that each application must be completed and signed by two health-care professionals who are not financially dependent on any of the other signatories.

This requirement, if implemented and monitored appropriately, would minimize the risk of conflict of interest. Yet we noted that the requirement is often not being met. We selected a sample of vendors with high volumes of hearing aid claims. Our analysis found numerous cases of apparent conflict of interest. For example:

- A vendor with multiple locations had claims totalling more than $10 million since 2000. One physician prescribed most of the claims coming from this vendor's various locations.

Our discussion with the Ministry indicated that it was aware of the potential conflict of interest in early 2000. The Ministry referred the case to the Ontario Provincial Police in 2004 and again in 2009. The Ministry told us that it cannot terminate its agreements with the vendor and authorizer while the matter is under police investigation.

- Another vendor was registered with the Program as both an authorizer and a dispenser. Since 2002/03, one physician was the prescriber for 99% of the vendor's claims, for a total of $900,000. The vendor and the physician were located at the same address. We noted that the vendor was renting office space from the physician. In our review of this vendor's file, we also saw that this physician had acknowledged that he had been referring clients to this vendor for a long time. Ministry staff confirmed to us that this relationship could be reasonably considered a potential conflict of interest. Yet the Ministry has taken no further action.

- Since 2002/03, the total claims submitted by one vendor were about $1.3 million. We noted that, at the time this vendor registered with the Program, its business insurance was in the name of a physician. We also noted that this physician, who may have been related to the vendor given their same last name, prescribed more than 65% of the vendor's claims. Ministry staff explicitly identified such a relationship as a potential conflict of interest, because it could be reasonably concluded that a vendor and a physician who are related could be sharing profits. However, this potential conflict of interest has never been investigated.

- Another vendor has two locations, which are 25 kilometres away from one another. Since 2002/03, 96% of the claims at both locations, for a total value of more than $1 million, were approved and co-signed by the same physician and authorizers, who were also co-owners

of the vendor's business. The ongoing, close association among these parties would seem to indicate a potential conflict of interest, but the Ministry has never reviewed any of the parties involved.

In cases where the Ministry did find potential conflict of interest or misconduct of health-care professionals, it seldom terminated the authorizer's or vendor's ability to authorize benefits or make claims, nor did it consider informing the regulatory college or professional association of the potential misconduct of the professional in question.

Respiratory Devices

We noted that the Ministry identified potential conflict of interest when it reviewed vendors' claims for respiratory devices from the 2004/05 fiscal year. For example, one review noted that "clinic staff or physicians referred clients to the vendor—unless a formal contract is entered into with physicians, the Program cannot exercise effective control over physicians." It then recommended "urgent action be taken with a view of entering into contractual agreements with all clinic physicians with particular emphasis on conflict of interest." Another review revealed, "some prescribing physicians had referred clients to the vendor whose business was operated from the same buildings that housed the clinics. This would indicate a conflict of interest by prescribing physicians. This matter requires urgent attention as it similarly affects other physicians and vendors."

We were informed that, even though the Ministry was aware of this problem and indicated that "urgent action" and "urgent attention" were required, no action has been taken over the past few years to address it. The Ministry told us it could not investigate the prescribing physicians and sleep clinics because the Program does not have contractual agreements in place to enable it to do so. The Ministry indicated that it would obtain legal advice on this issue and pursue the matter with the Ministry's Fraud Programs Branch.

In our audit, we observed apparent conflict of interest between vendors of CPAP devices and prescribing physicians that we believe warranted further investigation. These were similar to our observations in other device categories. Here are two examples:

- One vendor submitted more than 5,500 claims for CPAP devices, amounting to $4.7 million, since it registered with the Program in the 2003/04 fiscal year. We noted that one physician prescribed about 94% ($4.4 million) of these claims. This indicates potential financial dependence between the vendor and physician, and therefore potential conflict of interest. In 2005, the Ministry reviewed this vendor and noted similar concerns. It also found the referring physician had clinics in three different municipalities. Clients were travelling from these various locations to purchase CPAP devices from this one vendor, which suggested that the vendor was using the clinics to obtain referrals. As part of its review, the Ministry sent out confirmation letters to the vendor's clients and half of those who responded indicated that they had been referred to this vendor by the physician or by clinic staff. Ministry staff told us that they have taken no action against the vendor or the physician.
- The same vendor has another location, which was registered with the Program in the 2005/06 fiscal year. We observed similar problems to those described above. This location has submitted about 2,700 claims for CPAP devices, amounting to $2.3 million. One physician prescribed about 92% ($2.1 million) of these claims. We also noted that, in 2008, the Ministry received a complaint about the physician directing a client to buy a device from a specific vendor. When the client refused to do so, the physician threw the application form at the client. Despite the seriously inappropriate behaviour described within, this complaint was never forwarded

to the appropriate program staff for further review or brought to the attention of the appropriate regulatory college. The Ministry informed us that it typically advises clients who have complaints about their physician to contact the College of Physicians and Surgeons of Ontario.

RECOMMENDATION 6

To deter potential conflict of interest as well as the misuse and abuse of program funding, the Ministry of Health and Long-Term Care should:

- more closely monitor vendor billing patterns and, particularly when claims have increased dramatically, consider investigating the various parties for evidence of inappropriate authorizing or billing practices;
- terminate agreements with vendors and authorizers who breach the Program's conflict of interest policies; and
- inform the appropriate regulatory college or professional association of any health-care professionals whose behaviour or practices put the public at risk of harm.

MINISTRY RESPONSE

In 2008, the Ministry received approval to develop a new information system to replace its current legacy system; the new system is expected to be implemented in spring 2011. System re-development will support the Program by enhancing monitoring capacity. The new system will also help the Ministry to monitor patterns and trends of authorizer and vendor activity.

The Ministry is proactively working to strengthen compliance with program policies and procedures. It is reviewing vendor contracts and authorizer agreements to establish stricter rules on conflict of interest and actions to be taken in instances of non-compliance. The Ministry will also liaise with the appropriate regulatory colleges to determine contacts and protocols.

RECYCLING AND REFURBISHING INITIATIVES

The Ministry could achieve savings and protect the environment by recycling and refurbishing devices that clients are no longer using. However, we noted that the existing processes did not allow the Ministry to maximize the number of recycled and refurbished devices, particularly for high-cost items such as wheelchairs.

Power Wheelchairs

Because of the high cost of power wheelchairs, the Ministry established a Central Equipment Pool for High Technology Wheelchairs (CEP) in 1996. CEP provides clients throughout Ontario with both new and recycled power wheelchairs and gives clients rebates when they return the equipment to the pool. CEP also provides all routine maintenance and repair free of charge. Through a competitive tendering process in 2007, a vendor was awarded a three-year contract to manage and operate CEP from March 2007 to February 2010. The vendor has guaranteed a recycling rate of 20% in its first year of operation and 25% thereafter, with any shortfall to be credited to the Ministry. We found, however, that the actual recycling rate in the first year was 8.4%. The rate in the second year was yet to be determined at the time of our audit, because the year had just ended. We also noted that a refund for the shortfall had yet to be made to the Ministry. When we brought this issue to the Ministry's attention, we were informed that it would follow up with CEP on this matter and obtain a refund if the target rate had not been met.

Manual Wheelchairs

Since the 2002/03 fiscal year, manual wheelchairs have accounted for about 80% of all wheelchair claims, with power wheelchairs and power scooters accounting for only about 15% and 5%, respectively. Yet there is currently no recycling initiative in place for manual wheelchairs.

The Ministry informed us that it had done a study in 2003 that proposed to establish regional recycling equipment centres for manual wheelchairs to help manage the costs associated with the increased demand of a growing and aging population. The study noted: "Introducing equipment centres for manual wheelchairs is a wise use of health-care resources. Recycling expensive equipment such as wheelchairs is good for clients, the health care budget and the environment. Clients and their families have shown strong support for recycling." In addition to the lower environmental impact, the Ministry's study estimated that the Ministry could save $11.5 million from 2003/04 to 2006/07 by recycling manual wheelchairs. Despite its significant potential savings and benefits, this initiative has not been put in place and there is currently no plan to implement any recycling initiative. Ministry staff indicated that they have concerns about guarantees on the quality and strength of recycled parts, the cost of servicing used devices, and legal liabilities.

Our review of other jurisdictions showed that provinces such as Alberta and Quebec have manual wheelchair recycling initiatives in place. We learned in our discussions with them that they had considered some of the same issues around recycling, such as potential liabilities and costs, and still found that implementation was viable. We noted:

- The Alberta wheelchair recycling program has been in place for more than 20 years. Alberta funds the recycling of both manual and power wheelchairs. The program manager told us that it is better to recycle manual wheelchairs than power wheelchairs because the average transaction costs—including cleaning, repairing, and refurbishing—are less than $400, about one-third of the cost of a new manual wheelchair (basic model). According to the program manager, the wheelchair recycling program saves Alberta about $5 million a year.
- Quebec started a pilot project of wheelchair recycling in 2000 that was modelled on

Alberta's program. All devices are recycled and distributed directly by accredited rehabilitation centres to ensure the quality of the recycled devices. Each centre has its own local depot. The program pays the centres to refurbish the wheelchairs. In the 2005/06 fiscal year, a program evaluation found that about 29% of the wheelchairs were recycled, and estimated that the average cost of a recycled wheelchair was, again, about one-third of a new one. Quebec's recycling program is newer than Alberta's program, but it has still resulted in a savings of about $4 million per year according to the evaluation report.

Our review of literature on Quebec's recycling initiative published by the Canadian Association of Occupational Therapists in 2003 showed that, although program staff at that time indicated that there was a lack of resources and no policy in place to encourage people to recycle, both occupational therapists in the community and users of refurbished wheelchairs reported high satisfaction with regard to the efficacy, appearance, safety, durability, and comfort of the recycled devices as well as the delivery and follow-up services they received. The Quebec Auditor General's report for the 2005/06 fiscal year also indicated that the recycling program was cost-effective and achieved significant savings.

Incentive to Recycle

We noted that there are recycling initiatives for manual wheelchairs that have been started by volunteers in Ontario communities through some non-profit organizations. The information we obtained from such organizations indicates that because the Ministry currently does not fund used devices, authorizers have no incentive to advise their clients to look into buying used or refurbished devices. One of the organizations told us that it has a shortage of space because of its growing accumulation of used devices. This organization also told us that it is constantly hearing from people who want to donate items, but its limited warehouse space has been filled to capacity. It has been giving away wheelchairs to other countries to help deal with the shortage of space. Ontario taxpayers' dollars are in turn subsidizing health care in other countries.

Unfortunately, even if clients wanted to get a recycled wheelchair, there is little financial incentive for them to do so under the Program's current funding practices. Clients would have to pay more for a recycled wheelchair than they would for a new, Program-funded one: the Program-approved price for a new basic manual wheelchair is about $1,200, of which the client has to pay 25%—about $300; if the client wanted to buy a similar used manual wheelchair, it would cost about $400, which is only one-third the cost of a new wheelchair but still $100 more out of the client's pocket, because used manual wheelchairs are not eligible for program funding.

RECOMMENDATION 7

To achieve cost savings and protect the environment, the Ministry of Health and Long-Term Care should consider the feasibility of implementing a strategy to recycle and refurbish used manual wheelchairs based on the experience of other jurisdictions that have successfully adopted such a strategy.

MINISTRY RESPONSE

The Ministry has noted that some other jurisdictions have included recycled manual wheelchairs in their programs but has not determined that this would be a cost-effective approach given the very limited warranty that can be provided to refurbished wheelchairs. The Ministry will promote the reuse of wheelchairs in the context of recycling materials used in wheelchair manufacturing.

RECOVERY OF OVERPAYMENTS

Deceased Clients

We noted many instances of an unreasonably long time lag between the date of a home oxygen client's death and the date the Ministry's records were updated, which creates a risk of payments being continued long after a client is deceased. Since the 2003/04 fiscal year, the Ministry has recovered about $1.2 million from home oxygen vendors that had received payments for clients who were deceased. However, at the time of our audit, the Ministry was still identifying potential recoveries that dated back to 2001. Ministry staff informed us that these outstanding recoveries had been omitted from earlier overpayment reports and that work is underway to fix this problem.

With respect to ostomy grants, the Ministry requires clients to complete a renewal form every two years to confirm that they still have their ostomy (or ostomies). The Ministry also links the Program's database with the Registered Persons Database to verify ostomy clients' health card status, and cancels grants automatically if the renewal form, cheque, or direct deposit is returned as undeliverable. These steps have been successful in reducing the number of payments being made to deceased persons, but there is still a time lag between the date of a person's death and the date the Ministry updates its records. The last report of these overpayments was generated in June 2008, but the executors of the estates of the deceased clients have not all been contacted.

Duplicate Funding

Under the Program's general eligibility rules, individuals who are eligible for funding for their devices from the Workplace Safety and Insurance Board (WSIB) or the federal Department of Veterans' Affairs (DVA) are not eligible for program funding. Applicants for program funding are required to declare on their application that they are not eligible for funding from the WSIB or the

DVA, but the Ministry does not obtain independent verification of this information. We identified the same issue in our 2001 audit.

In 2004, the Ministry's Fraud Programs Branch also identified this issue. The Branch stated that the Ministry should not be compensating clients unless they have maximized benefits from other sources. It pointed out that, without direct data-links to the WSIB and the DVA, there is a risk of the Ministry funding devices for individuals who are entitled to compensation through the WSIB and the DVA. There is also a risk of unscrupulous vendors billing more than one agency for the same device. The Ministry's Fraud Programs Branch recommended that the Program continue to negotiate an information-exchange agreement with the WSIB and initiate an agreement with the DVA to identify ways in which the risk of double billing could arise.

During our current audit, we noted that the Ministry still had no direct access to the WSIB and the DVA databases. An information cross-check process with the WSIB was discontinued in 1998 and has not been re-instituted, and similar arrangements with the DVA were never put into place. The Ministry entered into an agreement with the WSIB in 1999 to recover duplicate funding for hearing aids. So far it has recovered duplicate funding of about $110,000 for hearing aids since 2006, but no similar recovery has been made in other device categories.

In our review of program and WSIB claims data since 2002/03, we noted cases where the Program and the WSIB provided funding to the same person for the same category of device around the same time. The Ministry has not yet followed up on these cases, which involve funding of $760,000.

RECOMMENDATION 8

To ensure that Assistive Devices Program grants are administered economically, the Ministry of Health and Long-Term Care should recover overpayments on a timelier basis and expedite the recovery of overpayments made since 2005.

To ensure that funding for devices is not duplicated at taxpayers' expense, the Ministry of Health and Long-Term Care should re-institute an information-exchange agreement with the Workplace Safety and Insurance Board and initiate an agreement with Department of Veterans' Affairs as has been recommended by the Ministry's Fraud Programs Branch.

MINISTRY RESPONSE

To date, the Ministry has recovered all overpayments that it is aware of; reports are generated weekly and the Ministry will continue to recover overpayments.

The Program has an agreement in place with the Workplace Safety and Insurance Board (WSIB) to recover duplicate payments for hearing devices that are required as a result of a workplace injury. The Ministry is discussing with the WSIB the potential for other device categories to be included in the agreement, and is also discussing with Veterans Affairs Canada the potential for an efficient exchange of information to identify duplicate payments.

REGISTRATION OF AUTHORIZERS

In most cases, individuals applying for program funding are required to be assessed by Program-registered medical authorizers and must purchase their devices from Program-registered vendors (see Figure 3). Our sample testing identified the following concerns with authorizer registration.

We reviewed a sample of authorizers' files to assess whether they had met the criteria to register with the Program. Some of the documents were missing from files, so we could not determine whether all the registration requirements (see Figure 3) had been met. The missing documents included proof of good standing with the appropriate regulatory colleges and proof of completion of a required course or workshop.

Every three years, the Program requires authorizers to submit an Information Update Form. Authorizers must submit their updated contact and professional information to maintain their active status with the Program and to obtain new Authorizer Cards, which are displayed to help clients confirm that an authorizer is in fact registered with the Program.

The process of renewing authorizers' status was not monitored appropriately. We noted the following:

- The Ministry did not follow up with authorizers who had not returned their Information Update Forms. Only after we found that the forms were missing in the files did the Ministry send reminder letters.
- One authorizer's former employer wrote to the Program in 2005, asking why they had recently received a letter and a new Authorizer Card expiring in May 2008 for someone who was no longer employed with them and who had been out of the province since 2002. This suggests that the Program was issuing new Authorizer Cards without verifying authorizers' information.

To verify authorizers' status, we contacted five professional colleges that regulate authorizers. We noted instances where the Ministry did not promptly update authorizers' status. For example:

- Some authorizers were not in good standing with their colleges, but the Ministry did not deactivate their registration status until five to ten years later.
- Some authorizers' had active status with the Program even though their colleges' records showed their membership had been deactivated in 2006 or 2007.
- Some authorizers continued to authorize devices when they were not in good standing with their colleges. The total value of claims related to these devices was about $400,000.

In 2004, a report by the Ministry's Fraud Programs Branch recommended that the Program increase its due diligence on the licensing status

of authorizers by generating links with the professional colleges to help with ongoing monitoring. However, we noted that the Program still has not developed direct data-links with the colleges to ensure that authorizers are in good standing with them. This increases the risk of program abuse by authorizers who have been suspended or who are no longer practising. Ministry staff informed us that the Program would continue to look into solutions with the colleges; the Program has also set up a committee to identify strategies for improving its management of authorizers.

RECOMMENDATION 9

To lower the risk of assistive devices being approved for funding by authorizers who are not properly registered with the Program, the Ministry of Health and Long-Term Care should:
- generate links with the professional colleges to enable ongoing monitoring of authorizers' status; and

- follow up on those authorizers who do not submit the required Information Update Forms.

MINISTRY RESPONSE

The Ministry is reviewing the June 2009 amendment to the *Regulated Health Professions Act* to determine if the legislation allows sufficient access to information to conduct ongoing monitoring to ensure that authorizers are in good standing with their regulatory bodies and whether additional channels will need to be developed.

The Program terminates the status of authorizers who do not return Information Update Forms within the specified timeframe. These authorizers are required to re-register with the Program to become active again.

Ministry of Transportation

Bridge Inspection and Maintenance

Background

Ontario has about 14,800 bridges. Approximately 12,000 of these are located in municipalities and are their responsibility. The remaining approximately 2,800 bridges are located within the provincial highway system and are the responsibility of the province. More than 70% of provincial bridges were built between 1950 and 1980, which gives the province's bridge infrastructure an average age of about 40 years.

In the past, bridges were expected to last about 60 years; however, current technology and design allow the bridges that are built today to last longer. High traffic volume, heavy trucks, and freeze/thaw cycles along with exposure to salt used for winter maintenance all reduce a bridge's lifespan. Regular maintenance, repair, and rehabilitation can largely offset the impact of these factors on a bridge's lifespan.

Responsibility for the safety and maintenance of provincial bridges is set out in the *Public Transportation and Highway Improvement Act* (Act). The Act requires that all provincial and municipal bridges be inspected every two years under the direction of a professional engineer using the Ministry's Ontario Structure Inspection Manual (Inspection Manual). The Inspection Manual requires these biennial

inspections to be a "close-up" visual assessment of each element of a bridge as well as its material defects, performance deficiencies, and maintenance and rehabilitation needs.

The Ministry of Transportation (Ministry) is responsible for provincial bridges, and municipalities are responsible for the bridges in their jurisdictions.

Audit Objective and Scope

The objective of our audit was to assess whether the Ministry:

- has effective systems and procedures in place to ensure that the bridges within its highway system are safe and in good repair; and
- conducts bridge inspections and the required maintenance, repair, rehabilitation, and replacement work on a timely basis and with due regard for economy.

Our audit included visits to the Ministry's head office and three of its five regional offices. We interviewed staff, examined documentation, reviewed the results of bridge inspections, and researched bridge management practices followed in other jurisdictions. We also accompanied ministry staff on bridge inspections to gain an understanding

of the inspection process and the challenges that inspectors face.

In the course of our audit, we engaged a structural engineering expert from another province to review the Ministry's bridge inspection standards and practices and to help us interpret the results of the bridge inspections. To obtain an independent assessment of the condition of four provincial bridges, we hired an engineering firm to re-inspect them using the Ministry's Inspection Manual.

In 2004, we conducted an audit of the maintenance of the provincial highway system, and one of our recommendations specifically related to the Ministry's bridge inspection processes. Our current audit included a follow-up on the status of actions taken on this recommendation. The Ministry's Internal Audit Services had also issued a report in September 2005 on bridge inspection processes covering the period from January 1, 2001, to December 31, 2004. The report, as well as its follow-up in 2007, resulted in improvements to areas such as the timeliness and accountability of the inspection process. As well, they were useful in determining the scope and extent of our audit.

MUNICIPAL BRIDGES

Although municipalities must inspect their own bridges in accordance with the Inspection Manual, there is no legislation that provides any provincial ministry with the authority to oversee municipalities' compliance with this requirement. Given that the majority of the bridges are within municipal boundaries, and recognizing that the province still has an overall responsibility for the legislation governing bridge safety, we conducted a survey of about 130 Ontario municipalities, to which almost 60% responded. Our objective was to obtain information on how municipalities kept track of bridge inventories, what systems they used for complying with and reporting on required inspections, and what their perspectives were on the current operating and funding arrangements. We met with representatives from 10 large municipalities to

further discuss their survey responses, and also met with representatives from the Association of Municipalities of Ontario and the Ontario Good Roads Association. The results of our survey and discussions are included in this report in the Municipal Bridges section.

Summary

PROVINCIAL BRIDGES

The structural engineering expert we engaged advised us that the Ministry of Transportation (Ministry) had established comprehensive standards for bridge inspection in the Ontario Structural Inspection Manual (Inspection Manual), and if the standards are followed, the required inspection procedures effectively enable structural deficiencies to be identified. The Ministry's standards had been adopted for use by a number of other Canadian jurisdictions. The Ministry is also conducting bridge inspections on a biennial basis as required.

The main safety risks related to bridge infrastructure are accidents, such as those caused by concrete falling, or parts of a bridge structure failing to perform their intended function of providing adequate protection to the vehicles travelling on the structure. We noted a number of areas where improvements to the Ministry's inspection and maintenance processes would help minimize these safety risks and ensure that these bridges for which the province is responsible remain safe, especially given the aging infrastructure. Our specific observations are as follows:

- According to the Ministry's assessment, more than 180 or 7% of provincial bridges were in poor condition, defined as requiring repair or rehabilitation work within one year of the bridge inspection. We found that, despite their being in most need of repair or rehabilitation, over one-third of these bridges were not included in the Ministry's capital work

plan for the upcoming year. The Ministry indicated that it takes a corridor management approach to prioritizing such work that considers factors other than the rated condition of the bridge. As well, the Ministry stated that any critical safety issues would be flagged during inspections and remedial work carried out immediately. However, our engineering adviser indicated that, often, a distinction was not made in the inspection report between deficiencies that posed a safety risk and those that did not.

- The Ministry had not ensured that information on critical elements within each bridge was accurate and that all elements were accounted for. The state of these elements is the key to determining a bridge's overall condition and estimating its rehabilitation costs. In addition, the Ministry's database of bridge inventory—the Bridge Management System— did not have information on the rehabilitation history for almost one-third of the bridges that were 40 years or older. Although this information might be available in a region's paper files or local database, the Ministry's prioritization, cost estimates, and timelines for bridge rehabilitation work would be enhanced if this information was made readily available.

- The Inspection Manual requires a detailed visual "close-up" inspection of each bridge element. Normally, this requires the closure of lanes and road shoulders to traffic. For example, without closing a lane, close-up inspection of the critical elements of certain bridges on Highway 401 in the Greater Toronto Area would not be possible, yet there have been no such lane closures for the past three years.

- We found several weaknesses regarding the process for ongoing oversight of inspections. For example:
  - The Inspection Manual stipulates that an inspector needs to spend at least two to three hours at a typical bridge site. How-

ever, inspectors were often conducting five or more inspections a day. For example, in the rounds of inspections between 2006 and 2008, we noted that 10 or more bridges were inspected by a single inspector in one day on 36 separate occasions.

- A significant change in the rating of a bridge's condition between inspections requires explanation and, potentially, a re-inspection. We noted that the latest inspection results showed an improvement in the overall condition rating of over 300 bridges, even though little or no rehabilitation work had been done on these bridges since the last inspection. In other instances, the overall rating did not change at all between inspections and reports from the previous inspections were carried forward without any changes. Although in many cases there were photographs on file to indicate that an inspection had been done, when there are no changes whatsoever from the previous inspection, the adequacy of such inspections should be followed up on, especially on older bridges, because, typically, a bridge's elements deteriorate as the bridge ages.

- We noted that regions tended not to complete many of the maintenance recommendations resulting from biennial bridge inspections. In two of the three regions that we visited, only about one-third of the recommended maintenance work was actually completed, and the third region did not track this work at all.

With respect to the procurement of major projects for bridge design and construction, we noted that the Ministry generally followed a competitive selection process. However, in many of the contracts for design services and construction oversight consulting that we examined, there were changes to the scope of work that resulted in a final price of at least 50% more than the original contract price.

MUNICIPAL BRIDGES

To ensure the safety of municipal bridges, municipalities are also required to perform biennial inspections in accordance with the Inspection Manual. However, there is currently no legislation that requires or even enables the Ministry of Transportation or any other provincial ministry to oversee municipalities' compliance with this requirement. There is no central database on the number of municipal bridges and the overall condition of these bridges.

Our survey of municipalities indicated that the average age of municipal bridges was generally older than provincial bridges—about 43 years. However, it was not possible to get a precise picture on the overall condition of municipal bridges or to make accurate comparisons between municipal and provincial bridges because there were many different systems used by municipalities to classify and determine the condition of their bridges.

Nevertheless, the majority of municipalities (85%) that responded to our survey indicated that they had a backlog of rehabilitation work. Large and growing communities generally did not have significant backlogs because their infrastructure was newer, but municipalities with a large number of bridges relative to their population and revenue base had more difficulty funding the rehabilitation of bridge infrastructure and therefore had more significant backlogs.

In recent years, the province has provided municipalities with one-time funding for municipal capital projects. The decision to make these funds available was often made on the basis of demographic information rather than need, the funds were paid close to the end of the province's fiscal year, and many municipalities were not able to properly plan and spend the money. For instance, a significant portion of the funds provided in 2008 remained unspent one year later. Municipalities told us that requirements for better asset-management practices supported by more sustainable provincial funding are needed to ensure safety and maximize

the lifespan of municipal bridges. A provincial–municipal working group is currently examining these issues.

OVERALL RESPONSE

Ensuring that Ontario's bridges are safe facilitates the continuous movement of people and goods, supporting the provincial economy. The Ministry values the Auditor General's observations and recommendations and is committed to taking action.

Ontario is proud of its reputation as a North American leader in bridge safety. Overall, the Ministry's procedures to inspect and monitor bridge conditions are comprehesive and adequate to ensure that bridges in Ontario are safe. Every two years, Ontario inspects all 2,800 of our provincially owned bridges. Since 2005, the government has increased infrastructure spending to maintain, rehabilitate, and replace bridges. Commitments include an increase of 50% or $450 million over a five-year period to rehabilitate approximately 150 bridges throughout the province by 2013. Since 2004/05, the Ministry has built 75 new bridges and rehabilitated 388 existing structures.

Detailed Observations

BRIDGE INSPECTION PROCESS

The main objectives of an inspection are to ensure that a bridge is in a safe condition; to identify any maintenance, repair, and rehabilitation that needs to be done; and to provide a basis for planning and funding any required maintenance and rehabilitation.

Two of the Ministry's five regional offices mainly use in-house engineers to conduct bridge inspections. The other three regional offices outsource bridge inspections to private engineering firms.

The time required to inspect a bridge varies with the bridge's size and design, but the average bridge typically takes about two to three hours. If during a visual inspection the inspector feels that more detailed information is needed, he or she can request specialized inspections, such as a deck condition survey or fatigue investigation. Also, the inspector is to notify the region immediately about any critical structural defects or deficiencies and any other unsafe condition discovered in the field, so that appropriate action can be taken.

To manage the inventory of provincial bridges, the Ministry uses a database called the Bridge Management System (System). It contains physical and historical information for each bridge, such as the length, number of spans, the area of each bridge element, the results from each inspection, and the condition each element is assessed to be in, from poor to excellent. Using this information, the System calculates a single value called the Bridge Condition Index, a measure of a bridge's overall structural condition and its remaining economic value expressed in a number between zero and 100. Bridges with a Bridge Condition Index of 70 or above are generally considered to be in good condition.

In 2006, the Ministry developed a Bridge Priority Tool to help prioritize major yearly bridge repairs and rehabilitation, and standardize the different priority-setting methodologies used by various regions. The development of the tool was part of a commitment that the Ministry had made in response to a recommendation in our *2004 Annual Report* to develop a framework to better manage its assets and to set priorities for sound investment decisions. The tool calculates a Priority Index for each bridge by modifying the Bridge Condition Index value after examining the condition of five critical bridge elements: the deck top, deck soffit, barrier wall, expansion joints, and concrete/steel beams. (Figure 1 is a photograph of two bridges with a number of these bridge elements labelled.) Each of these critical elements is assigned a "now need threshold" (the percentage of the element that

Figure 1: Elements of a Bridge
Source: Ministry of Transportation
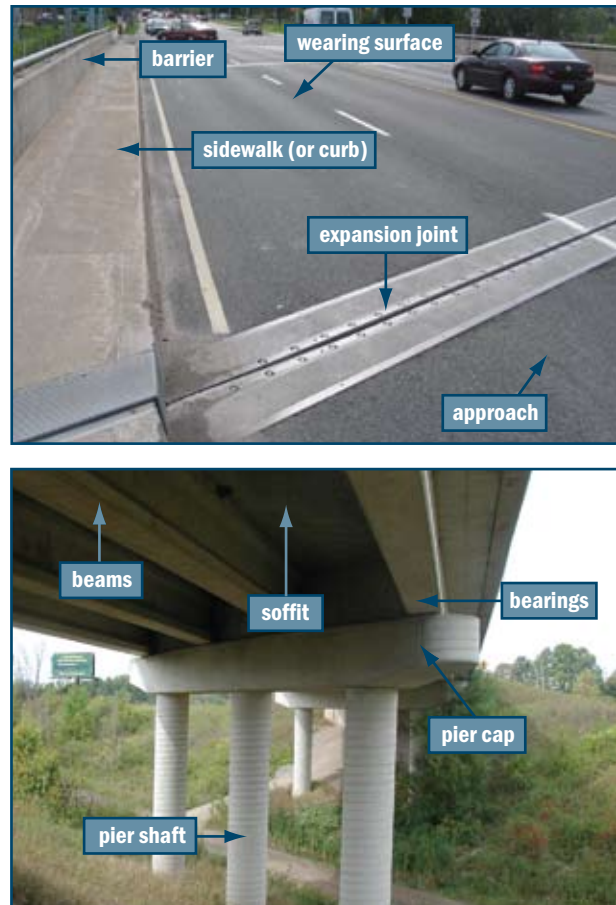
is in poor condition and should be repaired within a year) and a weight (the importance of the element in relation to the entire structure). Bridges with a Priority Index of less than 70 are considered to be on the zero-to-five-year rehabilitation list; bridges with a Priority Index of less than 60 are considered to be a "now need," which means they should be rehabilitated during the next construction season.

The Bridge Priority Tool also estimates the cost of future bridge repair and rehabilitation needs. Each of the province's regions are supposed to use these rankings to develop a five-year capital work plan for repair and rehabilitation work. These regional plans become part of the larger provincial work plan.

We engaged a structural engineering expert to perform an independent assessment of the

Ministry's bridge inspection standards and practices. Our expert's opinion was that the Inspection Manual is comprehensive and, if its inspection procedures are followed, an effective means of identifying significant structural deficiencies in a bridge. Our expert also confirmed that the Ministry's methodology for prioritizing bridge repair and rehabilitation work is reasonable. We also noted that several other Canadian jurisdictions have adopted the Ministry's Inspection Manual.

CONDITION OF PROVINCIAL BRIDGES

According to the latest Priority Index that was available to us in June 2009, which included inspection results for up to the end of 2008, approximately 76% or 2,150 of the 2,800 provincial bridges were in good condition, 17% or 471 bridges were in fair condition but require work within five years, and 7% or 185 were in poor condition and need repair within one year.

Using its Bridge Priority Tool, the Ministry estimates that the cost of repairing and rehabilitating bridges in fair or poor condition over the next five years will be approximately $2.2 billion. Yet the actual funds committed to the Ministry's budget for all bridge work over the next five years is $1.4 billion, a shortfall of $800 million. The Ministry has identified another spike in the need for major capital work over the next six to ten years as bridges continue to age: 70% of the provincial bridges were built between 1950 and 1980, and these older bridges have an average lifespan of 60 years. The Ministry has projected that an extra $4.2 billion will be needed to repair these bridges.

In light of the expected shortfall, existing funds should be spent on bridges with the most urgent need for repairs. However, our review found that about 60% of bridges rated in poor or fair condition were not on the Ministry's five-year capital work plan. Specifically, of the approximately 185 bridges that were in the "now need" category in 2008/09, 71 bridges with repair and rehabilitation costs estimated to be $190 million were not on the

Ministry's work plans for the following year. Ideally, bridges identified as "now need" would have been considered for repair and rehabilitation several years before they reach this condition, as sufficient lead-time is required to arrange for the necessary procurement work and ensure that safety concerns do not develop in bridges while they await scheduled repairs.

In response to our observation regarding the large population of bridges in fair and poor condition that was not on the work plans, the Ministry indicated that the Bridge Condition Index was a tool that measures the relative overall condition of a bridge and is not necessarily a measure of bridge safety. Any urgent safety issues would be flagged during inspections and remedial work would be carried out immediately.

Rather, the tool was being used primarily to assist with planning and prioritizing bridge rehabilitation work. In that regard, the Ministry indicated that, in response to recommendations from our 2004 audit, it has been taking more of a corridor management approach to its activities. Consequently, the condition rating of a bridge was not the only factor considered in prioritizing the timing of bridge rehabilitation work. In making the decisions, ministry staff applied their experience and judgment and took into account other safety and economic factors such as the role of a bridge, the kind of traffic it handles now and in the future and the cost savings expected through co-ordinating bridge work with other highway work.

The application of the sound asset-management principle is indeed key to setting priorities for bridge rehabilitation work and making sound capital investment decisions. However, we noted that the process was still in transition and the Ministry had not established formal guidelines for proper application of the principle. As such, the rationale and support for such decisions were often neither documented nor kept in the Bridge Management System. Better analysis and documentation of the safety and economic considerations are needed, particularly in

cases where the rehabilitation decisions were inconsistent with the condition rating of the bridge.

Furthermore, given the large proportion of "now need" projects that were not on the Ministry's five-year work plan and the lack of documented rationale for their exclusion, we believe more attention needs to be paid to bridges identified as "now need" in the Ministry's priority-setting process.

SAFETY OF PROVINCIAL BRIDGES

The primary objective of a bridge inspection is to provide assurance that the bridges inspected are in safe condition. In this regard, we engaged the service of an engineering firm (firm) to re-inspect four of the provincial bridges so that we could obtain an independent assessment of risks and the condition of those bridges.

According to the engineering firm, there are two main risks with respect to the poor condition of bridge infrastructure. One is the risk of accidents, which can be caused by objects falling and hitting traffic or leaving obstacles on the roadway below; or parts of the bridge structure failing to perform their intended function of providing adequate protection to the vehicles travelling on the structure. The other risk is related to the deterioration of property that could result in expensive repairs and rehabilitation over the long run.

The engineering firm concluded that, overall, the Ministry's inspections were carried out in conformity with the intent of the Inspection Manual and that most critical features were recognized and pointed out. However, there were several notable exceptions where the risk of accidents could be serious:

- For all four of the bridges, the Ministry had not thoroughly inspected some significant bridge elements, including the underside, side faces, and piers because of traffic (see also the section Gaining Access to Bridges for Inspection). This could impede the effectiveness of the inspection and pose a serious risk (such as of concrete falling onto traffic).

- Our firm indicated that some of the features that can be seen or felt (for example, vibrations) can best be described in narrative form. Each critical bridge element on the Ministry's inspection form is assigned a value from poor to excellent. Inspectors are expected to interpret what they see or hear and indicate on the inspection form the recommended timing of bridge maintenance work—from urgent to 10 years—where required. However, the inspectors' assessment does not distinguish between deficiencies that posed a risk to safety versus deficiencies relating to loss of value as measured by the high cost of repairs, given the potential impact of the deficiencies identified. Our adviser was of the opinion that such information should be clearly communicated in the inspection report to provide assurance about a bridge's safety and enable better planning of bridge work. For example, a ministry inspection report had called for repair of defects on some bridge surfaces within two years. However, there was no distinction made between surfaces and whether or not delaminated concrete could fall into Highway 401 traffic—an important piece of information for assessing the urgency of the repair work.

- Two of the four re-inspected bridges were rated in fair or poor condition and were therefore supposed to be rehabilitated within five years. The bridge that was in poor condition, in particular, was intended to be replaced completely in two or three years because of its deteriorated state. Neither of the two bridges, however, was on the Ministry's five-year capital work plan.

RECOMMENDATION 1

To ensure that appropriate and timely action is taken on bridges requiring repair and rehabilitation work, the Ministry of Transportation should:

- strengthen its risk-assessment and priority-setting process, with particular consideration given to bridges identified as being in poor condition, so that any urgently required work is given first priority; and

- ensure that government decision-makers receive the information they require to adequately assess both safety and economic risks in order to prioritize the capital needs of Ontario's aging provincial bridges.

MINISTRY RESPONSE

Bridge repairs required to protect the safety of the travelling public are performed immediately. As shown by its long safety record, the Ministry has effective processes in place to address short-term urgent repair needs and long-term rehabilitation requirements. To build on the Auditor General's suggestion to further enhance and strengthen our risk-assessment process, we are implementing mandatory detailed documentation of bridge safety issues when identified by inspectors, clearer identification of potential safety risks, and recording of all bridge maintenance work that is completed. These enhancements will ensure that the Ministry further identifies bridges in need of additional repair and rehabilitation.

Backed by comprehensive inspection reports and engineering expertise, we have a multi-year work plan for bridge repair and rehabilitation. This plan carefully evaluates both bridge safety and economic risks to ensure the proper timing and location for capital improvements. New highway-infrastructure-management software will integrate a broader range of bridge condition and economic data to effectively prioritize bridge repair needs. The Ministry is also implementing even more rigorous criteria to enhance documentation of bridge repair work being undertaken or deferred.

BRIDGE INVENTORY

Effective bridge inspection requires complete and accurate information on the 2,800 provincial bridges and their individual elements. As indicated earlier, the information in the Ministry's bridge inventory is recorded on the Ontario Bridge Management System database, from which the Bridge Condition Index and the Priority Index are derived. These indices provide information about a bridge's overall structural condition and form the basis for prioritizing bridge repair and rehabilitation.

The Ministry's Inspection Manual lists over 50 elements that may be found in a bridge. Each bridge typically has at least 20 of these elements, and usually many more. Some examples of bridge elements are the deck-top, soffit (underbelly of the bridge), columns, and railing systems. During an inspection, the inspector is required to check if the bridge's structure and elements match its design drawings and the information in the database. If there have been any changes, the inspector must update the information in the database.

We found that the Ministry had adequate procedures in place for ensuring that it identifies all provincial bridges for which it has responsibility. However, the Ministry has not ensured the completeness and accuracy of its information on the individual elements that comprise each bridge. The Ministry cannot be precise in its rating of the overall condition of a bridge if the inspection does not assess the condition of each of the bridge's elements.

As part of its quality-assurance review in 2006 and 2007, the Ministry's head office re-inspected a sample of bridges that had been looked at by in-house inspectors or outside consultants in the various regions. For about 75% of the re-inspected bridges, at least one error was found in the way the information on bridge elements was recorded in the Bridge Management System. Examples of errors included missing elements and recording the wrong quantities or dimensions. About 40% of the errors found were considered to have had a significant impact on the condition in which the bridge was

rated and the resulting time frame for its repair or rehabilitation.

At the completion of our audit in spring 2009, the Ministry had not yet fully addressed the results of its quality-assurance review and some of the Bridge Management System information remained inaccurate. We also found significant differences between what was recorded in design drawings and in the Bridge Management System. For example, the dimensions of deck-tops in design drawings did not match what was recorded in the system for about 25% of the bridges in our sample. For more than 600 bridges, the dimensions recorded for deck-tops differed between different tables within the Bridge Management System. For approximately 200 of these bridges, the difference was greater than 20%, which would have a significant impact on the estimated cost of their repair and rehabilitation.

RECOMMENDATION 2

To better ensure that the results of bridge inspections are accurately recorded and to better prioritize and estimate the cost of bridge repair and rehabilitation, the Ministry of Transportation should:

- more closely monitor inspectors' compliance with the Bridge Inspection Manual so that critical bridge information is accurately updated; and
- act on findings from its quality-assurance review and ensure the completeness and accuracy of information kept in the Ontario Bridge Management System.

MINISTRY RESPONSE

The Ministry agrees with the Auditor General on the importance of inspector oversight. To ensure that this continues, a mandatory training program is provided to all bridge inspectors, clearly identifying specific roles, responsibilities, and requirements. Acting on the Auditor General's suggestion to further enhance bridge inspections, a formal, rigorous oversight process has been implemented so that critical bridge information is kept current and recorded.

The large amount of data included in the Bridge Management System must be correct for it to be effectively used in decision-making. We are also acting on the Auditor General's suggestion to review our data for completeness, making additions and updates where necessary. We expect this review to be complete by late 2010.

GAINING ACCESS TO BRIDGES FOR INSPECTION

The Inspection Manual states that each element of a bridge is to be inspected in a systematic fashion. This means that an inspector is required to record observations, make sketches where appropriate, and take photographs that clearly show the structure and any defects found within it.

The Inspection Manual also calls for detailed visual inspections of bridges to be performed regularly. A detailed visual inspection is an element-by-element, "close-up" assessment of a structure's material defects, performance deficiencies, and maintenance needs. The Manual states that these inspections should be conducted within arm's length of the element, possibly involving tapping with a hammer or taking measurements by hand. In some cases (such as on structures that are generally in good condition) it may be possible to inspect a portion of a bridge up close and then estimate the condition of the remaining, inaccessible parts through extrapolation.

Thorough bridge inspections often require that lanes and road-shoulders be closed. Inspectors are responsible for obtaining the required approval for lane and shoulder closures through the Ministry's traffic department. However, we found that in the past three years there have been only a few shoulder closures and no requests for lane closures in the central region that encompasses the Greater

Toronto Area. When we questioned this, we were informed that it was virtually impossible to get approval for these closures in the Greater Toronto Area. In other parts of the province, closures are possible but were also not widely used as the disruption and expense is believed to be unwarranted.

In a 2006 training workshop, ministry inspectors and external consultants both commented that their work was challenged by not being able to gain adequate access to perform thorough, close-up inspections of large bridges. This issue is particularly serious in the Greater Toronto Area, where there are over 660 bridges on the 400 series of highways and some of them span up to 16 lanes of traffic. Half of these bridges are 40 years or older.

Having only limited access to bridges means inspectors may be forced to leave some elements uninspected, or to estimate the condition of some elements from afar, which increases the risk of inaccurately assessing their condition. Proper inspections of significant elements such as the soffit, beams/girders, or bearings may not even be possible.

The firm we engaged to re-inspect four of the provincial bridges confirmed that the lack of access represented a significant hindrance to the inspection because some surfaces could not be touched and some could only be photographed from afar or not at all. Some of these surfaces represent important sources of risk. For example, surfaces facing traffic on Highway 401 could not be probed for delamination, which on all concrete soffits will eventually lead to pieces spalling and falling off.

External consultants at the 2006 training workshop suggested that they work with ministry engineers to identify any required lane closures and that these closures be mandated in their agreements with the Ministry. The consultants added that the number of lanes to be closed should be specified when the work was tendered, to ensure that all consultants are bidding on the same scope of work. The reasoning behind this request is that if lane closures are optional, consultants bidding on the work might be tempted to omit the cost of

the closures from their tender. The Ministry has not acted on the consultants' request.

RECOMMENDATION 3

To ensure that inspections are carried out in accordance with legislation, the Ministry of Transportation should:

- arrange for the closure of lanes and shoulders whenever these are required to ensure that an adequate bridge inspection can be carried out;
- if closure of lanes and shoulders is not always possible for every bridge inspection, consider a risk-based approach that takes into consideration factors such as the age of the bridge and the feasibility of rotating inspections. Off-peak closures such as at night or on weekends also warrant more consideration to facilitate bridge inspection; and
- consider specifying lane and shoulder closures when tenders are issued for inspections to be done by external consultants.

MINISTRY RESPONSE

Ontario has some of the busiest highways in North America, making lane and shoulder closures very challenging. To build on the Auditor General's suggestions, we are acting on the suggestion to implement a risk-based approach to bridge inspection to ensure that lane closures occur on critical bridges; scheduling 75 traffic lane/shoulder closures this year in the Greater Toronto Area; and conducting a thorough review of all bridges across the province, starting with older bridges, where lane closures may be needed for effective bridge inspection. Lane closures will be mandatory for future inspections at these locations. In all cases where lane or shoulder closures are needed, we will work with our contractors to minimize impact to traffic without compromising the inspection process.

INSPECTION OVERSIGHT

Since its quality assurance review in 2006, the Ministry has carried out periodic re-inspections of bridges to check whether previous inspections were done in accordance with its Inspection Manual. The Ministry also conducts training workshops for ministry inspectors and external consultants that are aimed at improving the quality and consistency of bridge inspections.

These are good initiatives. Nevertheless, we identified a number of areas that we believe indicate a need for better oversight of bridge inspections.

Time Spent on Inspections

While the time required for a bridge inspection varies according to the type and design of the bridge, the Inspection Manual states that an inspector should plan to spend at least two to three hours at a typical bridge site to adequately assess the condition of all elements. Larger bridges take longer to inspect.

We noted that, on average, inspectors conducted three to five inspections in a single day. In the round of inspections done between 2006 and 2008, we noted that there were 36 instances where 10 or more bridges had been inspected by a single inspector in one day. Ten of these were inspections conducted by ministry inspectors and 26 were the work of external consultants.

Insufficient time spent on inspections increases the risk that serious deficiencies will be missed, especially in older structures and bridges that have a history of problems.

Changes in the Condition of Bridges between Inspections

In general, if a bridge does not undergo any rehabilitation between inspections, its value on the Bridge Condition Index would decrease as it continues to age and deteriorate. The rate of deteriora-tion is slower at first but accelerates as the bridge ages. In trying to predict future bridge rehabilitation needs, the Bridge Priority Tool automatically reduces a bridge's Priority Index by 1.5% to 2% per year, depending on the age of the bridge.

A significant increase or decrease in a structure's Bridge Condition Index value between inspections raises questions: What are the possible reasons for the change, and what follow-up action should the Ministry take? When we compared the Bridge Condition Index numbers from current and previous inspection cycles, we noted that there was an increase or improvement of five or more points—not a decrease as would be expected—for over 300 structures. Recent rehabilitation work could only explain a few of these increases. Differences in the application of judgment on the part of the inspector was the reason most often cited for the increases that remained.

Conversely, we noted that for about 180 bridges, the Bridge Condition Index did not change at all between inspections. Our follow-up work indicated that the previous inspection reports had been carried forward for many of these bridges. Although in many of these cases there were photographs on file to indicate that an inspection had occurred, given that bridges do deteriorate over time, we believe that the absence of any explanation for why the bridge condition did not change warrants further follow-up.

In 2006, one region re-inspected 41 bridges that previously had been inspected by external consultants. It found that almost 20% of the bridges had Bridge Condition Index values that varied between 5 and 35 points from the initial inspection. Among other things, the review noted that inspectors were not consistently applying inspection guidelines or verifying bridge inventory data. The region concluded that better in-house expertise was needed to monitor the work of external consultants.

Bridge Condition Survey

If an inspector feels that more detailed information on a structure is required than can be learned in the course of a visual inspection, he or she may request further investigation. For example, the presence of severe material defects or performance deficiencies in the individual elements of a bridge may necessitate further investigation, which, for concrete bridge components, is usually in the form of a bridge condition survey. In a condition survey, procedures that are more precise than visual inspection techniques are used to assess the extent of the defects and deterioration in a structure. For instance, the Ministry has conducted condition surveys on only about 5% of the province's bridges in the last four years. Our expert indicated that, considering almost a quarter of the province's bridges are in fair or poor condition, one would have expected the Ministry to use the more comprehensive bridge condition survey more frequently.

Agreements with Engineering Firms

The regions that have outsourced the inspection of bridges have entered into individual agreements with the external firms they have engaged to do the work. We noted a number of substantial variations in the terms of these agreements. For example, one region had stricter requirements regarding experience (the inspector had to have at least five years of bridge-design experience in addition to being a professional engineer) and scheduling (there was a maximum number of hours that could be spent inspecting bridges in one day, inspections could only be carried out during daylight hours, etc.).

RECOMMENDATION 4

To ensure that inspections are conducted in accordance with legislation, the Ministry of Transportation should establish a risk-based approach for the ongoing monitoring of inspections. This approach should include:

- assessing the reasonableness of the number of bridges that external contractors and ministry staff report as having been inspected in any one day to ensure that thorough inspections are being done;
- following up on any unusual changes in a bridge's condition since the previous inspection; and
- identifying high-risk bridges that should be subject to more in-depth condition surveys.

The Ministry of Transportation should also consider standardizing its agreements with engineering firms. At a minimum, these agreements should contain provisions regarding the experience and qualifications of staff assigned by the firm to conduct the inspections.

MINISTRY RESPONSE

Thorough and accurate inspections are necessary to ensure bridge safety. To enhance the assessment of bridge conditions, we have implemented the Auditor General's suggestions to require ministry engineers to more clearly identify mandatory minimum timeframes for inspection and identify when unusual changes have occurred to the condition of a bridge. This will enhance the Ministry's ability to take the appropriate follow-up action.

Standardized inspection contracts have also been implemented that require specific experience and qualification requirements for all contractors performing inspections.

BRIDGE MAINTENANCE

During the course of a bridge inspection, the inspector is to identify the bridge's rehabilitation, repair, and maintenance needs. Future capital construction projects are to be included in the five-year capital work plan, whereas minor capital works in the $100,000 to $500,000 range are considered maintenance and are to be captured on a separate

list. Repairs to spalled concrete in columns or soffits and fatigue cracks in steel girders are considered maintenance work and would not appear on the Priority List and capital work plan.

There are two types of maintenance work. Structural maintenance is work that requires engineering drawings. It is generally done to improve the structural capacity of a specific bridge element or on bridges in need of emergency repairs. Routine maintenance is usually preventative maintenance and minor repair work carried out by bridge crews aimed at prolonging the life of the bridge structure. All maintenance needs are to be recorded on an inspection form and forwarded to the maintenance crews of the responsible region for action, with urgent items flagged for immediate attention. When maintenance work is completed, the region is to confirm that the required work, especially all safety-related maintenance, was performed satisfactorily.

We noted that regions did not always complete recommended maintenance work in a timely manner. In two of the three regions that we visited, only about one-third of the maintenance work recommended in biennial inspections was actually completed. The third region did not track the work being done, so we were not able to determine the number of maintenance recommendations that it had followed.

We noted that the procedures for acting on maintenance recommendations resulting from biennial inspections varied considerably between the three regions. For instance, only one region made any attempt to prioritize its maintenance recommendations into categories such as "low priority," "high priority," and "immediate attention." This region was acting for the most part on recommendations that fell into the last category as well as a small percentage of its high-priority recommendations.

Finally, although the Ministry had started taking more of an asset-management approach to its maintenance activities, it had not yet developed a formal asset-management plan. Such a plan would

set out the optimal time frame in which to carry out preventative maintenance as well as the most cost-effective approach for managing bridge assets over their life cycles.

RECOMMENDATION 5

The Ministry of Transportation should:
- develop a formal asset-management plan as a basis on which to prioritize the preventative maintenance of bridges; and
- promptly carry out preventative maintenance, including the maintenance recommended in bridge inspections.

MINISTRY RESPONSE

All critical bridge safety needs are addressed immediately once identified by inspectors. In response to the Auditor General's suggestion, we are currently creating a system to effectively prioritize maintenance work. This will be supported by consistent documentation of inspection results across the province.

The Ministry is implementing a program to more efficiently allocate capital resources for roads and bridges. Comprehensive multi-year regional work plans for all provincial roads and bridges will clearly identify necessary rehabilitation, replacement, and preventative maintenance. These work plans evaluate a broad range of criteria, including bridge condition, as well as effective value for money.

ONTARIO BRIDGE MANAGEMENT SYSTEM

As indicated earlier, the Ministry uses the Ontario Bridge Management System (System) to keep information on all provincial bridges. In addition to calculating a Bridge Condition Index value for each bridge, the System generates information on inspections, such as when they are due, the date of their completion, the name of the responsible

inspector, and the work that was recommended. This information is supported by photographs of defects observed during inspections.

The System was developed about 10 years ago to enable the Ministry and its regions to follow a more disciplined approach to managing the bridge inspection process. To ensure consistency and avoid duplication of effort, the Ministry's regions are supposed to use only the Ontario Bridge Management System. However, we found that each of the three regions we visited had been maintaining at least one additional local database. We noted the following issues:

- The Bridge Management System did not have information on the rehabilitation history for almost one-third of the bridges that were 40 years old or older. The Ministry confirmed that rehabilitation work had been done on some of these bridges in the last 12 years and detailed information was available in paper files or on the local database, yet none of this work had been entered into the System. Because the Bridge Priority Tool projects the next time rehabilitation work is due based on the information that has been entered into the System, the dates projected were inaccurate for work on some bridges.
- The System's design caused it to perform some operations slowly. In some cases, when a user logged on to launch a detailed view, the System had to retrieve data for all sites in the region or province, which meant it took longer to perform the operation. The System was also slow in generating detailed inspection reports because it involved assembling data from a number of different tables. Regional staff tended to use local databases because they contained data on fewer sites and were therefore much faster.
- The System has limited reporting capabilities. For example, there are a number of standard summary reports that generate information based on the latest data, but it was not possible

to generate these reports for a specific year— even though the required data was stored in the database. For instance, users could not query the system to flag large fluctuations in Bridge Condition Index values between inspections. The summary reports were also restricted in format. Users could not vary the layout of the reports to suit their needs.

The Ministry has made a number of upgrades to the System over the years. Despite these efforts, some of the above issues cannot be resolved because of the System's age and design limitations.

RECOMMENDATION 6

To make the Ontario Bridge Management System more useful, the Ministry of Transportation should:

- ensure that the information on bridge rehabilitation contained in the System is up to date; and
- assess whether the System meets users needs and whether there are cost-effective ways of improving its performance and capabilities, especially with respect to reporting information needed for rehabilitation and inspection purposes.

MINISTRY RESPONSE

The large amount of data included in the Bridge Management System must be comprehensive for it to be effectively used in decision-making. The Ministry is acting on the Auditor General's suggestion to develop a business case for making further significant bridge-management system enhancements, which would strengthen the Ministry's oversight of bridges in this province. We expect the business case to be completed in fall 2010. The new system, if implemented, would address all of the Auditor General's findings.

PROCUREMENT AND CONTRACT MANAGEMENT

Contract Selection Process

The Ministry outsources almost all the work for its major road and bridge capital projects. The services involved in this type of work fall into three categories: engineering design services, construction, and construction contract oversight. The Ministry generally followed a competitive selection process, but we noted some areas for improvement in its procurement of contracts for design services and construction contract oversight.

The Ministry has developed two separate sets of evaluation criteria to rank the proposals it receives for design services and construction contract oversight. In the first type of evaluation, 50% of the bidding consultant's score is to be based on its previous performance, and the remaining 50% is to be contingent on price. In the second type of evaluation, 50% of the score is to be based on the bidding consultant's previous performance, 40% is to be based on the technical merits of its proposal, and 10% is to be contingent on price. We were informed that for straightforward, clearly defined projects, the first set of evaluation criteria would be used. For more complicated projects, where the consultant's qualifications, approach, and ability to deliver are considered crucial elements, the second set of criteria would apply.

We agreed that, for certain projects, qualitative considerations are as, if not more, important as price. However, for the second set of criteria in particular, the Ministry could not adequately support the weighting it had chosen to use—price was virtually irrelevant given that it received only 10% of the weighting. In these types of projects, a contractor pre-qualification process would have allowed the Ministry to learn more about contractors in advance and put more weight on pricing in its formal requests for proposals.

The Ministry also was not clear about when and where each set of criteria would apply. The three regions we visited varied significantly in their application of the two sets of evaluation criteria. One region had decided to use only the first set of criteria, while the other two regions were using both.

For nearly 60% of the contracts we reviewed, there were no more than two bidders. When there were no bidders, the Ministry ended up assigning the work to a consultant already engaged by it on another project. According to the Ministry, there has been a significant decline in the number of consultants bidding on design services and construction oversight contracts because of consolidation in the consulting industry. Recognizing this, the Ministry prepared a business case in September 2008 asking to increase its complement of staff so that it might reduce its dependence on external consultants. If approved, the Ministry would, although continuing to use consultants, gradually increase the number of projects done in-house over a five-year period.

Price Estimates and Change Orders

We noted that in over 60% of the contracts we reviewed for design services and construction contract oversight, the Ministry's cost estimate differed significantly from that of the selected bidder. In many cases, the winning bid was 50% higher than the Ministry's own initial estimate.

We also noted significant change orders after contracts had been awarded. Change orders occur when the consultant performs work that was not included in the original agreement. This could be due to an unforeseen requirement for extra work or additional materials, or a change to the scope of work because of new information uncovered during the project. We noted addenda in about 75% of the contracts that we reviewed. In half of these, the added costs amounted to more than 50% of the original contract price.

RECOMMENDATION 7

To ensure value for money on major capital projects and fairness in its procurement process, the Ministry of Transportation should:

- review the application of its two different sets of evaluation criteria for requests for proposals to ensure that they are consistently applied across the regions;
- reassess the evaluation criteria in which the bid price is a relatively minor factor in selecting the winning bidder; and
- given the frequent significant variances between the Ministry's estimated cost of a project and the bidder's cost, examine its internal estimation process as well as the possible impact of the increased trend of relatively few bidders.

MINISTRY RESPONSE

The Ministry uses a fair, open, transparent, and competitive process to hire contractors, one that ensures good value for money. Our criteria for bid selection were developed by the Ministry in consultation with both industry and the Ministry of Government Services. Price continues to be a determining factor in the selection of most successful bids. However, the Ministry's experience has been that for more complex projects, an emphasis on price during the design phase reduces the implementation of innovative and more efficient designs and drives construction costs higher.

To ensure greater consistency and transparency in how the Ministry selects contractors, detailed guidelines now clearly identify contractors' responsibilities and project requirements. A program is being implemented to closely monitor and evaluate the difference between estimated and actual design costs. Once it is complete, we will evaluate and make adjustments, where necessary, to our internal estimating process.

MUNICIPAL BRIDGES

Condition of Municipal Bridges

Each municipality is responsible for the bridges in its own jurisdiction. As well, there is no central database on the number of municipal bridges and their overall condition. There is also no legislation that provides any provincial ministry with the authority to oversee municipalities' compliance with the legislated requirement that they conduct biennial inspections that assess the condition and safety of municipal bridges.

One objective of our survey of municipalities was to gain an understanding of the municipal bridge inventory and how municipalities report on the required biennial inspections. The 73 municipalities that responded to our survey were responsible for approximately 7,300 bridges. These bridges were, on average, older than the provincial bridges. They were 12 to 100 years old, with an average age of about 43 years.

Almost all of the respondents said they engaged outside engineering firms to conduct bridge inspections and used a variety of systems to keep track of municipal bridge and inspection data. For example, some have adopted the Ontario Bridge Management System and others rely mainly on data maintained by external engineering firms, spreadsheets, and paper-based systems.

Sixty-five (90%) of respondents indicated that, overall, their bridges were in good to fair condition. However, the definitions and systems used by municipalities to classify bridges vary widely, so it was not possible to provide an accurate picture of the overall condition of municipal bridges in Ontario, nor was it possible to make comparisons between municipal and provincial bridges.

Nevertheless, our survey indicated that municipalities are finding themselves in a situation similar to that of the province as the need for significant rehabilitation becomes more pressing for many municipal bridges. The majority (85%) of respondents have a backlog of rehabilitation work. The urgency of the backlog varies, with 45%

of municipalities having a backlog of one to five years, 25% between six to ten years, and 10% over 10 years.

The primary sources of municipal revenue are residential and commercial property taxes, development charges, and user fees. Large and growing communities generally do not have such significant backlogs because their revenue bases are larger and their infrastructure newer. On the other hand, some municipalities have a large number of bridges but a relatively small population and revenue base to support the rehabilitation of bridge infrastructure. Figure 2 illustrates the extent of this disparity using a few examples from the results of our survey.

Funding to Municipalities

In recent years, the provincial and federal governments have provided municipalities with funds to help them maintain their roads and bridges. Municipalities can use the funds for infrastructure or spend them on other capital priorities. The decision is at the discretion of the municipality, depending on the terms of the grant program under which it received the funds.

In 2004, the federal and provincial governments pledged a combined $596 million ($298 million each) over five years to improve Ontario's municipal infrastructure, of which $112 million was earmarked for bridges. In addition, in 2005/06 and 2007/08, the Ministry of Transportation provided one-time grants of $400 million to municipalities for roads and bridges. Other one-time grants for improving municipal infrastructure were also made

available through various provincial ministries in 2007/08: $450 million under the infrastructure program and $1.1 billion under the *Investing in Ontario Act*. The decisions to make these grants available were often made close to the end of the fiscal year, with little advance warning.

Many of the municipalities noted that, although they welcomed such one-time grants, this type of funding makes long-term capital planning difficult. Because it takes time to properly plan capital projects, obtain council and environmental assessments, and follow the proper processes for approvals and procurement, many municipalities were not able spend the money until long after they had received the grant.

During our audit in spring 2009, we looked at a sample of municipalities that had received grants in June 2008. We found that half of them had yet to spend a large portion of the grant money they had received almost one year later. Some municipalities told us that the significant one-time grants they had received had actually increased project costs—the influx of requests for proposals from various local governments flooded the market with several projects at the same time, and with only a limited number of contractors available to do the work, bid prices tended to escalate.

In addition, the province had little knowledge about the condition of the bridges in each municipality and their maintenance and rehabilitation histories. The province allocated funds using demographic information, such as the size of the population and the network of roads. As such, the

Figure 2: Municipal Capacity to Maintain Bridge Infrastructure

Prepared by the Office of the Auditor General of Ontario

	Population*	# of Bridges	Overall Condition of Bridges	Backlog ($ million)	Backlog (years)
Municipality A	108,177	823	fair to poor	117.5	19.5
Municipality B	62,563	242	fair	9.5	9.5
Municipality C	668,549	108	good	nil	n/a
Municipality D	892,712	139	good	nil	n/a

* As of 2006, according to Statistics Canada

province may not be allocating funds to the areas of greatest need.

On the other hand, some municipalities expressed concern that providing funds for only the bridges in poor condition, although urgently needed, penalizes municipalities that have consistently followed good asset-management practices in maintaining their bridges. Municipalities told us that requirements for better asset-management practices supported by more sustainable provincial funding are needed to ensure safety and maximize the lifespan of municipal bridges.

Accountability

We surveyed the accountability relationship in the management of municipal bridges in other Canadian provinces as well as six states in the United States. We found that Ontario and four other provinces have delegated the responsibility for the inspection and rehabilitation of local bridges to municipalities without making any provision for provincial oversight. The other jurisdictions we looked at either share or delegate the maintenance responsibility but still maintain an oversight role. For example, each state in the U.S. is expected to maintain an oversight role over the safety of its bridges through the National Bridge Inspection Standard.

In 1993, the Government of Quebec transferred responsibility for the municipal road network to municipalities. The Commission of Inquiry that investigated the cause of the September 2006 collapse of the de la Concorde overpass in Quebec found that there was ambiguity between the province's Ministry of Transportation and its municipalities over who was responsible for the maintenance, repair, and replacement of bridges on the municipal road network. One of the Commission's recommendations was that Quebec's Ministry of Transportation regain ownership of all bridges from municipalities with a population of less than 100,000, or at least assume responsibility for their inspection, maintenance, and rehabilitation. In

January 2008, Quebec adopted the Commission's recommendation.

In Ontario, representatives from the province, the Association of Municipalities of Ontario, and the City of Toronto began working together in December 2006 to reach a consensus on a new fiscal and service-delivery partnership between the province and the municipalities. This initiative, called the Provincial–Municipal Fiscal and Service Delivery Review, covered fiscal relationships, infrastructure, and the delivery of human resources. With respect to infrastructure, the partners agreed to launch a joint provincial–municipal process in fall 2008 to develop options for identifying responsibilities and funding arrangements for roads and bridges using recognized asset-management principles. At the time of our audit, a working group with representatives from the province and the municipalities was being established to follow up on the Review's recommendations. Its objectives will include identifying municipalities with insufficient resources to maintain adequate levels of investment in roads and bridges, and developing a mechanism to provide them with extra assistance. Our survey results seem to indicate that this initiative is supported by many municipalities. Accordingly, we have made some specific recommendations for both the province and the working group to consider.

RECOMMENDATION 8

To help ensure the safety and proper upkeep of municipal bridges, and as part of its current provincial–municipal review, the Ministry of Transportation should work with municipalities and other stakeholders to:

- review practices in other large provinces and U.S. states with respect to oversight of municipal responsibilities for bridge maintenance, with the aim of determining whether changes to the current accountability relationship are required;
- ensure that the condition of municipal bridges is consistently assessed, updated

every two years as required, and publicly
reported;
- review the Ministry's funding arrangement
  with municipalities to ensure that the funds
  provided are effective in sustaining the
  proper maintenance and rehabilitation of
  bridges; and
- promote good asset-management practices.

MINISTRY RESPONSE

The province and municipalities are jointly
examining options around responsibilities and
funding arrangements for roads and bridges.

Currently, municipalities are responsible for
bridges under their jurisdiction and the associ-
ated inspections in accordance with the *Public
Transportation and Highway Improvement Act*.
Should further changes be warranted as a result
of the review, we would certainly consider mak-
ing some recommendations.

In the interim, we continue to work with our
municipal partners to develop best practices for
roads and bridges, focusing on development of
an inventory of assets, classification of roads,
and a review of how to manage these critical
pieces of infrastructure.

Consumer Protection

Background

The Ministry of Consumer Services (Ministry) oversees business and industry practices in Ontario's consumer marketplace for the protection of consumers and public safety. It does so by establishing a regulatory and legal environment that protects consumers, educating the public and businesses about business standards and other relevant issues, dealing with complaints received from the public, monitoring and inspecting businesses, and enforcing compliance with various consumer protection laws and regulations. The Ministry has responsibility for 27 consumer protection and public safety statutes. The primary legislation for which the Ministry directly monitors compliance includes the *Consumer Protection Act, 2002* (CPA), the *Collection Agencies Act,* the *Cemeteries Act*, and the *Film Classification Act, 2005*.

The CPA gives the Ministry powers to disseminate information for the purpose of educating and advising consumers; to provide information to consumers about the use of alternative dispute resolution techniques; and to enforce the CPA and other consumer protection legislation. The CPA covers consumer and business rights and their respective obligations, as well as requirements for warranties, unfair business practices, and other

areas. In addition, businesses that fail to respond and/or are found to be in violation of a consumer protection statute may be listed on the Consumer Beware Database, which is available to the public on the Ministry's website.

The responsibility for a number of consumer and public-safety statutes for specific marketplace sectors has been delegated to eight designated administrative authorities (delegated authorities) for some time, as shown in Figure 1. The delegated authorities are not-for-profit corporations and each has a board of directors. The majority of directors are industry representatives, although the Minister can appoint some members to each delegated authority's board. The delegated authorities use their industry and technical expertise to carry out the day-to-day functions of ensuring public safety and/or consumer protection in their industries by regulating and monitoring business practices, by inspection and enforcement, by dealing with complaints, and, in some cases, by administering industry-specific warranty or compensation funds to qualifying consumers. The Ministry monitors the performance and activities of delegated authorities and retains control over certain major decisions.

The Ministry's Policy and Consumer Protection Division (Division) consists of three branches: the Policy Branch, the Consumer Protection Branch, and the Sector Liaison Branch (which oversees the delegated authorities). In the 2008/09 fiscal year,

Figure 1: The Ministry's Delegated Authorities, as of March 31, 2009

Source of data: Ministry of Consumer Services

Delegated Authority (Year Established)	Primary Legislation Administered and Key Responsibilities	Annual Expenditures ($ million)	# of Staff
Board of Funeral Services (BoFS) (1914)	*Funeral Directors and Establishments Act* regulates funeral services; licenses 2,500 funeral directors and 600 businesses	1.5	10
Electrical Safety Authority (ESA) (1999)	*Electricity Act, 1998* regulates the use of electricity and electrical equipment; enforces the Ontario Electrical Safety Code; licenses almost 14,000 electrical contractors and electricians	73.6	400
Ontario Motor Vehicle Industry Council (OMVIC) (1997)	*Motor Vehicle Dealers Act, 2002* regulates about 8,600 motor vehicle dealers and 23,800 salespersons	6.6	66
Real Estate Council of Ontario (RECO) (1997)	*Real Estate and Business Brokers Act, 2002* regulates 56,000 real estate brokerages, brokers, and salespersons	9.0	84
Tarion Warranty Corporation (Tarion) (1976)	*Ontario New Home Warranties Plan Act* administers a mandatory new home warranty program; registers 5,800 builders; enrolled over 1.45 million homes	68.2	250
Technical Standards and Safety Authority (TSSA) (1997)	*Technical Standards and Safety Act, 2000* regulates over 250,000 facilities, contractors, and workers for the boilers and pressure vessels, amusement and elevating devices, hydrocarbon fuels, and upholstered and stuffed articles industries	46.0	360
Travel Industry Council of Ontario (TICO) (1997)	*Travel Industry Act, 2002* regulates about 3,000 travel retailers and wholesalers	3.6	17
Vintners' Quality Alliance of Ontario (VQA Ontario) (2000)	*Vintners Quality Alliance Act, 1999* regulates VQA standards for over 100 registered wineries	1.2	3

the Division had approximately 110 staff and operating expenditures of approximately $12.6 million.

Audit Objective and Scope

The objective of our audit was to assess whether the Ministry (and, as applicable, the Ministry in partnership with its delegated authorities) had adequate authority, systems, and procedures in place to:

- ensure compliance with relevant legislation and Ministry policies that are established for the protection of consumers; and
- measure and report on its efforts to achieve public safety and consumer protection in accordance with its mandate.

We conducted our audit work primarily at the Ministry's two administrative offices in Toronto. Our work included reviews and analyses of the Ministry's procedures and guidelines, interviews with staff, reviews of relevant reports and documents, and examining a sample of case files. Because current legislation does not permit our Office to

audit the delegated authorities, our work in that regard consisted of reviewing processes in use and information received by the Ministry for its oversight responsibilities over delegated authorities. In addition, we met with senior management of two delegated authorities and a number of current and former ministry-appointed board members to discuss their views on delegated authorities' governance, ministry oversight and accountability arrangements, performance, and consumer protection and public safety issues.

We also considered the recommendations that we made in our last audit of this program in 2003 (Ministry of Consumer and Business Services, Policy and Consumer Protection Division), our 2005 follow-up on the status of those recommendations, and the related recommendations made to the Ministry by the Standing Committee on Public Accounts after its hearing on this section of our 2003 report.

We researched consumer protection programs and legislation in other provinces. In this regard, we met with management representatives of the Office de la protection du consommateur Québec (hereafter referred to as Quebec's consumer protection agency) to discuss their consumer protection programs. We also met with public consumer advocates to ask their opinions on consumer protection issues and the Ministry's role and activities. In addition, in June 2009 we engaged an independent research firm to conduct a survey to assess the Ontario public's awareness of the Ministry's consumer protection programs and of consumer protection rights.

We also engaged on an advisory basis the services of an independent expert with public-sector senior management experience in consumer protection programs, from another province.

Over the past several years, the Ministry's Audit Services Team conducted reviews of several aspects of the Ministry's consumer protection operations: the performance measurement framework established for the Technical Standards and Safety Authority (TSSA) and the Electrical Safety Author-

ity (ESA); a Risk Management Policy and Compliance Protocol established for cemeteries; and compliance with the government-wide purchasing card and travel expenses policies and procedures. These reviews and reported results allowed us to reduce the extent of our work in these areas.

Summary

The Ministry has made progress in addressing many of the recommendations we made in our 2003 audit for achieving consumer protection and public safety, especially with respect to recent improvements in its oversight of delegated authorities. Several changes to legislation have been made that have strengthened consumer protection, such as larger penalties and longer maximum sentences for illegal activities and broader coverage of activities. The Ministry has also conducted several targeted initiatives to promote compliance with consumer protection legislation by certain industries. Nonetheless, we noted the following areas where additional action is required to ensure that consumer protection legislation is being adequately administered and enforced:

- The Ministry needs to better promote its mandate and services to consumers. The 33,800 inquiries and 6,000 written complaints the Ministry received during the 2008/09 fiscal year represented about the average numbers over the last seven years but are decreases of 12% and 15%, respectively, from their peak in 2004/05. The Ministry has not done work to assess whether the significant drop in consumers' contact with it was due to decreased public recognition of the Ministry's role or better practices by Ontario businesses. By contrast, although Quebec's population is only 60% of Ontario's, its consumer protection agency received over 250,000 consumer inquiries and complaints annually. In addition, our own independent external survey indicated that

the Ministry would not be among Ontarians' top choices for resolving a complaint.

- The Ministry had exercised good controls over its registration and licensing processes in most areas to ensure that applicants meet standards for integrity, honesty, and financial viability, and that they comply with legislation for their industry. However, for collection agencies, debt collectors, and bailiffs, more rigour is required.

- Problematic industries and repeat offenders need to be more effectively dealt with by the Ministry. For instance, no significant improvement was achieved for certain industries (such as collection agencies, home repairs, car repairs, home furnishings, health and fitness clubs, and credit reporting) that remained on the Ministry's Top 10 Complaints list from 2000 through 2008. The Ministry had assigned a relatively low priority to complaints about harassment by collection agencies, even though they topped the list for almost 10 years and were the subject of over 10% of all inquiries and complaints received during 2008/09.

- The Ministry has had four or fewer inspectors during the last several years, or roughly one inspector for every 100,000 businesses. Because of the limited inspection staff resources, in 2008/09, proactive visits were not made to business types covered under the CPA that were in the Top 10 Complaints list. As a direct result of the 6,000 written complaints received, only 148 inspections and educational field visits were initiated by the Ministry. The Ministry's lack of inspection powers under the CPA, which covers most businesses, hinder it from effectively identifying consumer protection violations. Similar programs in other Ontario ministries, delegated authorities, and provinces were noted that had both more inspection staff resources and powers to access businesses' records. In addition, others had legislation allowing them

to assess administrative monetary penalties as a cost-effective alternative for dealing with less serious violations.

- The Ministry has made some progress since our last audit in enforcing compliance by cemetery owners with reporting requirements under the *Cemeteries Act*. However, the Ministry had not identified and recorded in its information system, and therefore planned no follow-up action or investigation on, a number of financial discrepancies that we identified, including differences ranging from a few thousand dollars to over $2 million between the trust fund balance as reported by the cemetery owner and the actual funds held by the trustee.

With respect to the delegated authorities, we noted that the Ministry is making progress in improving its oversight role and accountability relationship with them. However, there are several areas that still need to be addressed:

- In 2004, the Standing Committee on Public Accounts recommended that a comprehensive review of the delegated authority initiative was required to ensure that public safety and consumers are being adequately protected under delegated authorities, and that mechanisms are in place to ensure that delegated authority outcomes are being accurately reported. The Ministry launched the review on an urgent basis only after a tragic propane explosion occurred in Toronto on August 10, 2008, and over four years after the Committee's recommendation to do so. The review was completed in May 2009 and at the time of our audit the Ministry was considering the recommendations made.

- A good control established over the delegated authorities is that the Minister can appoint up to half of their board members. However, ministerial appointees range from 25% to 33% of the boards' composition. Boards were dominated by the industries they regulate. The Ministry has not encouraged greater balance

on boards between representation by government, consumers, the public, and industry.

- There is no provision for the Ministry to have full access to delegated authorities' information on such matters as quality assurance programs, strategic plans, executive salary and compensation packages, and board minutes. Although accountability arrangements with most delegated authorities were detailed and formal, the Ministry's accountability agreement with Tarion, which dated back to 2003, was not. Legislative amendments have not been made to clearly define the Ministry's authority over Tarion. In addition, the Ministry does not believe that it has a mandate to oversee how cost-effectively the delegated authorities are operating.

We noted that only one performance measure on customer satisfaction is reported publicly to cover all consumer protection programs delivered directly by the Ministry, and we questioned whether it was a reliable and meaningful measure.

Detailed Audit Observations

CONSUMER PROTECTION PROGRAMS DELIVERED DIRECTLY BY THE MINISTRY

Public Awareness of the Ministry's Mandate and Consumer Protection Legislation

Since our 2003 audit, we noted that the Ministry has had difficulties in promoting its mandate and services to consumers. Figure 2 shows that the 33,800 consumer inquiries and 6,000 written complaints received by the Ministry in the 2008/09 fiscal year represented approximately their average numbers during the period 2002/03 to 2008/09. In addition, the numbers of inquiries and written complaints had both decreased from their peak in 2004/05—by 12% and 15%, respectively. The Ministry had done no work to assess whether the

decrease represented a lack of public awareness of its consumer protection mandate or whether businesses and others were doing a better job in their consumer relations.

The Ministry relies extensively on its website to disseminate consumer protection information to the public. We noted that the number of times the Ministry's website was accessed tripled from about 7,800 visits in 2007 to 28,000 visits in 2008. Nonetheless, these overall numbers seem relatively low.

By contrast, although Quebec's population is only 60% of Ontario's, from 2005/06 through 2007/08 Quebec's consumer protection agency received about 251,000 consumer inquiries and complaints annually, or about six times more than Ontario, and its website was accessed over one million times annually, or about 35 times more than Ontario's. The consumer protection mandates of the two provinces differ in some ways (for example, the Ministry handles home renovation issues, whereas Quebec's consumer protection agency does not; and Quebec's consumer protection agency handles travel industry complaints, whereas in Ontario that is the responsibility of a delegated authority). But in our view, the differences do not explain the significant volume differences between Quebec and Ontario.

Figure 2: Consumer Inquiries and Written Complaints Received by the Ministry's Consumer Protection Branch, 2002/03–2008/09

Source of data: Ministry of Consumer Services
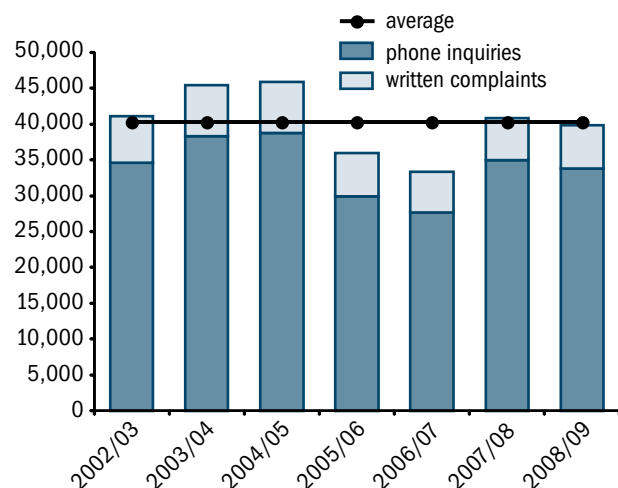
The Ministry informed us that its communication strategies generally target specific industries or businesses, but do not include large campaigns to promote either the Ministry's mandate or consumer protection legislation. The Ministry has not conducted a formal assessment of the effectiveness of its communication and outreach activities or why its services are not used more extensively.

The results of our survey conducted by an independent research firm also indicated that the Ministry could better promote awareness of consumer rights and its consumer protection programs and services. Some of the survey's key findings were:

- Overall, almost two-thirds of respondents reported having experienced a consumer-related problem in the past five years, with the most frequently cited issues being harassment, misleading sales information, and a lack of transparency in contractual relationships. Over 50% of those who indicated that they had experienced a consumer-related problem said that they did not contact anyone for help.
- When asked who they would be most likely to contact if they could not resolve a consumer complaint issue with a company, respondents cited the Better Business Bureau (BBB), the legal profession, and someone in the media before the Ontario government. (The BBB is a not-for-profit public-service organization with offices serving communities and marketplaces across North America that accredits businesses and upholds high standards for fair and honest business behaviour and for dealing with consumer complaints.)
- Among those who did contact someone for help, 23% indicated that they contacted the BBB. The Ontario government and the legal profession were each contacted by 11%, followed closely by the Canadian government, someone in the media, or a municipal government.
- Less than half of respondents had used the Internet to get information about consumer-

related problems, and only 3% of these respondents had used government websites to obtain this type of information.

As discussed later in this report, we also noted that the Ministry has not conducted a general public survey similar to ours. Instead, it asks those who call the Consumer Protection Branch to rate the quality of and their satisfaction with its services. We were informed by the Ministry that it generally receives high ratings in each of these areas. In contrast, our independent survey identified that one-third of respondents who had contacted the Ministry indicated that it was not helpful.

RECOMMENDATION 1

To ensure that there is adequate public awareness of the Ministry's consumer protection mandate and complaint services, the Ministry should:

- consult with other jurisdictions that have significantly more activity and recognition by the public to see if there are any best consumer-protection practices that can be applied in Ontario;
- assess its outreach and education programs with a view to identifying changes needed to make them more effective; and
- establish mechanisms for regularly assessing the general public's awareness of consumer rights and the Ministry's programs.

MINISTRY RESPONSE

The Ministry agrees that cross-jurisdictional consultations are valuable and believes that both public awareness of the Consumer Protection Branch program as a source of information and help along with public knowledge of basic consumer rights and obligations are key to protecting Ontario consumers from falling victim to unfair and inappropriate business practices.

The Ministry does and will continue to consult with other provinces to learn from their successful public outreach/educational programs

and explore mechanisms for assessing consumer awareness. The Ministry will explore the feasibility of adopting and adapting these strategies to Ontario consumer needs. The Ministry notes that some of its consumer education products, such as the Smart Consumer Calendar, have been adopted by other provincial jurisdictions.

Registration and Licensing

Industry-specific legislation requires that certain businesses be registered and licensed by the Ministry. As of March 31, 2009, the Ministry registers, licenses, or appoints more than 12,000 individuals and businesses. During the 2008/09 fiscal year, the Ministry collected approximately $5.6 million in registration and licensing fees.

We noted that the Ministry generally had exercised good controls over its registration and licensing processes for the cemetery, theatre, and video-store industries; however, improved controls were needed over the processes used for collection agencies, debt collectors, bailiffs, and assistant bailiffs. A key requirement for the registration and licensing processes is to ensure that applicants meet standards for integrity, honesty, and financial viability, and that they comply with the consumer protection and business obligation requirements of the legislation for their industry. We found that the files we reviewed had little or no documentation to demonstrate that the business or individual met these requirements, including:

- for collection agencies, debt collectors, and assistant bailiffs, whether the applicant's credit history had been checked;
- for collection agencies and bailiffs, the information on whether the required trust account was established;
- for collection agencies, whether financial statements were obtained;
- whether criminal background checks on the principals involved were ever conducted; and

- whether the applicant had supplied proof of citizenship, landed immigrant documents, or other documents showing eligibility to work in Ontario.

We also noted that the Ministry continued to renew collection agencies' licences even when they had been the subject of numerous past complaints. The *Collection Agencies Act* gives the Ministry the powers to refuse to issue a new registration or to revoke or suspend an existing one if the Ministry believes that the business "cannot reasonably be expected to be financially responsible in the conduct of business" or its past conduct indicates that it "will not carry on business in accordance with law and with integrity and honesty." For example, we found about 20 collection agencies that had each averaged from 20 to more than 460 inquiries and complaints annually in 2002/03 through 2008/09. All of their licences were renewed and active over the last two years, even though there was no documentation of any follow-up during the licensing renewal process to assess the legitimacy of the complaints.

The Ministry informed us that it has revoked licences for serious and repeat violations, making these decisions on a case-by-case basis. For example, between 2002/03 and 2008/09, it revoked the licences of five collection agencies; two debt collectors, 10 bailiffs, and nine assistant bailiffs. We agree with the Ministry that the number of complaints should not be the only basis for revoking or withholding a collection agency's licence, because complaints might not be justified or be all that serious in nature.

However, especially when the volume of complaints is significant, some follow-up should be required. The Ministry had not established a policy or guidelines that could be used to help assess how inquiries and complaints are to be considered during the registration and licensing renewal process, to ensure that it treats all businesses consistently, and to identify the level of non-compliance by a business that would trigger a licence review and possibly revocation.

RECOMMENDATION 2

To ensure that its registration processes meet legislative requirements that only businesses that demonstrate financial responsibility and honesty and integrity are registered and licensed, the Ministry should:

- review the procedures, documentation requirements, and quality control processes that its staff must follow to conduct a proper and complete review of an application; and
- establish a policy and guidelines for staff to use that would require due consideration of the number and types of complaints about an applicant.

MINISTRY RESPONSE

The Ministry agrees that periodic review of registration/licensing procedures, documentation requirements, and quality control processes is advisable and will conduct a review of the licensing review process, starting with the collection agencies program, this fiscal year.

The Ministry notes that improvements to the Consumer Affairs Tracking System (used by its staff to record consumer inquiries and complaints and any action taken by the Ministry to help educate the consumer or resolve the complaint) to support better documentation are already under way in the cemeteries area.

The Ministry has completed a number of reviews and revisions of the operational policies applying to regulatory decisions. This is an ongoing process, and the Ministry will work to develop and document policies that establish criteria to "flag" chronic violators as candidates for further administrative action.

Dealing with Consumer Complaints

The CPA gives the Ministry the mandate to receive consumer complaints (whether or not the complaint involves conduct that represents an offence under consumer protection legislation) and to make inquiries, gather information, and attempt to mediate or resolve complaints. The Ministry's action depends on the nature and severity of the complaint and on whether there is an allegation of an offence. In most phone inquiries, consumers are advised of their rights and businesses' obligations, and informed of steps they can take themselves, such as seeking legal assistance or going to Small Claims Court. Complaints relating to industry sectors that are regulated by one of the eight delegated authorities are referred to the relevant delegated authority to handle. If consumers request ministry follow-up action, they typically file their complaint in writing to authorize the Ministry to take further action.

The Ministry cannot force businesses to compensate consumers. For the approximately 6,000 written complaints the Ministry receives annually, the Ministry may make a phone inquiry, conduct a mediation process between the consumer and a co-operating business, and/or initiate an inspection (if the business is required to be registered with the Ministry) or conduct an "educational field visit" (for other businesses). For serious allegations of an offence under consumer protection legislation for unfair business practices, such as failure to disclose key contract requirements and to refund deposits for work not completed, the Ministry initiates a formal investigation, which can lead to prosecution. In addition to fining or jailing offenders, courts can also order them to pay compensation or make restitution to victims. In the 2008/09 fiscal year, the Ministry's actions resulted in about $437,000 in full or partial voluntary refunds from businesses to consumers and about $428,000 from enforcement efforts and prosecutions.

Recent Initiatives

Since our 2003 audit, several changes to legislation have strengthened consumer protection. For example, the *Consumer Protection Act, 2002* (which consolidated six previous consumer protection laws

and came into force in 2005) provides consumers and businesses with new rights, responsibilities, and remedies for a fair, safe, and informed marketplace. The new CPA stipulates, for instance, increased penalties for illegal activities: the maximum sentences were increased to two years less a day; and maximum fines were doubled to $50,000 for individuals and more than doubled to $250,000 for corporations. In addition, it covers leasing agreements, purchases made over the Internet, and other agreements that were not covered in the old legislation. Since 2005, new legislation or amendments to existing legislation has been introduced to address marketplace concerns or improve consumer protection regarding gift cards issued by retailers, payday loans, title fraud for property, real estate sales, collection agencies, the travel industry, identity theft, electrical safety, technical standards and safety, new home purchases, and motor vehicle purchases.

In addition, recently the Consumer Protection Branch has conducted several targeted initiatives to promote compliance with the consumer protection legislation by certain industries. For example, the Ministry initiated action to review service contracts used by fitness clubs and wireless phone providers; discuss rules of conduct with the Canadian Association of Movers; enter into a one-year joint pilot project with the Ministry of Revenue to educate car repair shops and video retailers to promote increased compliance with the legislation; and visit certain companies that sell gift cards and payday loans to educate them on new legislative requirements.

Information Systems

Since our 2003 audit, the Ministry has made significant improvements to its Consumer Affairs Tracking System (CATS), which is used by its staff to record consumer inquiries and complaints and any action taken by the Ministry to help educate the consumer or resolve the complaint. The Ministry can build on this initiative by considering the following areas where further improvements could be made:

- There are at least 20 categories established in CATS for complaint-handling staff to record the industry or type of services that the public inquired or complained about, which, for example, allow the Ministry to generate the annual Top 10 Complaints list that it reports to the public. However, for staff who conduct inspections and educational field visits, CATS limits their recording of the industry in which the activity took place to only four categories: cemeteries; debt recovery; theatres; and, for all other businesses and industries, "CPA." The "CPA" category was the most often used: in 2008/09, of the 342 inspections and educational field visits conducted, 145 (42%) fell into that category. This high use of the "CPA" category inhibits the proper analysis of violations and of education, inspection, and enforcement activity. For instance, the number of educational field visits conducted for areas with high complaints, such as fitness clubs and car repair shops, could not be determined from CATS, nor could the visits recorded under "CPA" be compared with the 20 categories recorded for inquiries and complaints for further analysis. We were informed that, due to the new legislation regarding gift cards and payday loans, the Ministry has recently started to record in CATS its inspections and educational field visits for these specific industries.

- In 2008/09, the Consumer Protection Branch closed just over 39,800 inquiries and complaints, of which about 23,700 (60%) were closed by Ministry staff after having provided information to the consumer. However, staff are not required to record in CATS what type of information they provided, the nature of the consumer-related concern raised, or the action recommended by the Ministry to be taken. In addition, no information is captured in the system about the types of violation or contraventions of the laws (such as improper or misleading signage or contracts) found by

inspections. This information was generally available on the individual inspection reports, but could not be summarized from CATS. Such information would be useful for assessing inquiries and complaints and for targeting areas where future educational activities should be directed.

- The Ministry reported on its website that it handles, on average, about 55,000 complaints and questions each year. However, we noted that in 2008/09, although all of the about 6,000 written complaints were recorded in CATS, only about 70% of the calls (about 33,800 of 48,800) were recorded there. For the remaining 30% of calls, Ministry staff recorded no information (such as whether they were not consumer-protection related, or the caller called the wrong number or Ministry).

RECOMMENDATION 3

To enhance the ability of staff to use the information recorded in the Consumer Affairs Tracking System to analyze consumer issues by the type of industry and the type of inquiry or complaint, the Ministry should:

- capture information on its inspections and educational field visits by industry and violation type and on the type of information provided for the public inquiries; and
- ensure that the nature of all inquiries and calls is input into the system.

MINISTRY RESPONSE

The Ministry agrees that improvements to the inspection module of the Consumer Affairs Tracking System (CATS) database are necessary to more fully report and analyze compliance issues. The Ministry will make programming changes to better report on issues, violations, and business types. The Ministry will also review the quality of information being recorded on CATS with respect to inspections

of registered/licensed businesses to ensure that CATS provides optimum information on compliance to management.

We agree that recording the nature and subject of inquiries is key to determining topical compliance issues and marketplace trends. The Ministry will work to ensure that staff record appropriate details of all inquiries insofar as they are relevant to our consumer protection mandate.

Problematic Industries and Repeat Offenders

We found that more progress was needed to deal with problematic industries and to ensure that repeat offenders are more effectively dealt with by the Ministry. For instance, we reviewed the Top 10 Complaints list published by the Consumer Protection Branch and found that certain industries (such as collection agencies, home repairs, car repairs, home furnishings, health and fitness clubs, and credit reporting) had remained on the list from 2000 through 2008, suggesting that no significant improvement was achieved.

For example, collection agencies had topped the list for almost 10 years. In 2008/09, about 4,200 inquiries and complaints (over 10% of all inquiries and complaints) were related to collection agencies. Although the Consumer Protection Branch conducted an average of 40 inspections and five investigations in this industry annually over the last five years, collection agencies remained the top complaint. We were also informed that inspections did not address harassment issues (which represented, on average, about 30% of the closed written complaints in the last three years). Given the limited resources devoted to inspections, the Ministry had assigned a relatively low priority to harassment complaints in relation to other complaints (such as those involving cemetery trust funds and home renovations) because they involve low monetary values and low public-safety risk.

The Ministry also informed us that it had difficulties in gathering evidence of harassment by collection agencies. Our research identified that Quebec has somewhat stronger legislation governing debt collectors, including a regulation requiring that all communications by the collector with the debtor, such as telephone calls and letters, must be recorded in a register. An investigator can subsequently use the register and any other information to more thoroughly investigate and, if warranted, prosecute the collection agent. No similar requirement exists under Ontario's *Collection Agencies Act*.

We also noted that certain businesses had high numbers of complaints and were known to the Ministry as repeat offenders, but the Ministry's enforcement efforts had not been effective in bringing about a change in their business practices. When the Ministry's efforts do not result in obtaining compliance and permanent changes to a business's operations, there is a risk that the business will come to believe that the ramifications of getting caught from time to time are an acceptable risk they take and a "cost of doing business." We noted the following examples of where these situations may exist:

- The Ministry had received written complaints against one fitness club relating to automatic renewals, billing disputes, cancellation of contracts, and other allegations of violations under the CPA. The fitness club was contacted in May 2007 by a special Ministry enforcement project targeting fitness clubs to review the legality of their contracts. The Ministry's efforts appear to have had some but not complete success in reducing the number of written complaints against this club from 65 in 2007/08 to 33 in 2008/09.
- One vacation club had 131 written complaints filed from 2005/06 to 2007/08, or about 44 complaints on average per year. The Ministry initiated an investigation in each of the years from 2005/06 through 2007/08: two of these investigations resulted in either refunds to consumers or prosecution, and one was

ongoing at the time of our audit. However, the Ministry still received a further 22 written complaints about this business in 2008/09.
- One lawn-care business had an average of 33 written complaints each year between 2004/05 and 2006/07. An investigation launched in 2004/05 resulted in obtaining refunds to consumers; another, launched in 2006/07, was ongoing at the time of our audit. The complaints were generally about the same unfair practices, including unsolicited services provided and negative-option marketing (that is, charging consumers for goods or services they did not request). However, in 2007/08 and 2008/09, the Ministry received, respectively, 24 and 31 further similar written complaints, which suggests that the behaviour has persisted.

We were informed that the Ministry had no formal plans to further address industries in Ontario's Top 10 Complaints list, such as movers, home repairs/furnishings, health and fitness clubs, credit reporting, or time shares. We were advised that addressing issues in these industries would require further policy analysis and possibly legislative changes and additional staff resources.

RECOMMENDATION 4

To ensure that it can effectively deal with industries and businesses that incur high numbers of and/or repeated consumer complaints, the Ministry should:
- conduct research to identify best practices in other provinces that can be applied in Ontario to improve compliance by certain industries and businesses; and
- identify industries and businesses that persistently incur a high number of consumer complaints, assess the effectiveness of its past enforcement activities used against these problematic industries and businesses, and establish effective education and enforcement strategies for dealing with them.

MINISTRY RESPONSE

The Ministry agrees that cross-jurisdictional consultations are valuable; it consults with other provinces when developing reform proposals. The Consumer Protection Branch will initiate a discussion forum with other Canadian consumer protection agencies on best compliance-management and -enforcement practices. Ministry staff will conduct an environmental scan of the best practices and techniques of other provincial jurisdictions with a view to enhancing marketplace compliance by businesses operating in Ontario.

The Ministry regularly identifies "problem sectors" and allocates its compliance inspection resources, using a risk-assessment framework for proactive inspections and a priority-setting protocol for reactive inspections. Ministry investigations are assigned priority using a points-based system that accounts for complaint volumes by issue/sector and by specific businesses. The Ministry will assess and revise, as appropriate, its risk-based enforcement strategy for industries and businesses that have historically been problematic for consumers and about which the Ministry has persistently received high numbers of complaints.

The Ministry will explore the development of effectiveness indicators against which it can assess its compliance and enforcement performance.

Inspections and Educational Field Visits

When warranted by complaints the Ministry receives from consumers, the Ministry may carry out inspections or educational field visits to determine whether further ministry action, such as investigation and enforcement, is required. The Ministry can also use inspections or educational field visits proactively, to educate businesses and try to reduce non-compliance with legal requirements

and deter unfair practices. Inspections can be made only at registered businesses—that is, those that are covered by separate legislation (such as cemeteries, collection agencies, or theatres and video stores). All other businesses receive only educational field visits, because they fall under the CPA, which does not grant inspection powers to the Ministry's inspectors. In 2008/09, the Ministry conducted 197 inspections and 145 educational field visits.

In our 2003 audit, we noted that the Ministry did not deploy its inspection resources based either on any formal assessment of risk to the public and consumers or on the number of complaints received for each of the industries it monitors. In 2006, the Ministry introduced an annual risk assessment process to better allocate its inspection staff to areas of higher consumer risk. Factors considered as part of the risk assessment include public safety, changed rules under new legislation, the risk of significant consumer financial loss, and the number and type of complaints.

Notwithstanding this new risk assessment process, our review identified that too few staff resources are made available for inspections and that the Ministry's limited powers under the CPA, which covers most businesses, reduces its effectiveness in identifying consumer protection violations.

Regarding the Ministry's staff resources, we noted the following:

- Between 2002/03 and 2007/08, the Ministry had four inspectors for the entire province to cover both registered and non-registered businesses (roughly one inspector for every 100,000 businesses). For half of 2008/09, vacancies reduced the number of inspectors to two. The Ministry has been aware of its staff shortages for some time. As stated in its 2005/06 Results-based Plan, "the Ministry notes that its complement of inspectors is dramatically lower than in the past due to constraints. At one time, the Branch included seven regional cemeteries inspectors and five regional theatres inspectors, plus a varying number of 'generalists'. The number of

inspectors is now four, to cover everything that the Branch regulates. This is inadequate to prevent further erosion of compliance standards."

As indicated in Figure 3, the number of inspections and educational field visits dropped significantly, from 1,723 to 342, between 2002/03 and 2008/09. Most of the large drop occurred in 2003/04, when the Ministry dramatically reduced its inspections of video retailers following the concerns we raised in our 2003 audit about over-inspecting these types of businesses at the expense of under-inspecting others. However, there was an overall downward trend in the total numbers of inspections and educational field visits being carried out over the period. We were informed that the decline was partly due to the higher number of cemetery inspections (which can take more than twice as long as other inspections) being carried out as a result of the new risk assessment process.

- In 2008/09, the Ministry conducted 227 proactive visits: 60 of these visits were to educate businesses that sell gift cards and make payday loans on new legislative requirements; and the remaining 167 proactive visits were used to conduct inspections and target registered businesses such as cemeteries, collection agencies, and theatres/video stores. Because of limited staff resources, no proactive visits were made to other non-registered businesses covered under the CPA (including those in the Top 10 Complaints list, such as car repair shops and home furnishings and appliances retailers).

- The new risk assessment process is used to allocate existing resources, but it does not determine the number of inspections or educational field visits that should be conducted for each industry sector to obtain a reasonable sample and representation of the industry's level of compliance. Nor had the Ministry conducted any other formal assessment to determine the number, nature,

Figure 3: Number of Inspections and Educational Field Visits by the Ministry's Consumer Protection Branch, 2002/03–2008/09

Source of data: Ministry of Consumer Services
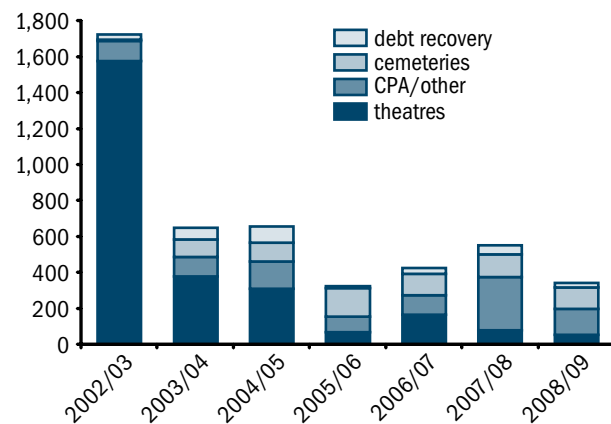
Note: The Ministry uses only four categories to segregate its inspections and educational field visits by industry type, as follows:
- *debt recovery* includes inspections of collection agencies, debt collectors, bailiffs, and assistant bailiffs;
- *cemeteries* includes inspections of cemeteries, crematoria, and mausoleums;
- *CPA/other* includes educational field visits made to all businesses not covered by industry-specific legislation; and
- *theatres* includes inspections of movie theatres and film and video distributors and retailers.

and extent of inspection resources needed to adequately address the consumer risks in various industries. Rather, inspections were initiated and assigned based largely on available inspection resources, with those resources being allocated based on Ministry priorities at the time. We noted that only 148 inspections and educational field visits were initiated in 2008/09 as a direct result of the approximately 6,000 written complaints the Ministry received. However, no log was maintained to track the number of requests made by the Ministry's complaints-handling staff for inspections or educational field visits and whether the inspection staff actually carried out those requests. This information would be useful for determining if internal demand for inspections and educational field visits was being met.

- The Ministry's delegated authorities with inspection activities had greater numbers of inspectors than the Ministry, yet were responsible for fewer businesses. For example, OMVIC had nine inspectors for the motor vehicle industry and TICO had five inspectors for the travel industry. Other provinces with smaller populations and fewer businesses had greater inspection resources for their consumer protection programs: British Columbia had five inspectors, and Quebec's consumer protection agency has trained the 35 consumer protection officers in its 11 regional offices to perform basic inspections, and they currently devote 40% of their time to these inspections. Similarly, Ontario's Ministry of Labour currently has 146 permanent and 23 temporary employment standards officers to investigate complaints and conduct proactive inspections regarding businesses' employment practices.

As noted earlier, only at registered businesses can the Ministry's inspectors conduct actual inspections. Under the separate laws governing such businesses, the Ministry's inspectors can enter a licensee's premise at any reasonable time; ask the business to produce documents or items that may be relevant to the inspection; and inspect and remove documents or items relevant to the inspection. All other businesses are covered by the CPA, which provides the Ministry's inspectors only with the right to "make inquiries, gather information and attempt to mediate or resolve complaints." If a serious violation is alleged or suspected, the Ministry may conduct a formal investigation, which requires that a search warrant be obtained based on probable grounds that a violation has occurred in order for the investigator to obtain the information he or she would need to properly investigate. Otherwise, the Ministry's inspectors can only make "educational field visits" to CPA businesses: they have no authority to request and inspect books and records, even if numerous complaints have been made against that business or that type of business

(as is the case, for example, with fitness clubs, vacation clubs, and lawn-care companies).

By comparison, we noted that increased powers of inspection are included under the legislation administered by the Ministry's delegated authorities for regulated businesses and under the Ministry of Labour's *Employment Standards Act* for any business. In both British Columbia and Quebec, consumer protection legislation provides inspection powers, including the power to enter a business's premises "at any reasonable time" and to "inspect, audit, or examine any record, goods, or other thing or the provision of services in the premises." Manitoba's *Consumer Protection Act* gives consumer services officers the right to access premises during normal business hours "where there are reasonable and probable grounds to believe that those premises contain specific documents, correspondence and records relevant to the complaints" and to "make copies, or take extracts from, the documents, correspondence and records."

RECOMMENDATION 5

To expand its coverage and capabilities for its inspection activities for the protection of consumers, the Ministry should:

- conduct a formal assessment of the number of inspection staff resources it should have to adequately fulfill its mandate and ensure comprehensive coverage; and
- explore the need to obtain increased legislative authority and powers for its inspectors, consistent with those in other consumer protection organizations in Ontario and other provinces, that would allow them to more efficiently and effectively deal with consumer complaints and identify potential consumer protection violations.

MINISTRY RESPONSE

The Ministry will use a risk-based approach to assess the compliance resources necessary to fulfill its mandate. The Ministry has increased

its inspection complement and recruited two inspectors to bring its inspection team to full strength of five inspectors. In addition, in an effort to improve its regulatory reach, the Ministry is working with the Ministry of Revenue to test the use of Revenue staff to increase the number of educational field visits focused on motor vehicle repair shops and video retailers. This approach has helped to increase our presence in these areas of the marketplace.

The Ministry agrees that increased inspection powers would assist in furthering consumer protection within the province of Ontario. The Ministry will explore the feasibility of changing legislation to achieve this.

Investigations and Enforcement

As Figure 4 indicates, between 2002/03 and 2008/09, there have been some large declines in the Ministry's investigation activities and outcomes.

Staff resources remained about the same, but we were advised that the investigation process had become more complex and lengthy, particularly since there is a trend of laying a greater number of charges for each case, and that new requirements had increased the workload involved in processing court restitution orders. However, we are not aware of any formal assessment having been conducted by the Ministry on the effectiveness of its enforcement activities and use of available enforcement measures.

Current enforcement measures available to the Ministry include revoking a licence for a registered business; issuing a Compliance Order for a business covered under the CPA; posting a business's name on the Consumer Beware Database; and initiating prosecution and seeking court orders. Since our 2003 audit, the Ministry had revoked between four and 28 licences each year, but it had issued only three Compliance Orders over the entire period. The Ministry also issued deficiency letters to individuals and businesses, but these were mostly

Figure 4: Investigation Activities and Enforcement Outcomes by the Ministry's Consumer Protection Branch, 2002/03–2008/09

Source of data: Ministry of Consumer Services

	2002/03	2003/04	2004/05	2005/06	2006/07	2007/08	2008/09	Change Between 2002/03 & 2008/09 (%)
# of investigations closed	179	132	136	115	113	107	114	(36)
# of individuals and businesses charged	147	114	144	162	122	163	158	7
# of convictions	125	93	238	265	159	365	161	29
length of jail time and probation ordered by courts (months)	733	344	578	836	724	706	474	(35)
settlements negotiated by investigators prior to prosecution* ($)	595,706	481,436	77,343	111,288	133,508	103,957	100,283	(83)
restitution ordered by courts ($)	721,212	128,410	367,492	319,768	314,188	431,932	327,656	(56)
amount of court fines levied ($)	220,250	193,475	495,200	480,427	284,400	362,225	384,850	75

* This excludes refunds ($437,645 in 2008/09) obtained each year through the Ministry's complaints-handling process and mediation services prior to any investigations.

for mediation purposes and not binding to the individuals or companies. We were informed that revoking a licence may not be an effective approach for certain common issues: for example, it may not help ensure a cemetery owner's compliance with the annual reporting requirement. Both issuing a compliance order and prosecution require an onerous amount of the Ministry's time and resources.

In a number of other North American jurisdictions, as well as in several other Ontario ministries, administrative monetary penalties have been introduced as an alternative to prosecution for certain offences. Under this arrangement, violators who have not committed a criminal offence are assessed financial penalties. If a case is appealed, the administrative process followed is quicker and less costly than going through the courts. In addition, certain other ministries can issue small fines under Part I of the *Provincial Offences Act*; commonly referred to as tickets, these can be a cost-effective and more immediate means of dealing with less serious violations. The Ministry has neither of these more cost-effective enforcement options available in enforcing consumer protection laws and would require changes to its legislation before they could be introduced.

In contrast, legislation governing the Ministry's delegated authorities permits them to impose administrative monetary penalties. Other ministries' programs with powers to impose administrative monetary penalties include those involving employment standards, environmental protection, food safety, and forest management.

In addition, we noted that the Ministry had not formally assessed the effectiveness of its Consumer Beware Database in promoting compliance since it was introduced in 2005. In this regard, we noted the following:

- Our independent survey found that fewer than one in 10 respondents had heard of the Consumer Beware Database. Of these, only about 10% had used it. However, when a description of the Ministry's website and of the Consumer Beware Database was provided

to respondents, 96% said it is very likely or likely that they will use the information.

- Although almost 10,000 Internet users accessed the database in 2008, by comparison, almost 60,000 Internet users annually access Quebec's equivalent database.

RECOMMENDATION 6

To help ensure that the Ministry's enforcement efforts are both timely and cost-effective in achieving compliance and in deterring future violations of consumer protection laws, the Ministry should:

- consider introducing more expeditious and effective enforcement tools, including administrative monetary penalties and tickets, for violations that either do not warrant criminal prosecution or are less serious; and
- undertake periodic reviews, including researching best practices in other similar organizations, of its investigative program, enforcement measures, and the Consumer Beware Database, to assess their effectiveness and identify areas for improvement.

MINISTRY RESPONSE

The Ministry will consider current enforcement tools and evaluate whether additional tools are required for the treatment of less serious violations.

Inspection enforcement tools have improved under the new *Payday Loans Act, 2008*, which allows inspectors to impose Administrative Monetary Penalties (AMPs) in response to a range of infractions under the Act. The Ministry will carefully evaluate the efficacy of AMPs to determine their potential for enhancing compliance in other sectors; implementation of AMPs in other sectors will require legislative reform.

The Consumer Protection Branch will initiate a discussion forum with other Canadian consumer protection agencies on best compliance-management and -enforcement

practices. We will conduct an environmental scan of best practices and techniques of other provincial jurisdictions with a view to enhancing the Consumer Beware Database function and marketplace compliance by businesses operating in Ontario.

The Ministry agrees that interagency consultations are valuable; enforcement staff continue to participate extensively in several interagency forums. The Ministry will review the best practices of investigative programs in other jurisdictions.

Cemeteries' Trust Accounts

The *Cemeteries Act* sets out the obligations of cemetery owners and the rights of consumers when buying cemetery graves, cremation services, and interment services. Ontario has over 5,000 registered cemeteries, which are operated by approximately 2,400 owners; about two-thirds of the cemeteries have active sales. The Ministry monitors cemetery owners for compliance with certain financial requirements, such as a requirement to deposit between 15% and 40% of the sales of interment spaces into trust fund accounts. The income from these accounts is intended to support the long-term cost of maintaining the cemeteries (headstones, grounds, and buildings).

Given that consumers have paid hundreds of millions of dollars that have been deposited into trust funds, cemetery owners are required to file annual returns within three months after the cemetery's fiscal year-end and are to include trust account statements. The return must be certified complete and accurate by both the owner and an independent trustee. Cemetery owners are also required to file, within six months after the cemetery's fiscal year-end, audited financial statements for care and maintenance trust funds containing more than $500,000 and for pre-need trust funds

(those relating to pre-arranged burial services) of more than $100,000.

Ministry staff are responsible for reviewing, on a timely basis, the annual returns from cemetery owners to detect errors, omissions, and instances of non-compliance with filing requirements. The monitoring of such returns, especially in relation to trust fund accounts, is intended to minimize the risk that consumers' payments are not deposited into the required trust accounts or that insufficient amounts are deposited. The other significant risk involves a cemetery having insufficient resources for care and maintenance purposes. In these cases, the cemetery may have to be turned over to the municipality to be maintained at the expense of local taxpayers. About 150 cemetery sites have been transferred to municipalities since 1999.

In our 2003 audit, we found that less than half of cemetery owners had filed their required annual returns to the Ministry, and for those that did, the Ministry had not processed or adequately reviewed the returns to ensure proper accounting for the trust funds. For our current audit, we noted that the Ministry has made some progress in improving its monitoring of cemeteries' financial reporting requirements and in ensuring that cemetery owners comply with legal requirements.

For example, in 2006 the Ministry established a "Risk Assessment Guide for the Monitoring, Compliance and Enforcement of Cemeteries in Ontario" for trust funds, and used that guide to prioritize inspection and investigation activities. From 2003 to 2008, the Ministry initiated 35 investigations of cemetery owners, which had resulted in four prosecutions by the time of our audit.

However, we concluded that the Ministry needs to take more effective action to deal with cemetery owners that do not fully comply with their annual filing requirements and to obtain compliance. For example, for the reporting years 2003 through 2007, we noted that from 7% to 13% of all owners did not submit the required annual report each year. For 2007, more than 260 cemetery owners who operate one or more active cemetery sites had

not filed a return as of February 2009, which was more than a year overdue. Almost 90% of these delinquent owners were in the Ministry's "small" classification: that is, they had fewer than 10 burials per year and less than $100,000 in their trust fund accounts. However, we did note that two cemetery owners had not filed an annual return since 1992, including one "small" and one "large" (which would have had more than 10 burials per year and up to $500,000 in its trust fund). Ministry staff had tried to contact both owners numerous times since 2005 and had initiated inspections in 2008; however, as of the end of our audit, it still had not obtained compliance from them, nor had it issued compliance orders to the owners.

For cemetery owners that do file returns, Ministry financial review procedures need to improve to ensure that returns are properly assessed and that action is taken to address financial discrepancies. Our review of the Ministry's Consumer Affairs Tracking System (CATS), which is used to track information from the returns, noted that for about 160, or 8%, of the over 2,000 cemetery owners that operate the almost 3,000 active cemeteries, there was key information missing that would be necessary for verifying that owners' reported fund balances matched funds held by trustees for any given year.

In addition, for returns filed for the years 2003 through 2007, CATS indicated that Ministry staff had identified "deficiencies" in almost 1,200 instances when reviewing annual returns. Ministry-identified deficiencies could include balance discrepancies, errors, or missing reports or information. However, we found that not all of the deficiencies were being recorded in the system. Our sample included 30 instances where discrepancies existed between the owner's reported funds and the trustee's bank account, but only seven of these cases had been identified by Ministry staff in CATS as having deficiencies. The amounts of the unidentified discrepancies where the owner's balance was greater than the trustee's balance ranged from a few thousand dollars to $2.4 million. Unless a deficiency is

identified in CATS, the Ministry takes no follow-up action with the cemetery owner to investigate these differences. As of February 2009, we also noted that about one-quarter of the 1,200 deficiencies identified in CATS remained unresolved.

RECOMMENDATION 7

To ensure that cemetery owners comply with legislative reporting requirements and that funds are accounted for and sufficient for the proper long-term care and maintenance of cemeteries, the Ministry should ensure that:

- all annual returns are filed by all cemetery owners; and
- timely and effective action is taken to enforce reporting requirements, to properly assess reports received, and to follow up on and resolve financial discrepancies identified on returns.

In view of the significant demand that cemetery legislation places on the Ministry's limited staff resources, the Ministry should also explore the option of having cemetery legislation administered by a delegated authority.

MINISTRY RESPONSE

The prevalence of volunteer operators for small-scale cemeteries in this sector makes risk assessment complex and enforcement challenging. The Ministry will work to ensure that all annual returns are filed by cemetery owners.

The Ministry recognizes that timely and effective action is important within the cemetery sector and agrees to ensuring improved time frames for the resolution of financial discrepancies identified on returns.

There is a provision within the *Safety and Consumer Statutes Administration Act, 1996* that allows for the cemeteries regulation to be administered by a delegated authority.

MINISTRY OVERSIGHT OF DELEGATED AUTHORITIES

After the 1996 passage of the *Safety and Consumer Statutes Administration Act* (SCSAA), Ontario established five designated administrative authorities (delegated authorities) to permit certain industries to undertake regulatory functions that had previously been administered directly by the Ministry. At the time, the Ministry already had in place two similar arrangements for new home warranties and funeral service providers. In 2000, VQA Ontario was established under its own legislation (see Figure 1). Key reasons that the delegated authorities were established by the government were the assumption that they can be more responsive to the needs of the marketplace and of maintaining high marketplace standards because of their interest in the industries they regulate, and to reduce the size and cost of government.

The SCSAA prescribes the key accountability relationship requirements for the five delegated authorities it established. For example, it requires the establishment of an administrative agreement between the Ministry and each delegated authority; requires the tabling in the Legislature of each delegated authority's annual report; allows the Minister to appoint members of each delegated authority's board of directors, as long as the ministerial appointees do not constitute a majority of the board; and grants powers to the Minister to terminate the delegation. In contrast, the legislation establishing Tarion does not specify its accountability requirements to the Ministry.

Ministries are also required to follow the Accountability Directive established by Management Board Secretariat in 1997 for relationships with external service providers, including not-for-profit organizations such as delegated authorities. Three key elements are required for effective accountability: i) defining expectations, roles and responsibilities, and managing consistent action; ii) reporting on and monitoring performance; and iii) reviewing performance against expectations

and taking corrective action when required. This includes requirements for controls and verification procedures for both operations and finances and the right to conduct independent audits.

Figure 5 summarizes the key expectations in the relationship between the Ministry and delegated authorities.

Accountability and Oversight Arrangements

Appropriate oversight is needed to ensure that services to the public are delivered cost-effectively, including when the services and key responsibilities for ensuring consumer protection and public safety are delegated to other organizations on the government's behalf. The Ministry's oversight relationship with each delegated authority is predicated on finding the right balance between appropriate high-level oversight on the one hand, and not micromanaging on the other. Delegated authorities must be allowed the autonomy to run their day-to-day operations without the constant involvement of ministry managers; but ministry management must ensure that an effective accountability relationship is in place and that sufficient, useful, timely, and credible information is being received and assessed to ensure that the public is getting the appropriate level of service in a cost-effective and timely manner.

In our 2003 audit, based on our review of the information gathered by the Ministry and of the Ministry's monitoring activities, we concluded that the Ministry did not have adequate assurance that public safety and consumers were being properly protected by delegated authorities. Our audit indicated that the Ministry did not have proper mechanisms in place to ensure that outcomes reported by the delegated authorities were reliable. We also found that the Ministry's monitoring efforts were inadequate.

As a result of our 2003 audit and the Ministry's continuing efforts to improve its accountability framework over delegated authorities, the Ministry made the following changes to its systems and procedures:

- established an annual report tracking system to ensure that annual reports are received on time and Ministry feedback is provided;

- established a system for tracking performance measures on a quarterly basis, and for monitoring performance trends and gaps against

Figure 5: Key Expectations of the Ministry and Delegated Authorities

Prepared by the Office of the Auditor General of Ontario

Responsibility	Role of Ministry	Role of Delegated Authority
sector-specific legislation and regulations, industry standards and code of conduct	establishes and amends legislation and regulations to adjust or change marketplace rules, and to establish delegated authorities' mandate, powers, and responsibilities	• advises Minister by recommending legislative and regulatory proposals, or on matters of an urgent or critical nature • develops industry standards and code of conduct
governance	• Minister may appoint up to 50% of board members, which may include representatives of consumers, industry, or government • establishes administrative agreement with board that clarifies responsibilities, accountability arrangements, and expectations for conduct and performance reporting • oversees delegated authority's performance to protect the public interest and promote public safety and consumer protection	• board appoints majority of board members and establishes governance processes, including elections, annual meetings, voting procedures, bylaws, etc. • board establishes corporate organizational structures, staffing needs, control frameworks, and administrative and operational policies • responsible for overseeing all day-to-day administrative and regulatory activities
organizational planning and accountability	• reviews multi-year business plan and annual audited financial statements • reviews annual report and tables it in the Legislature • requests additional reports or information quarterly or as necessary from delegated authority • Minister, Deputy Minister, and ministry staff meet with board and senior management several times each year to discuss key issues	• develops multi-year business plans outlining objectives, planned initiatives, and performance measures • board publishes an annual report to the public and Ministry on its achievement of its mandate and key accomplishments • obtains an annual financial audit
fees	approves fee-setting process for delegated authority	establishes fee structure in accordance with fee-setting process and collects and retains fee revenues to fund operations
compliance and enforcement	no ministry role	• registers and licenses businesses and individuals • provides education and training • carries out inspections, investigations, and prosecutions, and issues sanctions for violations (e.g., revoking or suspending registrations or licences, issuing fines) • reviews and mediates consumer complaints and may maintain a member-funded general compensation fund for reimbursing consumers

the performance commitments made by the delegated authorities; and

- established a Minister's appointees tracking system that outlines the number and percentage of Minister appointments on each Board, and their attendance at board meetings.

The Ministry has also worked to establish and update its accountability agreements with delegated authorities. The Minister signed its first letter of accountability with Tarion in 2003, with several subsequent letters covering further agreed-upon changes. In 2005, the administrative agreements with all delegated authorities that fall under the SCSAA were updated, with the revised agreements specifying, for example, reporting requirements for business plans and annual reports.

For our current audit, we noted that the Ministry has taken several good initiatives and has made progress in improving its accountability relationship with the delegated authorities; however, the Ministry needs to further strengthen its oversight and the delegated authorities' reporting requirements to protect consumers and the public interest. The following sections detail our observations and concerns.

Formalizing Accountability Relationships with Tarion

The *Ontario New Home Warranties Plan Act* (which was last amended in 2006) still does not include specific requirements for an accountability framework between the Minister and Tarion similar to that established by the SCSAA for other delegated authorities. Therefore, the Ministry has followed a separate path for establishing its accountability relationship with Tarion, and this has been a slow and negotiated process. The 2003 letter of accountability signed by Tarion and the Minister was the first time Tarion formally acknowledged that it is fully accountable to the Minister. However, the letter of accountability was much less detailed than the administrative agreements established for other delegated authorities. The letter did not include or

specify the roles and responsibilities of both parties; any requirement regarding the submission or contents of a business plan; the details that should be included in an annual report; the fee-setting process and criteria; and the payments by Tarion to the Ministry for its oversight, which other delegated authorities pay.

Thus, since 2003, Tarion's accountability arrangements have lacked many of the requirements that other delegated authorities had to fulfill. More recently, since 2006, following several letters from the Minister to Tarion—including concerns raised by the Minister about the high number of consumer complaints against Tarion—we noted that significant improvements have been made to Tarion's reporting and accountability relationships with the Ministry. These improvements have included the completion of new homeowner surveys; more ministerial appointees on Tarion's board; the sharing of Tarion's business plan and strategic plan with the Ministry; the provision of additional quarterly performance information on service, claims, complaints, staffing, and governance issues; and changes to enhance public transparency (such as holding its first public annual general meetings in April 2009, and increased disclosure in Tarion's annual report). At the time of our audit, Tarion had complied with almost all of the requests made by the Minister in 2008, and we were informed that the remaining requested changes were in progress.

Review of Accountability Relationships

Following its review of our 2003 audit, the Standing Committee on Public Accounts recommended in 2004 that a comprehensive review of the delegated authority initiative was required to ensure that public safety and consumers are being adequately protected under delegated authorities, and that mechanisms are in place to ensure that delegated authority outcomes are being accurately reported.

The Ministry's response to the Committee at the time was that it had retained a consulting firm to

complete an evaluation of the delegated authorities in 2001, and it had worked with the delegated authorities to implement the recommendations arising from that evaluation. These recommendations included improving communication with the public; evaluating stakeholder feedback; enhancing public education and awareness; establishing outcome-based performance measures; improving customer services; and better risk management. The Ministry stated that it would continue to work with the delegated authorities to make legislative, regulatory, and government improvements, based on ongoing reviews.

The Ministry advised us that no further comprehensive reviews were undertaken as a result of the Standing Committee's 2004 recommendation. Instead, the Ministry had focused on improving its accountability arrangements with each of its delegated authorities. In addition, as a result of concerns we raised in 2003 regarding the reliability of the TSSA's reported outcomes, the Ministry worked with the TSSA to improve controls over its data integrity.

On August 10, 2008, a tragic propane explosion occurred in Toronto. At the completion of our audit, the formal investigation of the incident and the propane retailer was ongoing. In addition, the Ministry launched an independent review of propane safety in Ontario. The registration, licensing, and inspection of propane retailers fall under the TSSA's authority. At the time of the incident, public concerns were also raised about the quality of information reported by the TSSA on registered propane retailers, and this resulted in a further internal ministry review of TSSA's board governance.

In response to the incident, on August 28, 2008, the Ministry established an expert panel to conduct a comprehensive review of the legislative and regulatory framework for the safe storage, handling, location, and transport of propane. On November 13, 2008, the Minister announced plans to implement all 40 recommendations made by the expert panel. On May 28, 2009, the government also introduced legislation designed to improve the

TSSA's accountability and transparency and further strengthen the province's technical safety system. The proposed legislation would require the TSSA to appoint an independent Chief Risk and Safety Officer to report annually and publicly on how the TSSA is meeting its public safety mandate; provide the Minister with the authority to guide the TSSA's strategic focus by issuing policy directives and to appoint the Chair and Vice Chair from the members of the TSSA's board of directors; and provide our Office with access to the TSSA's records should the Auditor General choose to conduct an audit.

In addition, in October 2008 the Ministry launched the sort of review of its delegated authorities that the Standing Committee had recommended it undertake four years previously. The study was designed to be undertaken in two phases, to allow for the two public-safety delegated authorities—TSSA and ESA—to be given a higher priority in the first phase, with the second phase covering the six consumer protection delegated authorities. The scope of the review included three main elements: Governance and Accountability, Stakeholder/Public Relations, and Performance.

The Ministry informed us that it was unable to follow traditional competitive procurement requirements for hiring a consultant to conduct this review, which, according to the Management Board of Cabinet Procurement Directive established in November 2007, would have required that at least five pre-authorized consultants from the government's Vendor of Record (VOR) listing be invited to submit proposals. In this regard, the government's VOR listing for the "Program Evaluation and Performance Measurement Services" category lists 30 consultants. We noted that the Ministry, instead, followed a "restricted-competitive" procurement process—an approach permitted by the procurement Directive when circumstances warrant it, the contract is less than $500,000, and the Deputy Minister approves it. (Note: for amounts of $500,000 up to $1 million, approval from the Supply Chain Leadership Council, which is a senior management executive committee established by

Management Board of Cabinet, is required). The Ministry supported its decision in this regard based on the urgency of the review (as part of the Ministry's response to the propane explosion); the need for a high level of confidentiality due to intense media scrutiny and public criticism of the delegated authority model; and the need for specialized consultant expertise in the area of public-sector governance and accountability. We noted that four consultants were invited to submit proposals, and only two responded with submissions. Only one of the four invited consultants was from the pre-authorized vendor-of-record list. In November 2008, after an internal process to review the bids, the Ministry selected to perform the review a firm that was not on the VOR listing that bid a maximum cost of $499,335, even though the other consultant, which was on the VOR list, had bid about $150,000 less.

Phase one of the review was completed in March 2009, and phase two was completed in May 2009. Overall, the review was supportive of the existing delegated authority arrangements, but it made a number of suggestions for strengthening the efficacy of the current model in areas such as corporate and regulatory governance, the Ministry's accountability tools and oversight, stakeholder engagement, co-operation among the delegated authorities, and performance measures. In addition, the consultant recommended improvements in areas such as inspection and enforcement activities, information systems, data quality control and assurance processes and procedures, and information disclosures.

Ministerial Appointees to Delegated Authorities' Boards

A good control established over the delegated authorities is that the Minister can appoint members to their boards, which may include representatives of consumers, industry, or government. Minister-appointed board members protect the Ministry's interests by their direct involvement in corporate decisions and activities and can provide a consumer perspective to the boards, which are all dominated by the industry they regulate. A good practice implemented by the Ministry since 2006 is to provide annual training to each Minister-appointed member. We noted the following areas for maximizing the benefits the Ministry receives from Minister-appointed board members and for balancing the representation of interests on boards:

- The SCSAA enables the Minister to appoint up to 50% of the members of delegated authorities' boards of directors. In our 2003 audit, we noted that board members who were independent of the industries being regulated were significantly under-represented: ministerial appointees represented on average only 16% of the boards' total composition. Since that time, as part of the Ministry's efforts to improve consumer and ministry representation on the Tarion and TSSA boards, several additional ministerial appointments have been made. As noted in Figure 6, however, ministerial appointees constitute only from 25% to 33% of the boards' compositions.
- Delegated authorities are not-for-profit corporations and have Ministry and statutory

Figure 6: Composition of Board of Directors for Selected Delegated Authorities, as of April 1, 2009

Source of data: Ministry of Consumer Services

	ESA	OMVIC	RECO	Tarion	TICO	TSSA*	Total
total board members	12	12	12	15	15	14	80
# of ministerial appointees	3	3	3	5	4	4	22
% of ministerial appointees on the board	25	25	25	33	27	29	27

* By September 2009, the TSSA intended to increase the number of Minister-appointed board members to six, and to decrease the total number of board members to 13, bringing the proportion of ministerial appointees to 46%.

mandates to protect public safety and/or consumers. Each of the boards has established its own process and criteria for selecting and appointing board members other than those appointed by the Minister. However, in the absence of any legislative requirement or direction from the Ministry, each of the delegated authorities has decided to have industry representatives form the majority of its board members, and the Ministry has not encouraged greater balance between representation by government, consumers, the public, and the industry. The current industry dominance could lead to either a real or perceived industry bias for decisions made by delegated authorities. For example, Tarion, which has a stated mandate to protect Ontario's new home buyers, has established a requirement that the majority of its board members (eight out of 15) be appointed by the Ontario Home Builders' Association (OHBA), which represents its industry's interest. Furthermore, Tarion permits OHBA to have an observer (typically OHBA's president) at all board meetings, which is an unusual business practice.

- There were three senior ministry staff, including two with direct responsibility for overseeing delegated authorities, appointed to board positions. As board members, ministry staff participate in the board's decision-making processes and receive substantial information on the delegated authorities' operations. In 2004, the Supreme Court of Canada stated:

> "The statutory fiduciary duty requires directors and officers to act honestly and in good faith vis-a-vis the corporation. They must respect the trust and confidence that has been imposed on them to manage the assets of the corporation in pursuit of the objects of the corporation. They must avoid conflicts of interest with the corporation.... They must maintain the confi-

dentiality of information they acquire by virtue of their position. Directors and officers must serve the corporation selflessly, honestly, and loyally."

To help staff deal with any conflict-of-interest situation, we were informed, the annual training provided by the Ministry to Minister-appointed board members helps to address this possible situation and makes the Ministry's interest paramount. Ministerial appointees, including ministry staff, are required to sign comprehensive confidentiality agreements with delegated authorities. As a result, ministerial appointees are not empowered without permission of the board to discuss with the Ministry their discussions at the delegated authority's board meetings or share any information they obtain while serving as a board member. This can create a difficult conflict situation for ministry board members.

Access to Delegated Authorities' Information

The *Freedom of Information and Protection of Privacy Act* (FIPPA) applies to Ontario's provincial ministries and most provincial agencies, boards, and commissions, as well as community colleges, universities, and Local Health Integration Networks. FIPPA requires that the government protect the privacy of an individual's personal information existing in government records; but it also gives individuals the right to request access to government information, including general records and records containing their personal information. Because the delegated authorities are not bound by FIPPA, however, the public has no right to access their information.

We noted that the Ministry also has no right to access the delegated authorities' records and, as stated in the previous section, Minister-appointed board members cannot disclose information to the

Ministry about delegated authorities' activities due to the confidentiality agreements they sign. The administrative agreements state that "all records obtained from any source, created, or maintained by the [delegated authority] in the course of carrying out its delegated administration are the property of the [delegated authority]." We noted that the administrative agreements revised in 2005 specified additional information (such as details on business objectives; performance measures on compliance, efficiency and effectiveness; and financial details) that the delegated authorities should provide in their business plans and annual reports. However, there remain limitations on the Ministry's access to information unless the delegated authority chooses to share its information. For example, the Ministry does not regularly request or receive information on:

- board and advisory committee meeting minutes;
- quality assurance programs and the results of any reviews commissioned by the delegated authority to examine its programs and key areas, such as inspection activities and data quality;
- multi-year strategic plans that detail a delegated authority's long-term key priorities and activities;
- reports made to the audit committees by the external financial auditors regarding any concerns over financial and operational internal controls and other financial matters;
- executive or staff salaries and other compensation;
- employee and travel-related expense reimbursement policies;
- use and cost of consultants; and
- staffing resources in key areas, such as inspection and enforcement, call-centre representatives, and senior management complements.

The Ministry needs appropriate and timely information to ensure that the delegated authorities' boards of directors are adequately discharging their fiduciary responsibilities and establishing

quality assurance mechanisms for their systems and procedures to reduce key risks. A review of board minutes, for instance, would indicate significant matters that are brought to the boards' attention and decisions made to address any concerns. For example, the TICO had been monitoring the precarious financial status of a large travel retailer for several months before the company suddenly terminated its operations on April 15, 2009, leaving its customers stranded abroad. We understand that the Ministry was unaware of the financial and consumer risk of this company's continuing until its collapse was made public.

Similarly, the Ministry could use information on salaries and other compensation packages to executives and staff, on the use and cost of consultants, and on employee and travel-related expenses to ensure that the delegated authorities use their revenues in an appropriate manner for a quasi-public-sector organization.

The Ministry does not provide any direction in its administrative agreements with delegated authorities to ensure the prudent use of their revenues and due regard for economy and efficiency with respect to their expenditures. Our discussion with Ministry staff overseeing delegated authorities indicated that imposing requirements to promote economical and efficient use of delegated authorities' revenues exceeded their authority. Indeed, the SCSAA states that the money that a designated administrative authority collects "is not public money" and that it "may use it to carry out activities in accordance with its objects or any other purpose reasonably related to its objects." Although the Ministry may not have ownership of the revenues, in our view, the fact that the delegated authority's powers to receive revenues are granted by provincial legislation should be sufficient authority for the Ministry to expect that its accountability arrangements adequately ensure that delegated authority resources are used cost-effectively and in the public's interest.

There is no authority that permits the Ministry to have its own auditors conduct reviews of a

delegated authority, and the delegated authorities are not subject to audits by our Office. Instead, the Ministry's administrative agreements with the delegated authorities give it the authority to require a review of their operations. One such review was initiated for the TSSA following the 2008 propane explosion; another examined the TICO's handling in April 2009 of the travel retailer's abrupt closing. Although such reviews can be useful for addressing known areas of concern, they should not be a substitute for delegated authorities establishing their own quality assurance programs, or for the Ministry routinely obtaining information on how effective the delegated authorities' quality assurance programs are.

Delegated Authorities' Performance Information Reported to the Ministry

The Ministry's administrative agreements with the delegated authorities provide for accountability by requiring them to report on their performance through their business plans and annual reports. Examples of performance information required by the Ministry include information on compliance activities (such as the number of inspections, investigations, prosecutions, orders issued, penalties, and charges, and the amount of penalties assessed); processing efficiencies (such as turnaround times for complaints and inspections); the number of serious incidents; the results of client satisfaction surveys; and the number of complaints against member businesses and individuals, as well as against the delegated authority itself.

We assessed the reporting requirements imposed on delegated authorities by the Ministry and noted significant improvements since our 2003 audit. In general, the Ministry was receiving more relevant and useful performance information on a quarterly basis, and delegated authorities were required to explain significant variances from prior periods. However, we noted that inconsistencies exist with respect to performance information the Ministry requires. For example, the administrative

agreements with OMVIC, RECO, TICO, and ESA provide detailed guidelines on what should be included in performance reporting, whereas the agreements with TSSA and Tarion contain very little detail on this subject. Figure 7 summarizes these reporting differences for the six delegated authorities we reviewed.

In addition, none of the delegated authorities' agreements required their performance measures to be compared with other jurisdictions and industry-recognized benchmarks. The ESA does its own limited comparisons, including comparing Ontario's electrocution fatality rate per electrical worker to those in British Columbia, Alberta, and Quebec. We noted that, for example, British Columbia's Homeowner Protection Office reports on information that should also be considered in Ontario, such as educational activities and homeowner awareness of consumer protection legislation; and the percentage of home warranty insurance claims that have been resolved by a builder or the Homeowner Protection Office's warranty provider.

RECOMMENDATION 8

To better protect consumers and the public, the Ministry should strengthen its oversight role and accountability arrangements with designated administrative authorities (delegated authorities) by:
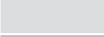
- establishing formal comprehensive accountability agreements with each delegated authority that cover financial and operational requirements and that would protect the public's interests;
- encouraging a more appropriate and fair balance of representation on boards of directors between governments, consumers, the public, and industry;
- ensuring that it has the necessary authority over delegated authorities to access any relevant information needed, such as information on quality assurance programs and use of financial resources, that would allow for a

Figure 7: Inconsistencies in Requirements for Performance Information Reporting by Selected Delegated Authorities to the Ministry, as of March 31, 2009*

Source of data: Ministry of Consumer Services

Performance Information Required by the Ministry	ESA	OMVIC	RECO	Tarion	TICO	TSSA
average turnaround times for processing claims to compensation funds or for warranties	n/a (fund)	not required	n/a (fund)	required	required	n/a (fund)
targets established for processing claims to compensation funds or for warranties	n/a (fund)	not required	n/a (fund)	not required	required	n/a (fund)
types of inspections carried out (e.g., complaint-initiated, random, or targeted)	required	not required	required	n/a (inspections)	required	required
results of inspections (e.g., # that found deficiencies)	required	not required	not required	required	required	required
# of investigations	required	not required	required	required	required	required
disciplinary fines levied against registered businesses	n/a (fines)	required	not required	n/a (fines)	n/a (fines)	n/a (fines)
key types of complaints received against businesses	required	not required	required	required	required	required
complaint-handling turnaround times and targets established for dealing with complaints	required	not required	not required	not required	not required	required
disposition of complaints handled (e.g., no action required, or written warning issued)	not required	not required	required	not required	not required	not required
# of complaints received against the delegated authority itself	not required	not required	not required	required	not required	not required

* Figure is not inclusive of all performance information the Ministry receives from the delegated authorities, only information that is inconsistently required.

Legend:
- performance information was required to be reported by delegated authority to the Ministry regularly
- performance information was not required to be reported by delegated authority to the Ministry
- n/a because no compensation fund is maintained by the delegated authority
- n/a because all inspections are based on claims
- n/a because no fines are levied by the delegated authority against registered businesses

comprehensive and thorough assessment of their financial and operational performance, and where the Ministry's authority to do so is in question or limited, seeking the legislative changes necessary to grant it unfettered authority in this regard; and

- establishing requirements that delegated authorities provide consistent performance information and compare their performance to similar organizations in other jurisdictions.

MINISTRY RESPONSE

The delegated authorities model establishes a framework where the Ministry retains overall accountability and control of the delegated legislation and regulations, and the delegated authorities assume the day-to-day delivery of their regulatory duties, including financial stewardship.

The Ministry agrees with the importance of comprehensive accountability agreements with

each delegated authority to ensure that the Ministry has adequate tools for effective oversight.

In 2009, the Ministry undertook an independent review of the delegated authorities model. The review concluded that the model is serving the public interest well. However, the review also identified where improvements could be made.

As part of the implementation plan of the review's recommendations, the Ministry will be renegotiating accountability agreements with each of the delegated authorities. The Ministry is reviewing pertinent oversight elements that should be included in the revised accountability agreements to make certain that public interest protection is enhanced, including a protocol for appropriate disclosure of information.

The Ministry will work with the delegated authorities on a system-wide governance review. This will include a review of board composition to determine if there is a fair and appropriate balance of board members and a study of governance best practices.

The Ministry has been working with the delegated authorities over the past several years to enhance the delegated authorities' reporting of performance measures to the Ministry and, as the Auditor noted, has been successful in improving this reporting. As a part of the review of the delegated authorities' accountability agreements, the Ministry will work with the delegated authorities to determine what further key information and performance measures should be included in the agreements. This review will include a jurisdictional comparison.

MINISTRY PERFORMANCE MEASURES

The Ministry's key activities are to recommend changes aimed at strengthening consumer protection legislation; to disseminate information for the purpose of educating and advising consumers; to provide information to consumers about the use of alternative dispute resolution techniques; to mediate written complaints between consumers and businesses; and to enforce compliance with consumer protection laws. The Ministry's other key activity is to provide effective oversight of the eight delegated authorities. Although the Ministry is not required to publish an annual report, its website does include its annual Results-based Plan. The plan includes a description of the consumer protection programs and their key goals, priorities, and activities; performance measures the Ministry has established for the programs; and achievements. No other performance measures are publicly reported, except for information on its website describing some successful prosecutions.

The Ministry included four performance measures in its 2009/10 Results-based Plan. One measure covered its customers' satisfaction with the Ministry's handling of consumer phone inquiries and complaints; the other three performance measures pertained to the Ministry's processes for providing oversight of delegated authorities. In view of the many key activities required by the Ministry's mandate, we concluded that the performance measures reported by the Ministry need to be expanded if they are to allow legislators and the public to assess the Ministry's performance and hold it accountable for the extent to which it achieves its mandate.

To complement these four public measures, the Ministry introduced internally a set of performance measures, called a balanced scorecard, that included quarterly reporting on a suite of performance measures. The performance measures included turnaround times for processing registrations and issuing licences; percentage of cemetery owners meeting the annual filing requirements; number of days to resolve complaints; inspection hours incurred; number of investigations and prosecutions; refunds to consumers and value of cancelled and rescinded contracts; amounts of court fines and restitution; length of jail time ordered; and number of education events held. However,

these additional performance measures were not made public.

In our 2003 audit, we reported that the Ministry needed to improve the customer satisfaction survey about its handling of phone inquiries and complaints to ensure that the results were independently determined and meaningful. In addition, there was no survey done on written complaints, which would be an important and perhaps more objective indicator of the Ministry's effectiveness in dealing with consumer concerns. In this regard, the Ministry informed us that it successfully mediated 11% of written complaints and that 7% were referred to its investigations branch; about 24% were referred to another agency; and the remaining 58% resulted in providing information or advice, or requiring no action. During our current audit, we noted that the Ministry had not satisfactorily dealt with these issues. For example, the same staff member who handles the phone inquiry or complaint also conducts the survey at the end of the call to determine whether the caller is satisfied with the service and the handling of the complaint, an approach that may not lead to an objective response or recording of the result. To address this concern, the Ministry had indicated in 2003 that it intended to engage an independent company to conduct the customer survey, but only one independent survey (in 2003) was conducted. No survey was done on written complaints either by Ministry staff or independently.

In addition, the Ministry has in the past surveyed only consumers who contacted the Ministry with an inquiry or complaint, and not the general public. In our view, the kind of information indicated by our own public survey conducted by an independent firm on the extent to which the public is aware of and uses consumer protection programs would be important in helping the Ministry plan its educational activities and measure the outcomes of its efforts in this regard.

We also noted that the consumer protection programs in Quebec and British Columbia provide a wider range of publicly available performance goals and measures. These include the number of inspections and investigations completed, the number of mediations conducted, the amounts of restitution, and the number of licences issued. Alberta Consumer Protection, via Service Alberta's annual report, also reports on several customer satisfaction measures.

Although the Ministry reports publicly only limited performance information on the extent to which it achieves its mandate, it has been successful in making more detailed reporting a key requirement for the eight delegated authorities that it oversees.

RECOMMENDATION 9

To improve accountability and its reporting on the extent to which it achieves its consumer protection mandate, the Ministry should:

- report publicly on performance targets and measures for all its key activities; and
- on a periodic basis, such as every two to three years, conduct independent consumer satisfaction surveys of its handling of both telephone and written complaints.

MINISTRY RESPONSE

The Ministry agrees that appropriate performance measures and targets should be reported publicly and in accordance with the requirements of the new Ontario Public Service Directive and has committed to publishing an increased number of performance measures beginning January 2010.

The Ministry will establish processes to objectively evaluate customer-service satisfaction levels as they relate to telephone and written complaints at the Consumer Protection Branch.

Education Quality and Accountability Office

Background

The Ontario government established the Education Quality and Accountability Office (EQAO) as a Crown agency in 1996 in response to recommendations from its 1995 Royal Commission on Learning. The Commission had concluded that system-wide testing was necessary to monitor student achievement and as a vehicle for assuring people that all students, at specific points in the learning process, are being assessed according to the same yardstick. The government also wanted to respond to the public's demand for clearer information about, and greater accountability for, student achievement in Ontario's publicly funded schools.

The EQAO's mandate is to develop, administer, mark, and report on province-wide tests of student achievement. Such assessment results are intended to provide reliable, objective, and high-quality data that can be used by the Ministry of Education (Ministry) and the province's 72 school boards for student learning improvement planning. The EQAO is also responsible for managing and reporting on the province's participation in international and national student testing.

Each year, the EQAO tests students in all Ontario publicly funded schools in Grades 3, 6, 9, and 10. Grade 3 and Grade 6 students are tested in reading, writing, and mathematics. Grade 9 students are tested only in mathematics. As a condition of high-school graduation, all students, including those in private schools, are required to pass the Ontario Secondary School Literacy Test (OSSLT), which is usually written in Grade 10.

The EQAO develops test questions based on the Ministry's school curriculum expectations. The questions are designed to provide an objective appraisal of student achievement. Tests must have a similar level of difficulty from one year to the next so that results can be compared over time.

The EQAO provides specific guidelines for school boards, principals, and teachers to follow in delivering the tests to students. The agency then oversees the test scoring, usually performed by elementary and secondary school teachers. The EQAO is required to report test results to the public and make recommendations to the Ministry for improvement on any matter related to the quality or effectiveness of elementary and secondary education in Ontario.

The assessment process is a large and complex undertaking, given that the EQAO must annually develop five different assessments in both French and English and then print, deliver, administer, collect, mark, and report on almost 600,000 tests given at approximately 4,300 schools. Each step in the process, from question development to public reporting, requires a number of procedures and

controls to ensure that the results accurately reflect each student's ability.

The EQAO employs approximately 140 permanent staff complemented by as many as 1,700 seconded and temporary staff during marking periods. It also relies on professional and technical expertise to help develop and administer the tests. As well, the EQAO has a Psychometric (the science of measuring intellectual capacity) Expert Panel staffed by academics from across North America to provide ongoing feedback on its assessment processes. The EQAO spent $31.7 million in the 2008/09 fiscal year, all of it funded by the Ministry.

Audit Objective and Scope

The objective of our audit was to assess whether the Education Quality and Accountability Office had adequate systems, processes, and procedures in place to ensure that:

- student assessment results were comparable from year to year and accurately reflected student performance in regard to the Ontario curriculum;
- legislative and policy requirements were being fulfilled; and
- goods and services were acquired and programs delivered in an economic and efficient manner.

The scope of our audit included research on student assessment practices in other jurisdictions, reviewing and analyzing EQAO administrative directives, policies, and procedures, as well as interviewing agency board members and staff, including two psychometric experts engaged by the EQAO. We also interviewed personnel from four school boards—Peel District, Halton District, Hastings and Prince Edward District, and Peterborough Victoria Northumberland and Clarington Catholic District. Finally, we interviewed stakeholders such as personnel from the Elementary Teachers' Federation of Ontario, the Ontario English Catholic Teachers'

Association, and the Council of Ontario Directors of Education.

Our audit also included a review of the activities of the Ministry's Internal Audit Services Branch, including its recent audit reports. We relied on their work in some areas to reduce the scope of our audit.

Summary

We found that the EQAO had adequate procedures and controls in place to ensure that its tests accurately reflected the Ministry's curriculum expectations. We found that the EQAO, to ensure that the tests' level of difficulty was comparable between years, imposed strict criteria for the development and field-testing of questions, that test content was thoroughly reviewed, and that test questions received multiple edits before being considered for inclusion in a student assessment.

The general consensus among stakeholders, including principals and teachers, was that the tests were generally an accurate reflection of students' achievement in meeting the curriculum expectations. However, we felt that oversight of test administration would be strengthened by ensuring that, over time, all school boards and schools are visited during test periods and that significant changes in year-over-year test results by school boards and schools are fully investigated.

For the major areas in the testing and reporting process, we noted the following, including areas where we believe improvements can be made:

- The EQAO employs a number of quality assurance measures to provide credibility to its processes and procedures. These measures help to ensure that the questions presented to students are appropriate for their grade level and represent fairly the Ministry's curriculum expectations, and that the tests are consistent in their level of difficulty from one year to the next.

- To help monitor the administration of its tests, the EQAO hires an external contractor to visit selected schools to review pre-test preparation, ensure test booklet security, observe the administration of the tests, and undertake other quality assurance procedures. Overall, the external contractor has reported a high degree of compliance with EQAO administration procedures. However, although all boards had been visited for one or more of the assessments, an improved school selection process is required to reduce the risk of student cheating and non-compliance with administrative procedures. For example, 10 of the province's 72 school boards had not received a visit from the external contractor over the past five years to assess administration of the Ontario Secondary School Literacy Test (OSSLT). Yet the contractor visited a number of private schools, whose students are required to write the OSSLT, which had as few as five students taking that test.

- All students are expected to write the EQAO assessments, but exemptions can be granted. For example, principals can exempt students with special needs and those for whom English is a second language. The public reporting of the overall scores on EQAO tests includes exempt students, but exempt students are counted as not having achieved the provincial standard in the assessment scores. Consequently, those schools with a disproportionately high number of exempt students would receive lower overall scores than otherwise comparable schools with significantly fewer exempt students. The teachers and principals we interviewed almost unanimously stated that this policy was unfair and could significantly distort reported EQAO results.

- The EQAO hires and trains as many as 1,700 markers to grade test papers and must ensure consistency from one marker to the next. Validity papers, which are graded by an expert panel, are usually indistinguishable from regular tests and are seeded among the regular papers. The grades the markers give these validity papers are monitored to determine if retraining is required. The EQAO has a number of targets. One, which it consistently meets, is for 95% of the validity papers to be graded within one scoring level of the expert panel. However, for some questions, the EQAO does not always meet one of its other targets that 70% of the validity papers be graded in exact agreement with the expert panel—although, in recent years, the EQAO has moved closer to achieving this target.

- In the lower grades (Grades 3 and 6), the primary risk to the test's integrity is teacher or principal interventions, such as coaching. In high school (Grade 9 and OSSLT), the risk shifts from the principal/teacher to the student—there is a higher potential for students to engage in collusion and other forms of cheating. However, the EQAO uses substantially the same quality assurance processes for all assessments, rather than a varied approach that considers the unique risks associated with each assessment.

- As well as examining anomalies at the student level, the EQAO informally reviews results at the school and school board levels. However, formal analysis and follow-up may be required to assess the reliability of assessment results. For example, we noted that some schools' EQAO results fluctuated by as much as 50% from one year to the next, but these instances were not being systematically flagged for follow-up to determine what accounted for such a dramatic change.

- To help motivate applied math students who have consistently fallen short of the provincial standard, schools are allowed to incorporate the EQAO scores in student report card marks for Grade 9 math. However, we found that this was not consistently done throughout the province because EQAO scores accounted for anywhere from zero to 15% of a student's final mark.

- The EQAO annually reports on student testing results as well as the results from questionnaires on its activities given to students, teachers, and principals. However, the school staff we interviewed stated that the questionnaires did not sufficiently allow for feedback on ways to improve the testing process. Also, they agreed generally that the EQAO should take a bigger role in explaining to parents and other stakeholders the assessment process and how it can promote improvement in student learning.

- The major expenditures for the EQAO relate to the administration of student assessments, such as staffing and the hiring of temporary test markers, as well as test printing, warehousing, and delivery. We found that the EQAO had developed a good budgeting process to help control costs and had reduced its annual expenditures by over 20% during the past five years while delivering substantially the same service. The EQAO must follow Management Board of Cabinet Directives in the acquisition of goods and services, and we found that it complies with the required tendering practices and that the necessary procurement documentation and approvals were on file. In addition, the Ministry's Audit Services Team found that the travel expense procedures maintained by EQAO were, overall, operating effectively.

OVERALL EQAO RESPONSE

The EQAO plays an important role in Ontario's education system. The agency provides an independent check on all students at specific points in their learning, a measure of the quality and accountability of our publicly funded schools and important information for student, school, and system-wide improvements.

We are pleased that the Auditor General's audit attests to the rigour of the assessment practices and processes at the core of the

EQAO's work. The audit confirmed that the tests are an accurate reflection of the Ministry of Education's curriculum expectations, that their level of difficulty is comparable between years, and that the administration and marking processes ensure that results are valid, consistent, and a reliable indication of student achievement. We are also pleased with the finding that stakeholders are in agreement that the tests reflect the provincial curriculum expectations.

The EQAO is proud that the report confirms the agency's solid financial practices and acknowledges the reduction in annual expenditures by over 20% in the past five years, while delivering substantially the same service. In keeping with our commitment to continuous improvement, we welcome the Auditor General's recommendations and will closely consider each one in order to further strengthen the assessment program. As we do so, we will give particular attention to better explaining and promoting the assessment program to parents and the general public.

Detailed Audit Observations

OVERVIEW OF EQAO TESTING

Since the 2000/01 school year, the EQAO has administered approximately 600,000 tests annually. Figure 1 illustrates the test breakdown for the 2008/09 school year. The Grade 3 assessment began in 1997, followed by the Grade 6 assessment in 1999, and the first assessment of Grade 9 mathematics in 2001. In October 2000, the EQAO administered the first trial Ontario Secondary School Literacy Test, required for high-school graduation. The English and French version of all tests have the same number and type of questions, but reflect variations in the curriculum for the two languages.

With the exception of the OSSLT, where the student either passes or does not, the tests are scored on a four-point scale with four being the highest mark and roughly equivalent to an A grade. The Ministry's overall goal is to have 75% of 12-year-old students score at least at a Level 3 standard, equivalent to a B average, on province-wide EQAO testing for reading, writing, and mathematics.

Province-wide results for all tests since 1999/2000 are shown in Figures 2, 3, and 4.

TEST DEVELOPMENT AND ADMINISTRATION

Development of Assessment Questions

As noted above, the EQAO annually develops separate tests for reading, writing, and mathematics for Grades 3 and 6, as well as tests for Grade 9 mathematics and Grade 10 literacy (OSSLT). These tests are designed to produce an accurate and reliable evaluation of student performance, to be in accordance with Ontario's curriculum for each subject area, and to be of similar difficulty from year to year.

Annually, as well, the EQAO prepares a framework outlining the basis of each test. From these frameworks, more detailed assessment blueprints are prepared and used to produce multiple-choice and open-response questions. The consistency of the framework and blueprint design over the years helps to ensure that the number and types of questions,

Figure 1: EQAO Testing — 2008/09
Source of data: EQAO

	# of Students
Grade 3 – Reading, Writing, Math	
English-speaking	125,500
French-speaking	6,500
Grade 6 – Reading, Writing, Math	
English-speaking	136,100
French-speaking	6,300
Grade 9 – Academic Math	
English-speaking	101,000
French-speaking	4,000
Grade 9 – Applied Math	
English-speaking	48,500
French-speaking	1,500
Grade 10 – OSSLT	
English-speaking	142,400
French-speaking	5,500
Total Tests Administered by the EQAO	**577,300**

Figure 2: Grades 3 and 6 — Percentage of Students Achieving Provincial Standard (Levels 3 and 4) — 1999/2000–2008/09
Source of data: EQAO

	Grade 3						Grade 6					
	English-speaking			French-speaking			English-speaking			French-speaking		
School Year	**Reading**	**Writing**	**Math**	**Reading**	**Writing**	**Math**	**Reading**	**Writing**	**Math**	**Reading**	**Writing**	**Math**
1999/2000	49	52	57	45	50	41	50	48	51	58	58	57
2000/01	49	52	61	41	51	40	55	53	54	54	57	60
2001/02	50	55	58	44	55	47	55	53	54	58	61	63
2002/03	50	55	57	47	58	47	56	54	53	58	63	66
2003/04	54	58	64	49	63	55	58	54	57	63	68	70
2004/05	59	61	66	49	68	57	63	59	60	67	70	74
2005/06	62	64	68	56	72	59	64	61	61	68	73	76
2006/07	62	64	69	54	73	61	64	61	59	68	74	76
2007/08	61	66	68	60	74	62	66	67	61	75	80	78
2008/09	61	68	70	66	76	66	69	67	63	77	79	80

Figure 3: Grade 9 Mathematics — Percentage of Students Achieving Provincial Standard (Levels 3 and 4) — 2000/01–2008/09

Source of data: EQAO

School Year	English-speaking		French-speaking	
	Academic	Applied	Academic	Applied
2000/01	49	13	45	10
2001/02	64	21	65	22
2002/03	66	21	66	20
2003/04	68	26	68	27
2004/05	68	27	69	24
2005/06	71	35	70	32
2006/07	71	35	70	33
2007/08	75	34	67	34
2008/09	77	38	68	40

Figure 4: Grade 10 — Percentage of Students who Passed the Ontario Secondary School Literacy Test — 2000/01–2008/09

Source of data: EQAO

School Year	English-speaking	French-speaking
2000/01	68	54
2001/02	75	67
2002/03	72	79
2003/04	77	78
2004/05	82	80
2005/06	84	81
2006/07	84	83
2007/08	84	83
2008/09	85	84

the coverage of the Ontario curriculum, and the level of difficulty are comparable from year to year.

The EQAO recruits and trains educators with expertise in literacy and mathematics to apply the blueprints on "item-writing" committees that devise the test questions. The EQAO provides committee members with its Development Specification Guide to assist them in drafting possible questions for future EQAO tests.

The EQAO employs several different quality assurance processes to ensure that the questions are appropriate before they are included in a formal EQAO test. For example, designated teachers could give some proposed questions to students and, based on the results, modify or eliminate them from the bank of draft questions. Another field-testing process is to include proposed questions that are indistinguishable from actual EQAO questions for possible inclusion in subsequent assessments. Although the answers to these questions would not be part of a student's formal score, the overall results would be used to maintain consistency in the difficulty level of questions from year to year.

Before a question is included in an EQAO test, it is reviewed by education professionals on two EQAO committees. The Assessment Development Committee ensures questions are based on the

Ontario curriculum. The Sensitivity Committee ensures that the questions are culturally fair to the broadest range of students and are free of any bias based on factors such as gender or race.

Overall, we found that the EQAO imposed strict criteria for the development and field-testing of questions, that test content was thoroughly reviewed, and that any question received multiple edits before being considered for inclusion in an EQAO assessment.

To further enhance the credibility of its tests, the EQAO has created a psychometric expert panel composed of seven university professors and experts from different organizations across Canada and the United States. The panel semi-annually reviews EQAO procedures and provides recommendations to improve its assessment-development process.

Several teachers and school principals who we interviewed expressed general satisfaction with the EQAO tests. However, some expressed concerns in regard to the complexity of some questions and improving cultural/socio-economic sensitivity. For example, one teacher stated that the school's students had difficulty with a question about a menu because the school was in a very low-income community where few of the children went to restaurants.

We also interviewed two of the psychometric experts who provide ongoing advice to the EQAO on matters related to testing models and the more technical aspects of assessments, such as Item Response Theory, which provides a framework for evaluating how well an assessment works and how well it measures student achievement by allowing comparisons of assessment results over time. Both experts agreed that the EQAO process is thorough and ensures consistency from one year to the next.

Also, based on our interviews with a number of stakeholders, including the teacher federations, we found that despite philosophical concerns with universal testing, they voiced general satisfaction with the test-development process and agreement that EQAO tests reflected provincial curriculum expectations.

Administration of EQAO Testing

EQAO assessments are administered in thousands of schools across the province at scheduled times during the school year. By necessity, the EQAO counts on the co-operation and professionalism of school principals and teachers to administer the assessments in accordance with its guidelines. Each guideline contains the procedures to be followed by assessment administrators.

School principals are responsible for ensuring that teachers are prepared to administer the test, that the test administration process is well organized, and that all eligible students write the assessments. Principals also must ensure the security of test booklets before and after the tests and that all are collected and returned to the EQAO.

It is expected that students will work independently to solve questions and write their responses during the assessment. Teachers must not say or influence student responses or encourage students to alter their responses. Any circumstance that could affect the validity of student performance is to be reported promptly to the EQAO.

Based on our interviews at a number of primary and secondary schools, we found that procedures existed to maintain the security of all test materials and that test administrators had received adequate training. Teachers and principals commented that the EQAO's call centre was very helpful and that EQAO staff responded to concerns in a timely fashion.

We also found general satisfaction with all of the test administration guides. Teachers and principals commented that the EQAO had made significant improvements to the guides in recent years, increasing clarity and ease of implementing all requirements. The teachers' only common concern was a desire to see all significant changes from previous guides bolded, highlighted, or otherwise communicated in a way to ensure that nothing of consequence is missed.

To monitor whether EQAO guidelines are followed and to reduce the risk of improprieties, the EQAO has hired an external contractor to send quality assurance monitors to visit selected schools at the time of testing. The monitors review pre-test preparation, ensure test booklet security, observe the actual administration of the tests, and undertake other quality assurance procedures to ensure that the schools are following the EQAO's requirements. Although the majority of schools are selected at random, some schools are visited because of concerns expressed regarding the prior year's test administration. In the past five years, monitors have visited over 1,300 schools or about 260 schools annually. Overall, the external contractor has reported a high degree of compliance with EQAO administration procedures.

However, although all boards had been visited for one or more of the assessments, we found that 10 of the province's 72 school boards had not received a visit from a quality assurance monitor to check, for example, the OSSLT during those five years. One of the boards that had not received a visit during OSSLT assessments had over 20 high schools. In addition, we noted that 14 of the 30 private schools the contractor visited had fewer than 20 eligible students—some with as few as five students—writing the OSSLT test. Meanwhile,

other private schools with more than 100 eligible students were not visited.

Assessment Exemptions and Accommodations

All students are expected to write the EQAO assessments, but principals can grant exemptions to students with special needs and to those attending English schools where that is their second language. However, many students with special needs can demonstrate their level of competence in EQAO tests with the special accommodations that they would normally receive in school. For example, visually impaired students can be given EQAO tests in a Braille format and those with learning disabilities may be able to complete answers if given more time than is normally allotted.

In Ontario, a school receives no advantage by exempting students from EQAO assessments. The exempted students are assessed as not achieving the provincial standard and are included in a school's overall results. Consequently, it is to the school's advantage to encourage students to write the tests. However, the teachers and principals we interviewed almost unanimously stated that this policy was unfair because schools with a disproportionate number of exempt students—some schools have exempted as many as 10% of their students from EQAO testing—could significantly distort its overall EQAO results.

We reviewed the number of EQAO assessment exemptions granted over the past five years and noted an almost 40% decline in the number of Grade 3 and Grade 6 exempted students. For example, exemptions for the Grade 3 writing assessment fell from 8,100 in the 2003/04 school year to 4,800 students in the 2007/08 school year. This trend has resulted from a number of school boards making concerted efforts to ensure that as many students as possible write the tests. However, we noted several boards where the number of exempt students has remained relatively constant year over year, or even increased.

RECOMMENDATION 1

To improve the Education Quality and Accountability Office's (EQAO's) test development and administration process and to ensure that student assessments continue to be reliable and objective and that all students are given the opportunity to demonstrate their competence, the EQAO should:

- highlight to principals and teachers any significant changes in the compliance requirements outlined in the guides to administer EQAO testing;
- improve the process for selecting the schools visited by quality assurance monitors to ensure that all school boards and large private schools are periodically monitored;
- assess the equity of including exempt students in the overall assessment results as having not met the provincial standard; and
- identify schools and school boards where the number of exempt students appears to be relatively high and follow up to ensure that exemptions are justified.

EQAO RESPONSE

The EQAO is pleased that educators have recognized the improvements to the administration guides in recent years and that they feel these changes have increased clarity and ease of implementing the requirements. The EQAO agrees that significant changes year to year should be highlighted in the administration guides.

The EQAO agrees with the recommendation to introduce additional elements to the process for selecting schools to be visited by quality assurance monitors. Currently, in the random selection of schools for quality assurance visits, schools are stratified to ensure proportional representation across the six regional districts and by type of school (public, Catholic, and private). The EQAO will ensure representation across

school boards for the upcoming assessment in 2009/10.

The policy of accounting for every student reflects the overarching principle that Ontario schools are responsible for the achievement of all students attending their schools. Principals make the determination, together with parents, about which students are unable to write the assessment even with accommodations or special provisions. If the EQAO were to exclude exempted students when reporting a school's results, those schools that ensure that all students are included would consider the practice inequitable should other schools not have the same approach. It is important that all students have the opportunity to demonstrate their achievements. The current practice provides for valuable insights into all students' learning and it supports accountability for student and school performance. In addition to results for all students, the EQAO does provide separate reports for participating students in each school's public report. Both sets of results are valid and provide different information.

The agency agrees that it should follow up with school boards and schools where exemption rates remain high. It is important to recognize that there are some schools where high exemption rates are appropriate due to specific student populations, such as specialized schools or classes within schools that service children with multiple disabilities. Where this is not the case, the EQAO will take appropriate action.

ASSESSMENT MARKING AND ANALYSIS

Marking of EQAO Assessments

School principals are responsible for collecting all completed test papers, sealing them in bins that are bar-coded, and shipping them to the EQAO. The papers arrive at the marking area in the sealed bins to ensure they have not been tampered with in tran-

sit. The EQAO rents space at a large convention centre to house as many as 1,700 markers to grade the test papers. The marking for all Grade 3, 6, and 9 assessments takes place in the summer. As a result, the EQAO is able to hire qualified elementary and secondary school teachers as markers. For the OSSLT, which is graded in the spring of the school year, although many of the markers are qualified current or retired teachers, the EQAO hires markers who have a required minimum education level equivalent to an undergraduate university degree.

EQAO tests consist of closed-response (multiple choice) and open-response (written answers) questions. The closed-response answers are machine read, eliminating any human variability in marking. However, the marking of open-response questions is more subjective because two markers may have different opinions on an appropriate grade.

In an attempt to heighten consistency, the EQAO has established several different quality control procedures. These procedures begin with a framework termed a Quality Management Plan designed to ensure that the marking process is run efficiently and effectively. The plan, updated annually, includes the process for recruiting markers, outlines their training, and schedules the daily activities required to ensure quality grading. It also deals with ongoing supervisory review and signoff procedures.

At the beginning of the marking process, all markers are provided training to develop a common understanding for interpreting and applying the requirements. Markers are trained to grade only one question, using anchor papers that give examples of answers at various grade levels and a scoring rubric that describes what is expected from student answers. Finally, assessment markers are required to pass a qualifying test.

Over and above these safeguards and procedures, a consultant hired by the EQAO in 2004 recommended that on-line training would help maintain more consistent standards because all markers would receive identical instructions. In addition, on-line training would allow markers to

set their own pace and to train at home prior to the start of the marking process. We also noted that on-line training could improve productivity and provide timelier feedback to assessment markers. However, the EQAO has not implemented this procedure.

The EQAO uses "validity papers" to monitor each marker's accuracy. Validity papers are pre-marked by experts and normally circulated unidentified throughout the marking session to enable monitoring on both a daily and cumulative basis. The purpose is to determine if markers are grading questions according to standards established by the expert panel and if retraining is required.

The EQAO has established validity targets to be achieved in the marking process. One target is for 95% of the validity papers to be marked either in exact agreement or within one scoring level of the expert panel's assessment. For the 2008 Grade 3, 6, and 9 assessments and for the 2009 OSSLT, the EQAO met its 95% validity target for nearly all questions marked.

However, for some questions, the EQAO does not always meet one of its other targets that 70% of the validity papers be marked in exact agreement with the expert panel—although, in recent years, the EQAO has moved closer to achieving this target.

Another aspect of meeting validity targets is to ensure that markers grade a sufficient number of validity papers during the marking process. For the 2008 assessments, we noted that markers were not marking enough validity papers early in the process to identify those who did not meet the required accuracy targets for potential retraining. In 2009, for the OSSLT, the EQAO increased the validity reads per marker, but the number varied dramatically as some markers graded more than 150 validity papers while others graded fewer than 40.

We noted that a process called backreading is employed in other jurisdictions whereby supervisors read a certain percentage of the papers that have already been graded in order to focus on the work of markers who are not meeting validity targets. Supervisors can intervene, retrain, or even dismiss markers who fail to grade papers accurately and consistently.

Overall, we concluded that, although there is room for improvement, the assessment marking process is sufficiently controlled to ensure that results are valid, consistent, and reliable.

RECOMMENDATION 2

To improve the assessment marking process to ensure that results continue to be valid, consistent, and reliable, the Education Quality and Accountability Office should:
- consider adopting on-line training for assessment markers;
- examine different methods to increase the number of validity reads for each marker, especially early in the marking process; and
- consider implementing supervisory back-reading to help improve marker accuracy.

EQAO RESPONSE

The EQAO continually looks for ways to enhance its scorer processes. The 2004 recommendation regarding on-line training was in the context of an image-based scoring approach. Image-based scoring was thoroughly considered but deemed not to be appropriate at that time. The EQAO continues to explore technology solutions that will address the requirements of the EQAO's Ontario-based program, including various approaches to on-line training.

The EQAO agrees with the recommendation regarding validity reads and introduced improvements to the process in 2009. The changes to the process resulted in an increase in the number of validity papers scored by each scorer. The EQAO sets its validity targets for each item on an assessment to ensure accurate and reliable student achievement results. In 2009, 95% of validity papers were either in exact agreement with the expert panel's score or within one scoring level of the expert panel's score. The EQAO also sets a validity target for exact agreement (same score)

as the expert panel's score. This is a performance target that the EQAO has established as a best practice and, through various process improvements, has improved over the past five years. We are the only jurisdiction that sets this target and publicly reports against it.

The EQAO agrees that backreading is one of many scoring procedures that can be used to ensure validity and reliability of scoring. Jurisdictions normally choose either the process of validity paper insertion or backreading. The EQAO, in consultation with its Psychometric Expert Panel, will consider backreading as a possible additional measure to monitor and support scorers identified as requiring further training.

Assessment Analysis and Follow-up

For some parents, EQAO test results are the only public information they have to assess local school and school board performance. In the 2007/08 school year, about 1,000 out of the 3,500 elementary schools had less than 50% of their students attain Level 3, the provincial standard, in Grade 3 reading. The top performing board in the province had 73% of its students achieve Level 3 or better; the lowest performing board stood at 49%.

Many teachers and principals commented that as EQAO results take on broader acceptance, there is ever-increasing pressure to improve results that form the basis of ministry and school board interventions and private organization rankings. In fact, others often rely on rankings for non-education purposes. For example, real estate agents use them to attract parents to areas with high performing schools.

To ensure that reported results are valid, reliable, and accurate, the EQAO employs several different quality assurance procedures. Such procedures include integrity software to identify unusual school response patterns in multiple choice questions that would suggest collusion among students, the review of some open-response answers

from 5% of the schools to determine if there are any patterns that indicate collusion, and the investigation of complaints to determine if there is any evidence of impropriety. Although the EQAO does not have a formal complaints process, the majority of the 14 investigations in 2007/08 arose from concerns expressed by principals, teachers, and school board staff.

In regard to potential cheating by its students, British Columbia has a formal complaints process that outlines the responsibilities of students, schools, and school boards with standardized forms that are to be completed to describe each incident and what actions were taken.

If the EQAO identifies a problem with the results of a school or school board, the results are not reported publicly. In 2006, for example, four elementary schools in different boards had their results withheld due to an investigation that determined that the students had been inappropriately coached. In 2007, on the basis of complaints from staff, all 24 schools in one board had their results withheld because test materials were inadvertently distributed by the board office. In 2008, no school results were withheld.

There is no public disclosure of why results are withheld, although more complete and open communication would no doubt act as a deterrent to help ensure compliance with assessment guidelines. The teachers and principals we spoke to indicated that they were unaware of the results-suppression policy. They suggested that the administration guide should be more explicit on the repercussions of policy violations. We noted that the Massachusetts administration guide is very clear and explicit on penalties, such as the loss of a teaching licence, for violating the assessment administration guide.

Based on a review of past concerns and discussions with EQAO staff, we noted in the lower grades (Grades 3 and 6) that the primary risk to the test's integrity is non-compliance with administrative procedures by teachers and principals. In high school (Grade 9 and OSSLT), the risk shifts from

the principal/teacher to the student where there is a higher potential for students to engage in collusion and other forms of cheating. However, although there are some variations in the OSSLT quality-assurance process, the EQAO uses substantially the same processes for all assessments rather than a varied approach that considers the unique risks associated with each assessment.

As well as examining anomalies at the student level, the EQAO informally reviews results at the school and school board levels. However, more formal analysis and follow-up may be required to ensure that the testing process is effective in improving student performance. For example, some EQAO board members expressed concern that over the past three years only about 35% of Grade 9 applied mathematics students achieved Level 3 on the EQAO assessment. Several wanted the EQAO to formally investigate whether these students were not motivated to write the tests, received inadequate instruction, or whether there were problems with the curriculum.

In an attempt to motivate Grade 9 students, the EQAO has allowed school boards across the province to incorporate Grade 9 EQAO results into a student's end-of-course mark. Ministry policy states that the end-of-course exam can count for up to 30% of a student's final mark. In the 2008/09 school year, one of the school boards we visited decided that EQAO results would count for 15% of the student's final Grade 9 math mark. The degree to which these test results form part of the final mark is inconsistent province-wide, ranging from zero to 15%.

In our audit, we found significant variations in year-over-year assessment results. For example, we found that some 10% of the schools' Grade 3 results over the past four years decreased by more than 20%, while another 10% increased by more than 20%. This demonstrates that although there may be a gradual overall upward trend in provincial EQAO results, there can be significant fluctuations at the school level that may warrant following up to assess whether the changes are reasonable.

For some schools, the change in assessment results was greater than 50% from one year to next. For example, in one school, fewer than 40% of Grade 3 students achieved the provincial standard from 2004 to 2007, but its results increased to 100% in 2008. Although one might question the reasonableness of such a dramatic improvement, such significant swings could be caused by many legitimate factors, such as a different cohort of students, a change in staff, improvements initiated by the Ministry, or interventions by the school board or school to improve results.

The EQAO does not undertake a formal analysis or investigation to determine the cause of sudden and significant changes to ensure their legitimacy. Such analysis could identify whether significant variations are justified or result from the testing process and are areas the EQAO should consider for intervention.

RECOMMENDATION 3

To ensure that assessment results continue to be reliable, consistent, and valid, the Education Quality and Accountability Office (EQAO) should enhance its quality assurance procedures by:

- implementing a formal complaints process to help determine if there are any trends and to identify potential actions that could prevent non-compliance with assessment guidelines or student cheating;
- considering more complete disclosure when test results at a particular school are withheld as a deterrent against non-compliance with assessment guidelines;
- outlining in its administration guides potential penalties for violating EQAO policy;
- tailoring its quality assurance processes to address unique risks associated with different assessments;
- reviewing Grade 9 applied mathematics results to assess whether incorporating EQAO results into the student's final mark

is effective in motivating students and, if so, suggest a more consistent approach; and

- investigating any abnormally large variations in school assessment results from year to year and ensuring that they are justified.

EQAO RESPONSE

The EQAO takes complaints regarding non-compliance of assessment guidelines very seriously and has rigorous quality assurance processes to ensure that the administration of the assessment is consistent across the province. The EQAO has always followed up complaints at the school and board level and in 2009 introduced a standardized format for investigating at the school and board level. The EQAO now has a clear protocol for investigating and withholding results when warranted and will continue to review approaches in other jurisdictions.

The EQAO agrees with the recommendation that in instances where non-compliance with assessment administration guidelines have been confirmed, it should disclose the reason that results are being withheld. The EQAO will also outline potential consequences for non-compliance with its administrative guidelines.

The EQAO applies all quality assurance procedures to all assessments because it is important to consider the same elements, such as proper administrative procedures, security of materials, principal and teacher compliance, and student cheating. However, for some assessments, certain procedures are used more extensively, such as when comparing student results for collusion in Grade 9 math and the OSSLT. The EQAO will continue to examine its quality assurance processes and tailor specific strategies to meet the varying conditions of the assessments.

The EQAO agrees with the recommendation to review the practice of applying EQAO results to Grade 9 math school results. In 2010, it will include on the Grade 9 teacher questionnaire questions about the practice of counting EQAO results for course marks and will then correlate this information with student achievement results to determine the best course of action.

The EQAO has always had a practice of reviewing significant changes in school results and contacting directors of education for those schools with such changes. A more formal analysis was introduced in summer 2009, whereby superintendents responsible for schools identified with large variations are contacted and asked to conduct a review and provide a written report outlining explanations for any large gains. As noted in the Auditor General's report, significant swings could be caused by many legitimate factors. In the review of such schools to-date, those with large variations have been attributed to such factors.

Reporting on EQAO Assessment Results

The EQAO is required by legislation to report to the public and to the Minister of Education on the results of its testing and, generally, on the quality and effectiveness of elementary and secondary school education. For both English and French language students, EQAO assessment results for each subject area are reported by school, school board, and on a province-wide basis. These results are compared to prior years and are also reported by gender, by English-language learners, and by special needs students. More detailed contextual results are available to schools and school boards through a secure website. Parents also receive an individual student report detailing their child's results.

In addition to the statistical data reported annually, the EQAO also provides a series of reports that include a summary of high-level trends, school success stories, and strategies for student improvement. These reports provide principals and

teachers insight into areas that may need attention, and the principals/teachers we spoke to indicated that EQAO results helped them plan strategies to enhance classroom learning. Teachers also commented that the EQAO gave them feedback on how well they conformed to the curriculum.

These EQAO annual provincial reports also include the results of questionnaires filled out by students, principals, and teachers. For example, the teachers' questionnaire asks whether they make use of EQAO data and other specific resources such as the school library and computer software. Many of the teachers we interviewed stated that the questionnaires were repetitive from year to year and did not allow for general feedback or the opportunity to raise other issues. In 2009, the EQAO initiated a pilot communications strategy to obtain more open feedback from a number of school staff on the EQAO's student assessment process.

In 2007, the EQAO expanded its outreach program to provide, on request, workshops and seminars to assist school board and school staff in understanding and using EQAO data to improve student achievement. EQAO outreach staff conduct regional workshops that all boards can attend and visit boards individually. Some boards have been visited as many as 10 times, while other school boards across the province have received relatively few visits from outreach staff.

In January 2009, the EQAO Board of Directors requested that its management initiate a bolder communications strategy with the public and school communities. In particular, the board wanted parents and the general public to better understand the benefits of the assessment process to promote improvements in student learning. Several of the school principals and teachers we interviewed agreed that the EQAO should take a larger role in explaining and promoting the assessment process.

RECOMMENDATION 4

To further improve its policies and processes and the procedures designed to produce accurate and reliable reports that can be used to improve student performance, the Education Quality and Accountability Office (EQAO) should:

- consider formalizing its pilot initiative to provide more open-ended questions for principals, teachers, and students to obtain better feedback on any concerns with the assessment process and ways to improve it;
- develop a more formal outreach strategy to give all schools and school boards an opportunity to gain further insight into the value of EQAO data and how it can be used to improve student learning; and
- increase the understanding of parents and the general public of how the assessment process enhances student learning.

EQAO RESPONSE

It is important to ask the same questionnaire questions each year so that comparisons over time can be made. The EQAO has conducted research on factors that are related to student achievement and will be revising its questionnaires to gather data on these factors. Revised questionnaires will be implemented in 2010 for the primary and junior assessments. The EQAO recognizes the value of gathering feedback from educators and does this through a variety of outreach techniques, including focus groups, educator feedback on the public web site, the EQAO WebMag, monitor visits by the Council of Ontario Directors of Education, and OSSLT shadow activities.

The EQAO's outreach program was established with the goal of helping all schools and school boards understand the value of EQAO data and how best to use this information in their improvement-planning processes. The EQAO agrees with the recommendation and will

continue to enhance its outreach activities to ensure that schools and boards are able to use this valuable data.

The EQAO agrees with the recommendation to increase understanding of how the assessment process enhances student learning. It will continue to enhance its public reporting practices and communications materials for parents. The EQAO Board of Directors established this as a priority in its 2009/10 business plan.

ADMINISTRATION COSTS

The major expenditures for the EQAO relate to the administration of student assessments such as staffing and the hiring of temporary test markers, as well as test-printing, warehousing, and delivery. The EQAO spent almost $32 million to deliver its services during the 2008/09 fiscal year. We found that the EQAO had developed a good budgeting process to help control costs and had reduced its annual expenditures by over 20% during the past five years while delivering substantially the same service. Major cost reductions were achieved in the assessment marking process, print production, warehousing, and test distribution.

The EQAO is obliged to follow Management Board of Cabinet Directives in the acquisition of goods and services, and we found that it complies with the required tendering practice and that the necessary procurement documentation and approvals were on file. In addition, in 2008, the Ministry's Audit Services Team reviewed selected EQAO financial processes and found that its travel expense procedures were operating effectively, overall, and that all expenses were supported prior to payment in accordance with the Management Board of Cabinet's Travel, Meal, and Hospitality Expense Directive.

Alcohol and Gaming Commission of Ontario and Ministries of Environment, Finance, Government Services, and Transportation

Government User Fees

Background

In the 2008/09 fiscal year, Ontario ministries and agencies collected almost $2.2 billion in revenues that are classified as Fees, Licences, and Permits—hereafter referred to as user fees—and reported in Other Revenue in the Public Accounts of the province. Revenues from user fees represent about 2% of total annual provincial revenues. Of the rest, about 69% of Ontario's revenues comes from taxation; 18% from transfers from the federal government; and the remaining 11% from other sources such as sales, rentals, royalties, and fines. The difference between a user fee and a tax is that a user fee is generally charged to recover all or a part of the costs of providing a specific good or service to the individuals and businesses that request it, such as a driver's licence; a tax is used to produce revenues for general government purposes and for goods and services that the government deems to be a "public good"—available to all individuals but paid for by the public as a collective entity, such as health care, the court system, and education.

Over 400 types of user fees are charged to individuals and businesses by ministries and agencies, such as for registration and search services and for the issuing of licences. The Ministry of Transportation collects almost half of all user-fee revenues—

for vehicle registration, carrier, and driver licence fees. The Alcohol and Gaming Commission of Ontario collects another 22%—for liquor licences and permits. Figure 1 shows user fees charged in 2008/09 by activity and ministry or agency.

Under the *Financial Administration Act*, all ministries and certain agencies are required to deposit any revenues, including user fees, into the province's Consolidated Revenue Fund to be used for general government purposes. In other words, these revenues are not earmarked for particular programs or restricted in their use. Exceptions exist for fees that are deposited in the Consolidated Revenue Fund but are designated for special purposes under legislation. For example, the Ministry of Natural Resources collects approximately $116 million per year relating to provincial parks and fish and wildlife management.

Audit Objective and Scope

Our audit objective was to assess whether selected ministries had adequate systems, policies, and procedures in place for government user fees to ensure that:

- fees were properly justified and were authorized, administered, and reported in

Figure 1: Revenues from User Fees, 2008/09 ($ million)
Source of data: Public Accounts of Ontario

vehicle and carrier registrations and driver's licences –
Ministry of Transportation ($1,033.9)

other – various ministries and agencies ($490.8)

company registrations – Ministry of Government Services ($20.6)

gaming registrations and lottery event licences –
Alcohol and Gaming Commission ($32.1)

Drive Clean program – Ministry of the Enviornment ($31.9)

personal property registrations – Ministry of Government Services ($43.8)

estate and court-related fees – Ministry of the Attorney General ($55.1)

liquor licences and permits – Alcohol and Gaming Commission ($468.0)

Total $2,176.2

compliance with government and legislated requirements;

- proper controls existed over fee collection and adequate quality-of-service standards existed for services with fees; and
- fees were periodically assessed and reported on to ensure that they met established requirements.

We selected the ministries of the Environment, Government Services, and Transportation, and the Alcohol and Gaming Commission of Ontario for conducting our fieldwork and testing user fees. In the 2008/09 fiscal year, these three ministries and one agency collected $1.7 billion in user fees— or 78% of all fee, licence, and permit revenues reported in that year's Public Accounts. We sampled the more significant revenue-generating fees, with revenues totalling about $1.3 billion, charged by these ministries and this agency for review. In addition, we performed fieldwork at the Ministry of Finance, which provides operational support to the Treasury Board of Cabinet by reviewing all fee submissions from ministries and agencies and is

involved in recommending changes to policies and fee structures and amounts.

Our audit fieldwork at these ministries and this agency assessed the total fees they charged for a related service. For instance, we selected all the fees that the Ministry of the Environment charged relating to hazardous waste, such as various charges for registering a hazardous-waste-producing site and for transporting hazardous waste. We also interviewed ministry and agency staff; examined records, documents, and policies in use; observed and tested operations; and reviewed relevant studies, statistics, and major contracts.

We also researched user fees in other jurisdictions. Because Quebec had recently issued a government-task-force report on public user fees, we visited Quebec's Ministry of Finance and discussed with senior management their recent development of a new user-fee framework to guide policy and operational decisions. At the federal level, we met with management at the Treasury Board of Canada Secretariat, who shared their perspectives on federal legislation, policy, and oversight on user

fees charged by departments. We also met with the Office of the Auditor General of Canada regarding certain similar work it had done recently. We also reviewed Supreme Court of Canada decisions involving user fees from 1998 to the present.

We also engaged on an advisory basis the services of an independent expert in public policy, who has recent significant experience pertaining to government user fees in the province of Quebec.

In recent years, the three ministries' internal auditors have conducted a number of audits relevant to our review of user fees; these audits have included tests and assessments of management's compliance with required policies and procedures. These audits were helpful and of sufficient quality to allow us to reduce the extent of our work in certain areas, such as whether internal controls over the collection of fees were adequate.

Summary

A 1998 Supreme Court of Canada decision concluded that user fees could be considered unlawful and therefore may be repayable if they were determined by a court to be a tax that was not established by enacted legislation or if the fee amounts charged were excessive and did not have a reasonable relationship to the cost of the services provided. Although the Ontario government has taken some actions over the past decade to help address this ruling, there are still fee revenues from alcohol, gaming, and registration services of over $500 million annually that may be at risk because they may not fit the Supreme Court's criteria for valid fees.

The Non-Tax Revenue Directive (Directive) established in 1991 is intended to maximize the Ontario government's non-tax revenues, including user fees, and ensure that ministries regularly review services and rates and keep non-tax revenue rates up to date. However, we found that the existing processes were, for the most part, not

effective in achieving the Directive's goals. In addition, unlike user-fee legislation in place federally and in some other provinces, Ontario's existing policies and procedures lack transparency and public involvement in key decisions about changes to user-fee rates, nor is there sufficient public reporting on fees collected, their use, and the costs associated with providing the fee-related services.

A key principle of the Directive is that when it is reasonable and practical to do so, the cost of providing services to the public should be borne by those who benefit from the service. The Ministry of Finance's Costing and Pricing Policy, established in 2004, generally requires that the full cost of providing services—along with factors such as government priorities, the user's ability to pay for the service, and other cost/benefit factors—be considered when establishing the user-fee rates. In 2008, as part of the Budget process, the Ministry of Finance took the initiative of requiring that all ministries report on their fee revenues and their estimate of the costs of providing the fee-related services so it could evaluate opportunities for enhanced cost recovery. This one-time review indicated that most fees were not set at levels that would result in full cost recovery. Overall, forecasted revenues did not recover about $522 million, meaning that less than 75% of the costs identified for these fee-related services was being recovered. In cases where ministries decide not to charge the full cost of a service—such as when it is not practical or economical to do so, or users cannot afford to pay—ministries are required to document the reasons for setting fees at reduced rates. For the most part, this was not being done. We also noted that, compared to most other provinces, Ontario collects less in terms of percentage of total revenues obtained from user fees and user fees charged on a per capita basis.

In addition, there were generally no recurring processes in place to keep fee rates up to date, as is required under the Directive. We noted many examples of fees that have had no rate increase for 10 to 20 years, despite the fact that the fees were set

at amounts that recovered only from 23% to 45% of the full costs of providing the services. In looking at other provinces, we noted that Nova Scotia adjusts user fees annually according to changes in the Consumer Price Index, and, starting in 2011, Quebec will systematically update its user fees using the same indexation rate it uses for personal income taxes.

Some fee-related services are provided both in person and electronically—via the Internet or at electronic kiosks located at a number of publicly accessible locations, such as shopping malls, throughout the province. Ministry of Finance guidelines require ministries to discount fees for services provided electronically to encourage their increased use by the public. Services delivered electronically can typically be delivered at a lower cost than over-the-counter services. However, we noted that no discounts were offered by the Ministry of Transportation for driver and vehicle registration. On the contrary, services at electronic kiosks incur a so-called "convenience" surcharge of one dollar per transaction for such services.

Effective January 1, 2010, a new directive will apply to all provincial services regardless of whether a fee is charged or not. The directive will set out new common standards and will require that ministries establish program-specific standards for services offered, for monitoring and measuring the quality of service provided, and for communicating to users of services the actual level of service achieved.

We concluded, based on our work and that of the internal audit services of the three ministries we visited, that internal financial controls over the fees collected by the three ministries were generally satisfactory.

Detailed Audit Observations

POLICY AND CONTROL FRAMEWORK OVER USER FEES

Legislative and Administrative Context

The legal foundation for setting and collecting taxes and fees is laid out in various sections of the *Constitution Act, 1867*. An important requirement that a government must have before it can impose a tax is parliamentary approval in the form of enacted legislation. Taxes may be imposed without any specific association to a particular good or service and can be for any amount. Unlike taxes, user fees are specific charges linked to the cost or value of particular goods or services that an individual or organization receives. User fees are typically imposed by a regulation enabled by an act or by Order in Council, which is a notice of an administrative decision issued by the Lieutenant Governor but originating with Cabinet.

In Ontario, the *Treasury Board Act, 1991,* gives legislative authority to the Treasury Board of Cabinet to determine fees or charges by most ministries and certain agencies. In some cases, legislation gives a minister authority to set fees but Treasury Board still retains final approval. The Treasury Board is supported by the Ministry of Finance, which develops administrative policies regarding user fees and provides analysis and support for the annual Results-based Planning and Estimates process. This process requires that ministries and agencies report to the Ministry of Finance on their expenditure and revenue estimates, including any changes to their existing user fees or requests to establish new fees.

In 1991, the Management Board Secretariat issued the Non-Tax Revenue Directive (Directive), which applies to user fees collected by all ministries and certain agencies. The Directive's stated purpose is to:

- maximize the Ontario government's non-tax revenue;
- ensure that ministries keep non-tax-revenue rates up to date;
- ensure that ministries review all services regularly and consider whether to establish new revenue rates or discontinue existing ones; and
- enhance customer service.

The Directive requires that those who benefit from a service should pay for the cost of providing that service when it is reasonable and practical to do so. A ministry is not required to establish a fee if it has determined that collecting revenues is impractical or uneconomical, where charges would severely undermine program objectives, where no specific user group can be identified, or where the users cannot afford to pay. When charges are deemed appropriate, the amount of the fee is to reflect program costs, program objectives, and government-wide priorities. Ministries are required to establish and record the criteria and calculations used to determine the amount of each fee or charge.

User Fees versus Taxes

A Supreme Court of Canada decision of more than a decade ago distinguished between fees and taxes and ruled that certain fees were invalid because they were actually an unauthorized tax. Specifically, in 1998, the Supreme Court of Canada decided that certain probate fees charged by the province of Ontario to the estate of Donald Eurig were in fact a tax on the estate assets and not a fee. In its decision, the Supreme Court laid out criteria to distinguish a fee from a tax. These included that, for a fee to be constitutionally valid, there must be a reasonable relationship between the cost of the service provided and the amount charged. It ruled that the probate fees in question had no relationship to the cost of the service provided, nor were they valid taxes because they did not originate in an act approved by the Legislature. The Supreme Court suspended the decision for six months to

enable the province to address the issue, which it did by implementing the *Estate Administration Tax Act, 1998*, replacing the probate fee with an estate tax. The Act legislated taxes retroactively to 1950 at rates that would produce the same revenue as the probate fees had generated.

Since that time, although the Ontario government has taken some steps to address this, the actions taken have not been sufficient to make certain that all the fees it charges are legally fees and not, in fact, taxes. As a result, in our opinion, significant provincial revenues may still be at risk of being declared an invalid tax and at risk of being potentially repayable.

In response to the Eurig decision and to improve decision-making overall in the government, in 2004, the Ministry of Finance did develop a Costing and Pricing Policy, along with guidelines for its implementation. The policy, which applies to all ministries and certain agencies, requires that the costing and pricing of services be in accordance with all relevant legislation. For costing, the policy requires that costs be determined and records maintained for all services, and it specifies the manner in which the costs are to be arrived at. For pricing, the policy requires that the full cost of delivering the service be considered, along with other considerations, including, government priorities, clients' ability to pay, access to service, and whether a specific user group could be identified that derives a benefit from the service that the general population does not. The policy also requires that, where goods or services of the government are comparable to those of other jurisdictions or in competition with those of the private sector, decision-makers must receive benchmarking comparisons. As part of their annual Results-based Plans, ministries are to provide the Ministry of Finance with an explanation if a revenue source greater than $1 million changes by 20% or more. They must also include costing information in any submission to Management Board of Cabinet for approval of any new or proposed service.

We were informed that the government made some changes to existing fees to be compliant with

the Eurig decision. In 2006, the government eliminated the gallonage fee on alcohol sales to licensed establishments, which collected approximately $46 million annually based on volume of purchases, with no direct link to any actual costs. In fall 2006, the government amended the *Highway Traffic Act* to make it clear that the fee revenues collected to administer the driver's licence and motor vehicle program, which amounted to $760 million in 2006, could be used to fund highway infrastructure and maintenance costs.

In January 2007, the Supreme Court of Canada found certain New Brunswick alcohol-related fees unconstitutional, which resulted in the repayment of six years' worth of fees, totalling about $1 million, to the owner of an establishment. We were advised that this prompted the Ontario government to take a further look at its non-tax revenues. In summer 2007, the Treasury Board directed ministries to review all their fees. As a result of this review, it recommended that the ministries should come forward with options to address any issues identified through this review as part of the Results-based Planning process.

As part of the 2008 Budget process, the Treasury Board directed the Ministry of Finance to undertake a review of all non-tax revenue sources to evaluate opportunities for enhanced cost recovery. Each ministry was required to report back to the Ministry of Finance by June 15, 2008, with information on opportunities to increase cost recovery for existing fees—in compliance with the Eurig decision and the Costing and Pricing Policy—and to identify opportunities for new fees that would be Eurig-compliant. Documentation we received from the Ministry of Finance confirmed that all ministries reported on their revenues. We were told that certain alcohol-related fees collected by the Alcohol and Gaming Commission of Ontario (Commission) were part of a separate review and were excluded from the 2008 review of non-tax revenue sources.

Alcohol- and Gaming-related User Fees

When planning our audit in October 2008, we noted that certain large alcohol and gaming fees collected by the Commission seemed to be significantly out of proportion to the related cost of their administration and therefore could be at risk of being non-compliant with the Supreme Court's Eurig decision. In total, we identified over $470 million in fees the Commission charges annually that may be at risk of being declared non-Eurig compliant. This amounts to 21% of all provincial revenues collected from fees, licences, and permits. We reviewed fee revenues reported by other provinces and did not note similar large fee revenues that were alcohol- and gaming-related.

In its March 2009 Budget announcement, the government said it was planning to introduce legislation to replace fees with taxes for various alcohol-related and other services, levies, and charges. However, it did not identify the specific fees.

Other User Fees at Risk

Our field visits to the Ministry of the Environment and Ministry of Transportation did not identify any large fees that we felt were at significant risk of being declared non-Eurig compliant. However, we noted that revenues collected by the Ministry of Government Services for certain registration services significantly exceeded the cost to provide the services by approximately $60 million, which is six times more than the costs to deliver them. At the time of our audit, the Ministry of Government Services had not established an action plan to address this issue.

RECOMMENDATION 1

To ensure that user fee revenues are not at risk of repayment because they are unconstitutional, the Ministry of Finance should obtain the legal assurances it needs or consider legislated or other changes that would protect the validity of these revenues.

MINISTRY RESPONSE

The Ministry of Finance acknowledges the Office of the Auditor General's recommendation and will continue to review processes and take steps to protect the validity of these revenues.

The 2009 Budget noted that the government plans to introduce legislation to replace various alcohol and other fees, levies, and charges with taxes to enhance their operational structure and legislative clarity. The government proposes to introduce this legislation at the earliest opportunity. The Ministry will continue to monitor non-tax revenue fees, including through the annual Results-based Planning and in-year reporting processes. As part of the 2010/11 Results-based Planning and future years reporting processes, ministries must report annually on non-tax revenue collected in the previous fiscal year, expected revenues for the current fiscal year, and revenue projections reflecting the multi-year planning period. Any new in-year submissions/proposals on non-tax revenue must be compliant with applicable case law.

Policy Framework and Processes

A best practice with respect to user fees is for governments to set, preferably through legislation, an overarching policy framework that provides transparency and clarity, and promotes consistency. Such a framework would lay out criteria for imposing new fees and modifying existing ones; establish how costs, prices, financial targets, and service standards are to be determined; and clarify expectations for financial performance, service standards, and reporting. When government policy requirements are expressed in an act of the Legislature—in other words, as a law—this sends a clear message, not only to ministries and agencies but also to the public, on where a government stands with respect to charging fees for goods and services provided.

In Ontario, there is no overarching legislation regarding user fees. As previously stated, the administration of fees is governed by the Non-Tax Revenue Directive, established in 1991, the Costing and Pricing Policy, established in 2004, and the annual Results-based Planning process. However, we found that the existing processes could not be relied upon to maximize and keep non-tax revenues up to date, and it was too soon to tell if the changes to the Results-based Planning process would remedy this. Beginning in the 2008/09 fiscal year, the Results-based Planning process was updated to require that ministries identify revenues that were not in compliance with the Eurig decision and to require that any decisions on user fees consider the full cost of services instead of being based on the previously used direct-program-only costs (this is more fully described in the Enforcement and Compliance Costs section). We noted that user-fee policies and processes were often largely driven by the pressures and timelines associated with the provincial Budget or by reaction to Supreme Court decisions.

The Results-based Planning process requires that ministries report to the Ministry of Finance any changes to fee rates, new fees, and cases where the revenues generated by a fee-related service exceed $1 million and will change year-over-year by 20% or more. The responsibility for regular reviews and consideration of whether to establish new revenue rates or discontinue existing ones belongs to individual ministries. Thus, under Results-based Planning, there is no reason for fees with stable revenues to be reviewed; therefore, the appropriateness of their rates might not be reconsidered for a very long time.

Even if the Non-Tax Revenue Directive was achieving its goals, it might not produce the desired results overall because more than half of all user-fee revenues come from fees that appear to be exempt from the Directive. According to the Directive, non-tax revenue fees established and revised by the Ministry of Finance and announced in the Budget do not have to comply with the Directive. Of the $2.2 billion in user fees collected in 2007/08, we

identified about $1.3 billion of that revenue from two ministries we visited for which the Directive technically does not apply. These fees, considered to be under Ministry of Finance control, include approximately $848 million of driver's licence and vehicle registration fees and $455 million of brewers' fees. In our discussions at the Ministry of Transportation and the Commission where these fees are collected, senior management told us that decisions over changes to these fees were typically made by the Ministry of Finance and often only came to the ministries' and Commission's knowledge when Budget announcements were made public due to the confidentiality of the Budget process.

In addition, we identified several other concerns with the existing policies and procedures over user fees, including:

- There is little or no public involvement in decisions relating to existing user fees. With respect to new fees, ministries must consult stakeholders, but there are no required mechanisms for public input.
- The processes used to review and modify user fees periodically are not transparent to the public; the public is typically made aware of changes to user fees only when they are announced in the provincial Budget.
- Cost recovery targets for specific user fees have generally not been established by the Treasury Board, the Ministry of Finance, or at the ministry level, to guide future decisions, such as the extent to which clients benefiting from a fee-related service should be required to cover its costs, and whether fee rates should be regularly updated for inflation and cost fluctuations.
- There is no periodic or annual public reporting on fees, other than aggregate amounts included in the Public Accounts. For the Public Accounts, ministries must report on their significant fee, licence, and permit revenue, but they do not have to relate that information to the costs incurred. More comprehensive reporting on fees collected, their

use, and the costs of their associated services would help to demonstrate transparency in this area.

In contrast to Ontario, several Canadian jurisdictions have recently enacted or announced their intention to enact legislation providing clarity, transparency, and consistency over how user fees are managed and over public consultation and reporting on services provided, costs incurred, and revenues raised. Specifically, we noted the following:

- The federal government enacted the *User Fees Act* in 2004 to strengthen accountability, oversight, and transparency in the management of user fees. The legislation defines a user fee, incorporating the notion that a direct benefit or advantage is conferred to the person paying the fee. It sets out requirements for departmental implementation of new or amended user fees. Before implementing a proposed user fee or changing an existing fee, the government service provider must explain to clients the reasons for the fee and the cost and revenue elements involved. All clients must be given a reasonable opportunity to provide input and, if necessary, an independent advisory panel can be established to address the issues raised. In addition, the legislation requires that service standards be established and actual performance relating to amended or new fees be reported to Parliament annually. Reporting on fees must include the full costs incurred, revenue received, date of the last fee increase, and information on stakeholder consultations. The legislation also requires an explanation when a fee amount proposed is higher than that found in another jurisdiction with which comparisons of fees are made. In addition, to complement federal legislation, the Treasury Board of Cabinet Secretariat provides policies and guidance on the processes for proposing user fees, setting fees and service standards, and reporting on new, amended, and existing fees. This information is available for public review on its website.

- Nova Scotia enacted in 2007 the *Fees Act*, which stipulates that no fee increase is authorized unless the minister responsible notifies the Legislature and provides such details as the purpose of the fee, total revenue expected, and whether the fee rate is intended to recover full or partial costs. In recent years, the province has increased fees on a government-wide basis on April 1 at a rate tied to the Consumer Price Index. Fee increases have been reported in a public document.

- New Brunswick enacted new user-fee legislation in 2008 to establish a transparent process governing fees charged by government departments and to address stakeholder concerns that had been expressed about sudden fee increases. In January 2009, the province published its first annual report on its fees, which included for each fee the legislative authority, current amount, effective date and amount of any increases, expected annual revenue, and any changes in expected revenue. The report also explains what any new fees or changes in fee amounts are intended to accomplish.

- In its 2009/10 Budget, the Quebec government announced its commitment to implement overarching user-fee legislation. The stated purpose of the legislation is to enhance the funding of services to maintain quality and ensure transparency and accountability in the fee-setting process. By 2012, the government will systematically evaluate the costs of services for which existing or potential user fees apply, determine self-financing targets for each fee-based service, index increases in fees annually at the same rate as any increase to the personal taxation system, and report annually to the public for accountability.

RECOMMENDATION 2

To improve accountability, openness, and transparency in decisions related to user fees

and compliance with policies, the Ministry of Finance should research legislation, policies, and processes in use or planned in other jurisdictions to identify best practices that could be applied in Ontario. It should also consider making available to the Legislature and the public, as some other provinces do, information on decisions related to user fees, such as the extent to which fees are expected to recover costs, and requirements for proposing new fees and fee increases.

MINISTRY RESPONSE

The Ministry of Finance supports ongoing efforts across government towards accountability, openness, and transparency in decision-making. As part of these efforts, the Ministry will review practices in other jurisdictions by 2010/11 and will consider their applicability in view of Ontario's current public policies and considerations, such as government priorities, economic and social factors, tax-base, and other cost/benefit factors. Any new policies must be approved by the Treasury Board/Management Board of Cabinet. We will continue to review each fee on its own merit.

FEE PRICING AND COSTS

Cost Recovery for Services

Our audit indicated that, for the most part, at the three ministries we visited, most fees were not set at levels that would result in full cost recovery for the related services provided and there was no documentation available at the ministries, as required by the Directive, to indicate the rationale for charging less than full cost. Because the costing of the fee-related services being provided was not being calculated consistently and periodically, it was not possible to determine with accuracy the extent that overall fees recover their costs at these

three ministries. However, as an indication and one estimate for all ministries, the 2008 Budget review of costs and revenues, conducted to evaluate opportunities for enhanced cost recovery, showed about $522 million less revenues than fee-related costs. Overall, total forecasted recoveries in all ministries were less than 75% of the costs being incurred to deliver the fee-related services.

As previously mentioned, both the Non-Tax Revenue Directive and the Costing and Pricing Policy require that consideration be given to setting fees to recover the full cost of the fee-related service so that those who benefit from a service would pay the cost of providing it where it was reasonable and practical to do so. If a ministry decides not to charge the full cost for services—if, for instance, it would be uneconomical to do so, or if users cannot afford to pay—it must document its rationale.

Many fees have been in place for many years, and we found that there was generally no documentation relating to the setting of fees at rates that would cover the costs of the related service. In other words, the ministries were not periodically formally reviewing fees to ensure that they fully recovered the associated costs or, if they had decided not to attain full cost recovery, they were not documenting the reasons for their decision. It should be noted that the 2008 Budget process's one-time review of all non-tax revenue sources to evaluate opportunities for enhanced cost recovery helped to address this concern, in that all ministries were required to provide an assessment of what changes were needed to fee rates to achieve 100% cost recovery and what the impact would be on stakeholders.

We found that several recently established fees, on the other hand, were better supported in that key decisions—such as the basis for establishing the fee rate, the costs associated with the fee, and whether the fee is Eurig-compliant—were well documented. These new fees, however, represent less than 0.1% of total user fee revenues.

At the Ministry of the Environment, we noted that cost-recovery targets were set for certain programs. When "Drive Clean"—a mandatory vehicle-emis-

sions inspection and maintenance program—was established in 1999, the Ministry set a target of 100% recovery of the cost of the program. In 2007/08, this amounted to $31 million, which we noted the program was generally achieving. The Hazardous Waste Cost Recovery Fee program was introduced on January 1, 2002, to recover fully the costs of managing hazardous waste in the province and to encourage generators to reduce the amount produced. The Ministry committed to reviewing the program within three to five years, but it had not yet completed this at the time of our audit. We compared the costs of this program identified for us by the Ministry against revenues received and found that only about $6 million of the estimated $19 million in costs—about 31%—was recovered in 2007/08. The $13-million shortfall was being covered by the province's general revenues. We had previously raised this issue in our 2007 audit of this program.

As part of our audit, we compared Ontario's fee revenues with those of the federal government and the other provinces. Figure 2 shows that, compared to Canada and the other provinces, Ontario ranks as second-lowest (tied with Saskatchewan) in the percentage of its total revenues that come from

Figure 2: User Fees as Percentage of Total Revenue—Ontario vs. Other Jurisdictions, 2007/08

Source of data: Public Accounts of Canada and all provinces
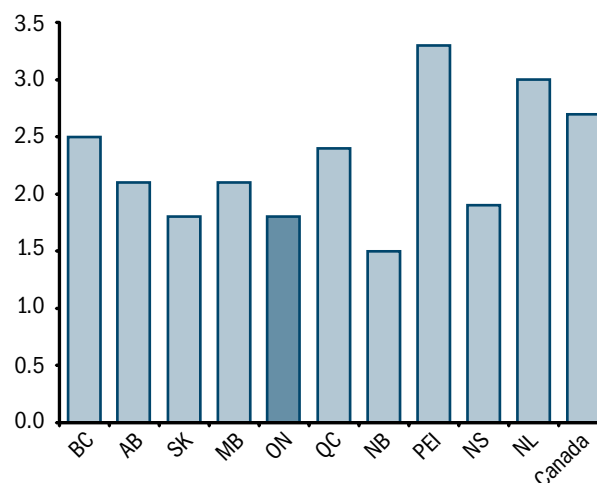
Note: Because of variations in how fees are classified by various jurisdictions, certain fees were omitted that were not applicable to Ontario. Also, we deducted Ontario's alcohol- and gaming-related fees because other provinces did not report these types of revenues in a similar manner.

user fees. Figure 3 illustrates that Ontario residents pay the least amount per capita in user fees for government services. These statistics may indicate that the Directive may not be achieving its intended objective of maximizing non-tax revenues by having users who benefit from fee-related services pay the full cost of the services where its is reasonable and practical to do so.

Figure 3: User Fees Per Capita—Ontario vs. Other Jurisdictions, 2007/08

Source of data: Statistics Canada and other provinces' Public Accounts
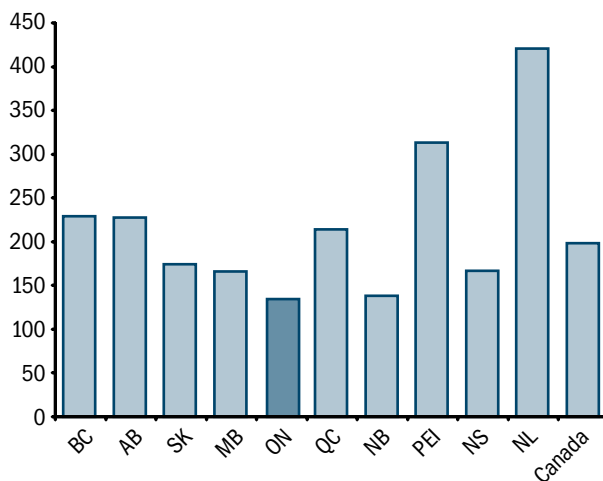
Note: Because of variations in how fees are classified by various jurisdictions, certain fees were omitted that were not applicable to Ontario. Also, we deducted Ontario's alcohol- and gaming-related fees because other provinces did not report these types of revenues in a similar manner.

RECOMMENDATION 3

To meet the intent of the Non-Tax Revenue Directive that non-tax revenues be maximized, user-fee rates should be set at levels that would recover the costs of providing services where it is reasonable and practical to do so. Where full costs are not being recovered, there should be adequate documented rationale. As well, the Ministry of Finance, in conjunction with the other ministries and with Treasury Board approval, should consider establishing target cost-recovery ratios for services for which full costs are not being recovered.

MINISTRY RESPONSE

The decision on the appropriate level of costs that should be recovered is based on government policy, under the purview of the Treasury Board. This is done on a case by case basis and with due consideration of other factors, including socio-economic and public policy administration, to balance the overall benefits to the public interest. Current policies allow setting fees at various levels, including below full cost-recovery. This is consistent with public policy choices to support provision of certain public goods, or to send price signals that impact consumer choice (for example, as an incentive or a deterrent). The Ministry will give due consideration to the need for setting target cost-recovery ratios for any fees that are set below full cost-recovery and will remind ministries of the requirements to retain documents relating to the setting of fees to ensure that they are readily available for future reviews.

Updating Fee Amounts

The Directive requires that ministries keep non-tax revenue rates up to date, review all services regularly, and consider whether to establish new revenue rates. We noted that, except for a few cases, the three ministries did not have any regular processes in place to update fees, such as processes to update fees for changes in costs or inflation. As previously mentioned, at the request of the Ministry of Finance, ministries conducted a comprehensive analysis of fee revenues and associated costs as part of the 2008 Budget process in an effort to identify opportunities to enhance revenues. However, we were informed that this was the first time such an assessment was conducted and that no process is in place for a regular yearly assessment of all user fee revenues in relationship to service costs.

A regular process for updating fee rates would meet the requirement of the Directive and help to

ensure that rates are maintained at levels closely matching intended recovery rates of actual costs. This would also help avoid the need to impose large rate changes to address cost increases that had occurred over a number of years. Similarly, for costs that have decreased—because of, for example, advancements in technology—the savings could also be passed along to the users of the fee-related services.

We identified a large number of fees for which no rate increases or inflationary adjustments had been made for long periods of time, even though the fee revenues did not cover the associated costs. Figure 4 provides a sample of fees we identified during our visits to the three ministries and the Commission that have not been adjusted for many years—in some cases, two decades—and were recovering less than half of their related costs.

We noted that Nova Scotia adjusts user fees annually to account for changes in the Consumer Price Index, and, by 2012, Quebec plans to systematically update its user fee charges at the same rate that it indexes personal income taxes.

Figure 4: Examples of Fee-related Services without Recent Fee Rate Adjustments

Source of data: Ministries of Finance, the Environment, and Transportation, and the Alcohol and Gaming Commission of Ontario

Ministry or Agency	Service	Last Update	Annual Cost ($ million)	Annual Revenue ($ million)	Rate of Recovery (%)
Alcohol and Gaming Commission of Ontario	gaming registration–casino employee	1999	4.0	1.8	45
	gaming registration–casino suppliers	1992	8.3	2.4	29
	liquor licence renewals–2 & 3 year	1997	13.2	3.8	29
Environment	certificate of approval	1998	17.9	7.0	39
Government Services	name change—foreign-based corporation	1998	0.3	0.1	33
	name change—individual	1990	2.4	1.1	46
Transportation	commercial international registration plan–Ontario carriers	1988	157.7	47.9	30
	commercial international registration plan –non-Ontario carriers	1988	96.7	22.3	23

RECOMMENDATION 4

To help ensure that ministries comply with existing policies requiring them to keep fee rates up to date with costs being incurred, the Ministry of Finance should work with ministries to establish regular processes for identifying changes in the costs of service delivery and for making formal recommendations to the Treasury Board for regularly updating fee rates.

MINISTRY RESPONSE

The Ministry of Finance currently has processes in place to identify the cost of service delivery as part of its annual planning and in-year processes. Periodic reviews of fees have been undertaken to determine which fees may require adjustment. The Ministry will work with ministries to consider appropriate business cases, as part of the annual Results-based Planning and in-year processes, for fee adjustments where the costs of service delivery have changed. All such recommendations must be approved by the Treasury Board/Management Board of Cabinet. Because an increase in costs is only one of the factors considered in setting a fee, it will not automatically result in an increase to the fee. Government priorities, socio-economic factors, the user's ability to pay, and other cost/benefit factors are also considered when establishing user fee rates.

Fees for Electronic Service Delivery

The annual Results-based Planning Technical Guide issued by the Ministry of Finance states that increased use of electronic service channels should be encouraged and that, where services are offered both electronically and over the counter, fees for electronic service are required to be discounted. It is typically less expensive to deliver services electronically than over the counter. We noted that the Ministry of Government Services discounts certain services, such as business registrations, if they are delivered online.

The Ministry of Transportation offers both in-person counter service and, using ServiceOntario of the Ministry of Government Services, electronic Internet-based service for vehicle validation tag renewals, driver and vehicle records, and personalized and graphic plates. However, it does not offer a discount on the electronic services. Moreover, it provides these same services at ServiceOntario's electronic kiosks located at a number of publicly accessible sites, such as shopping malls, throughout the province—but charges an extra fee. A "convenience" surcharge of one dollar is added by ServiceOntario to the cost of each transaction at the electronic kiosks. Convenience surcharge revenues totalled about $842,000 in 2008/09. We asked the Ministry how it justifies this surcharge and why its Internet-based service is not discounted, but it was not able to provide any information comparing its kiosk and Internet costs with those of its over-the-counter service.

RECOMMENDATION 5

The Ministry of Transportation, in conjunction with the Ministry of Government Services, should compare its costs for delivering services via electronic kiosk and online with those of over-the-counter, in-person service delivery to establish whether "convenience" fees added to electronic kiosk services are justified and whether kiosk and online service delivery should be discounted.

MINISTRY RESPONSE

The Ministry of Transportation and the Ministry of Government Services acknowledge the Auditor General's recommendation. The Channel Pricing Strategy requires ministries to ensure that services offered both electronically and over-the-counter be cost effective. However, some services, such as kiosks, are considered a premium service, for which a fee is charged to acknowledge the cost of this service. ServiceOntario and the Ministry of Transportation work in partnership to offer in-person counter services, kiosks, and electronic Internet-based services to the public. Both the ownership and the management of channel service delivery, including contract management, were transferred from the Ministry of Transportation to ServiceOntario in 2007. The Ministry of Transportation is working closely with ServiceOntario as they progress with their business strategy for moving consumers to the electronic channel. This will include the review of the convenience fee in the context of contractual obligations with private-sector providers, existing regulations and legislation, Ministry of Finance policies, and costing across all channels. ServiceOntario will also consider the full impact of all government costs, including information technology systems and contact centre support, to ensure appropriate rates for electronic services as part of the 2010/11 Results-based Planning process.

Enforcement and Compliance Costs

The Costing and Pricing Policy's guidelines are used by ministries to determine the full cost of their fee-related services to ensure that fee-related decisions are based on accurate, complete, and consistent costing information. Costs that are to be allocated include direct program costs, direct program support costs, ministry corporate costs, indirect costs incurred by other ministries, and, where

appropriate, risk costs (for example, ministry settlement payments for common lawsuits). Although ministry financial systems typically record direct program costs accurately, ministry staff usually need to identify and make specific decisions about the appropriate allocation of other costs to the fee-related service.

The guidelines give no instruction on how ministries should allocate enforcement and compliance costs to fee-related services for costing purposes. For many programs, enforcement and compliance costs are a significant and integral part of the service being delivered. For instance, when a driver's licence is issued under the *Highway Traffic Act*, allowing individuals to drive vehicles on a highway, the fees associated with this service should also cover the costs of ensuring that drivers comply with the *Highway Traffic Act*, which would include the costs of the OPP enforcing this Act.

We found that enforcement and compliance costs were not consistently applied to the fee-related services. For example, in its assessment of its non-tax revenues prepared as part of the 2008 Budget process, the Ministry of the Environment included for the Drive Clean program almost $1 million of investigation, enforcement, and compliance costs from its Investigation and Enforcement Branch and Sector Compliance Branch. However, the Ministry did not include any compliance or enforcement costs in its costing assessment related to the fee that waste generators pay to obtain Certificates of Approval. The Ministry's assessment provided to the Ministry of Finance indicated that its costs were almost $18 million; the total would have been about $5 million more if enforcement costs had been included.

Similarly, the Ministry of Transportation allocated $27.5 million in compliance and enforcement costs it directly incurred to arrive at its full costs for commercial carrier fee-related services. These compliance and enforcement expenditures included the cost of the Ministry's Transportation Enforcement Officers who carry out inspections of commercial

motor vehicles at its truck inspection stations, by patrolling, and at carriers' facilities. However, the Ministry did not include as part of its reported $760 million costs for the driver and vehicle licensing and registration programs any costs from the Ontario Provincial Police, which spends approximately $189 million a year patrolling and enforcing laws on Ontario highways. Although the OPP operate under a different ministry—the Ministry of Community Safety and Correctional Services—the Costing and Pricing guidelines specifically allow for indirect costs incurred by other ministries to be included when determining the full costs of fee-related services.

RECOMMENDATION 6

To ensure that accurate and consistent information is available for making informed decisions on fee rates, the Ministry of Finance should amend its Costing and Pricing Policy and guidelines used by ministries to require that compliance and enforcement costs be appropriately considered when determining the full cost of fee-related services.

MINISTRY RESPONSE

The Ministry of Finance agrees to review the Costing and Pricing Policy and guidelines by 2011/12 with respect to considering enforcement and compliance costs, where applicable, when determining the full cost of fee-related services to ensure more consistent application of the policy. The Ministry of Transportation and the Ministry of the Environment will continue to work closely with the Ministry of Finance to ensure that any changes to the policy and guidelines, or clarification of costs relating to compliance and enforcement, will be considered and allocated appropriately when determining the full cost of fee-related services.

REVENUE COLLECTION

On the basis of our testing of a sample of fees, we concluded that internal financial controls over revenue collection established by the three ministries were generally satisfactory. We reviewed internal audit reporting, where available, and found that, where deficiencies were noted, timely corrective action was taken. In addition, we informed the ministries of several less significant audit observations and made recommendations for improving internal controls over fee collection and accounting.

The Ministry of the Environment's Drive Clean program is administered by a private company that is responsible for collecting revenue from authorized emission-testing facilities and forwarding these revenues to the Consolidated Revenue Fund. Drive Clean program revenues were about $32 million in 2008/09. We noted that the last time the Ministry hired independent auditors to assess financial controls over Drive Clean revenues collected by the private company was in 2002, at which time controls were determined to be adequate. The Ministry informed us that it has undertaken no further assessments in the subsequent seven years because no significant changes have occurred to the program's operating and financial procedures.

In addition, the Ministry did not carry out any assessments to ensure that the revenues were reasonable, for example by predicting the revenue using the Ministry of Transportation vehicle registration database. Given the significant amount of government Drive Clean revenue being collected by a private company, it would be prudent for the Ministry to periodically obtain independent assurance, such as from an audit, that the appropriate amounts are being remitted and that internal controls established by the private company are adequate. The most cost-effective solution might be for the Ministry's senior management audit committee to request that an audit be included in the 2010 work plan of the Ministry's internal audit services.

RECOMMENDATION 7

The Ministry of the Environment should obtain periodic internal or external audit and other assurances that the revenues collected and remitted by the private-sector operators of its Drive Clean program are accurate.

MINISTRY RESPONSE

The Ministry of the Environment appreciates the Auditor General's recommendation and will include in its 2009/10 Audit Plan an internal audit of the revenues collected and remitted by the private-sector operators of the Drive Clean Program. In addition, the Ministry will set up a regular cycle of audits conducted by parties external to the program, such as the Ministry's Internal Audit Branch, or an external contractor, to strengthen oversight of revenue collection and remittance. This plan will augment the current financial oversight the Ministry administers on a daily and monthly basis to ensure that appropriate financial controls are in place on the revenue collection and remittance of Drive Clean fees.

SERVICE STANDARDS AND REPORTING

A new service directive intended to provide an updated, customer-focused framework is to apply to all ministries of the Ontario government effective January 1, 2010. The directive will set out new common standards and will require that ministries establish program-specific standards for services offered, for monitoring and measuring the quality of service provided, and for communicating to customers the actual level of service achieved. The directive applies to all provincial services, regardless of whether a fee is charged or not. We noted that the federal user-fee legislation for new or

amended fees and Treasury Board of Cabinet Secretariat policies for existing fees impose additional requirements for federal departments, agencies, boards, and commissions that can impose fees for their services. For instance, standards are required that are comparable to those established by other countries with which a comparison is relevant and against which the performance can be measured. In addition, explanations must be provided to clients on how the user fee is determined and on its related costs and revenues. In this way, clients can clearly see the cost of the services they pay for in relation to what they receive.

In Ontario, a ministry may choose to offer a service guarantee, providing compensation to a client if the promise or pledge of service is not met. We noted, for example, guarantees for certain registration services for births, deaths, and marriages from the Ministry of Government Services. Federally, user-fee legislation mandates that, regardless of whether a specific service guarantee is offered, if in a particular fiscal year, the performance of a service for which a user fee is charged fails to meet the established service standards by more than 10%, in the following year, the user fee is to be reduced for all its clients, by a percentage equivalent to the unachieved performance, to a maximum of 50%.

RECOMMENDATION 8

To enhance accountability and reporting over ministries' fee-related services, the Ministry of Finance, in conjunction with ministries, should identify and implement the best practices in use in other jurisdictions relating to establishing and publicly reporting service standards and actual service levels achieved.

MINISTRY RESPONSE

As the lead ministry in the development of the new Ontario Public Service Directive that comes into effect in January 2010, the Ministry of Government Services is now supporting ministries in the implementation of the Directive's requirements. These include establishing program-specific service standards in consultation with clients, communicating the standards to clients, and subsequently measuring and reporting back on the achievement of those standards. As part of the service improvement program, the Ministry of Government Services, on behalf of the Ontario Public Service, also works with interjurisdictional organizations to conduct benchmarking studies on service quality, which enables the Ontario Public Service to compare its service quality to that in other jurisdictions.

Infection Prevention and Control at Long-term-care Homes

Background

Long-term-care homes in Ontario provide care, services, and accommodations to individuals unable to live independently and requiring the availability of 24-hour nursing care and supervision in a secure setting. There are more than 600 long-term-care homes in Ontario caring for about 75,000 residents, most of whom are over 65 years old. The long-term-care homes essentially become "home" for most of their residents. All homes fall within one of four categories: for-profit and not-for-profit nursing homes, charitable homes, and municipal homes for the aged, as illustrated in Figure 1.

There is a high risk of infectious diseases spreading among residents of long-term-care homes (hereafter referred to as "residents" and "homes") because they often share rooms with other residents, and generally eat and participate in activities together. As well, residents generally have a higher risk than the population as a whole of acquiring an infection because they are older and more vulnerable to illness. Further, residents who are cognitively impaired may not always mention to staff their symptoms when they first appear, and may wander, both of which increase the opportunities for infectious diseases to spread.

When a resident acquires an infection while in a home, it is considered a health-care-associated infection (HAI), also called a "nosocomial infection." HAIs have a significant impact on both residents and the province's health-care system. For residents, the impact of such infections can range in severity from not feeling well for a few days to requiring antibiotics or even being admitted to hospital. In severe cases, HAIs can cause death. Although there is no information available on the total number of HAIs that occur in Ontario's homes each year, studies indicate that infection is one of the most common reasons for the hospitalization of residents. In fact, one U.S. study indicated that infection was the main medical reason for about 27% of all hospital admissions of residents.

Some HAIs are infectious diseases that can spread throughout a home. Figure 2 provides some background information on four serious HAIs: *Clostridium difficile* (*C. difficile*), febrile respiratory illness (FRI), methicillin-resistant *Staphylococcus aureus*

Figure 1: Ontario's Long-term-care Homes by Type, November 2008

Source of data: Ministry of Health and Long-Term Care

Home type	# of Homes	# of Beds
nursing home (for profit)	353	40,100
nursing home (not-for-profit)	95	11,200
charitable (not-for-profit)	54	7,500
municipal (not-for-profit)	103	16,400
Total	**605**	**75,200**

Figure 2: Four Infectious Organisms/Diseases Acquired in Long-term-care Homes

Prepared by the Office of the Auditor General of Ontario

Cause	How Resident Initially Infected	Examples of Possible Effects	Transmission	Possible Treatments	Other Concerns
Clostridium difficile (C. difficile) bacteria	• resident takes antibiotics that reduce the normal levels of good bacteria in intestines and colon • this allows *C. difficile* bacteria to grow and produce toxins	• diarrhea • more serious intestinal conditions (e.g., colitis) that may require surgery • death in extreme cases	• contact[1]	• mild cases: may not require treatment • severe cases: antibiotics	• can lead to outbreaks because many people in long-term-care homes take antibiotics • *C. difficile* spores are difficult to destroy because they are resistant to a number of chemicals • alcohol-based hand cleansers may not be as effective as soap and water
Febrile Respiratory Illness (FRI) (e.g., colds, influenza, pneumonia)	• person coughs or sneezes droplets containing disease-causing organisms, which contact resident's mouth, nose, or eyes • resident touches droplets and then touches mouth, nose, or eyes	• fever greater than 38° C • new or worsening cough • shortness of breath • death in extreme cases	• "droplet"[2] • contact[1]	• antibiotics when applicable • immunization prior to exposure to certain FRIs (as a preventative measure)	• disease-causing organisms in droplets can live on surfaces for hours but are easy to kill with disinfectants and good hand hygiene
Methicillin-resistant *Staphylococcus aureus* (MRSA)	• *Staphylococcus aureus* (S. aureus) bacteria living on the skin, nose, or in the lower intestine cause an infection and resist a common class of antibiotics (many people who carry the bacteria do not have symptoms)	• skin infections that can quickly turn into deep abscesses that require surgical draining • infections in bones, joints, surgical wounds, the bloodstream, heart valves, and the lungs • death in extreme cases	• contact[1]	• mild cases: may not require treatment • severe cases: other antibiotics	• although infections caused by MRSA are not more serious than infections caused by *S. aureus* bacteria, there are fewer antibiotics available to treat MRSA-caused infections • bacteria can live on surfaces for months
Vancomycin-resistant enterococci (VRE)	• enterococci bacteria in lower intestine and/or other areas (e.g., urine, skin) cause an infection and resist Vancomycin antibiotic (many people who carry the bacteria do not have symptoms)	• urinary tract infection or skin infection • death in extreme cases	• contact[1]	• other antibiotics	• bacteria can live on surfaces for 5 days to weeks and on hands for several hours • bacteria are relatively easy to kill with disinfectants (provided the bacteria are in contact with the disinfectant for a long enough period) and good hand hygiene

1. Contact can be from person-to-person touching and touching of contaminated surfaces on which there are spores, droplets, or bacteria. A person who acquires the infection through contact will not necessarily become ill (e.g., a person may become infected with *C. difficile* bacteria from a resident but have enough good bacteria to fight the *C. difficile* bacteria).

2. "Droplet" transmission involves the infected person coughing or sneezing and causing droplets to come into direct contact with another person.

(MRSA), and vancomycin-resistant enterococci (VRE). Each of them can be transmitted through contact—that is, by touching an infected person or a surface on which the bacteria live. Therefore, hand-washing and cleaning and disinfecting surfaces that residents and staff come into contact with are critical to preventing the spread of these infections. The incidence of MRSA has approximately doubled and that of VRE more than tripled between 1999 and 2006, according to data reported by the Canadian Nosocomial Infection Surveillance Program. Although most of these infections were acquired in hospitals (insofar as the point of acquisition was known), 8% of cases of MRSA and 3% of cases of VRE were acquired in long-term-care homes. Increases in antibiotic-resistant organisms are of concern because they suggest that antibiotics are becoming increasingly ineffective against certain diseases.

In addition to HAIs that are infectious diseases, there are other infections to which residents are susceptible, including skin infections following skin breakdowns, such as infected bed sores, and urinary tract infections. Figure 3 provides some background on these infections.

In the 2008/09 fiscal year, the Ministry of Health and Long-Term Care (Ministry), through the Local Health Integration Networks, provided funding to long-term-care homes of $2.8 billion. This funding only covers a portion of the total costs; therefore, residents also pay between about $1,600 and $2,200 a month for their accommodations, depending on whether they occupy a basic, semi-private, or private room. (Private "seniors' residences" such as retirement homes may charge more, and do not receive government funding.) Because infection-prevention-and-control activities should be thoroughly integrated throughout the homes' operations, it can be difficult to identify the specific costs of infection prevention and control. None of the homes we visited separately tracked the costs of preventing and controlling infections.

Audit Objective and Scope

The objective of our audit was to assess whether selected long-term-care homes followed effective policies and procedures for the prevention and control of infections.

Our audit work was conducted at three long-term-care homes of different types and sizes that provide services to a variety of communities: Extendicare York (a 288-bed for-profit nursing home in Sudbury); Nisbet Lodge (a 103-bed charitable home in Toronto); and Regency Manor (a 60-bed for-profit nursing home in Port Hope). All three homes comply with the structural requirements the Ministry set in 1972 for such criteria as size of rooms and number of beds per room. Our work excluded municipally run long-term-care homes because the *Auditor General Act* does not apply to grants to municipalities (other than permitting the Auditor General to examine a municipality's accounting records to determine whether a grant was spent for the purposes intended).

In conducting our audit, we reviewed relevant files and administrative policies and procedures, and met with appropriate staff of long-term-care homes and the Ministry. We obtained the perspective of the Ontario Long-Term Care Association and the Ontario Association of Non-Profit Homes and Services for Seniors, which between them represent the majority of long-term-care homes in Ontario. We discussed the prevention and control of infections in long-term-care homes with the Regional Infection Control Networks (RICNs), the Local Health Integration Networks (LHINs), and the Local Public Health Units associated with the three homes we visited. We reviewed relevant research from other jurisdictions, including best practices for the prevention and control of HAIs, such as those issued by the Society for Healthcare Epidemiology of America and the Association for Professionals in Infection Control and Epidemiology, Inc. In addition, we engaged on an advisory basis two independent consultants, who

Figure 3: Two Types of Infections for Which Residents of Long-term-care Homes Are at Risk
Prepared by the Office of the Auditor General of Ontario

Type	Description	Selected Risk Factors	Examples of Possible Effects	Selected Best Practices for Prevention

skin infections following skin breakdowns/ pressure ulcers (such as infected bed sores)	• an area of skin breaks down or develops an open wound as a result of, for example:
	  • prolonged pressure
	  • friction
	• bacteria residing on the skin infect the open wound
		• being bedridden
		• age-related deterioration of skin condition
			• pain, pus, and redness at infected site
			• sepsis (infection spreads to blood, with symptoms including fever, chills, low blood pressure, and changes in mental status)
			• death in extreme cases
				• repositioning to minimize ongoing pressure to any one area
				• assessing skin (upon admission and then quarterly)
				• good nutrition to minimize age-related deterioration of skin condition

urinary tract infections	• bacteria originating from the digestive tract enter the urethra (the tube that carries urine from the bladder to outside the body), multiply, and infect the urinary tract (including the kidneys and bladder)	• being incontinent • having a catheter inserted to drain urine from the bladder	• strong urge to urinate • sharp pain or burning sensation when urinating • sepsis (infection spreads to blood, with symptoms including fever, chills, low blood pressure, and changes in mental status) • death in extreme cases	• minimizing catheter use • using catheters appropriately

have expert knowledge of infection prevention and control in long-term-care homes, to assist us.

We examined the Ministry's inspection reports and other reports as they related to infection prevention and control in the homes we visited, but did not review the Ministry's inspection process in depth because the Office of the Ombudsman of Ontario was conducting a review of this process at the time of our audit and the Ministry was redesigning its inspection process.

We compared the infection-prevention-and-control processes in place at the homes we visited against the best practices for infection prevention and control for long-term-care homes developed by the Provincial Infectious Diseases Advisory Committee (PIDAC). The best-practice documents that PIDAC has produced reflect recommendations made by various organizations, including the Public Health Agency of Canada and the College of Physicians and Surgeons of Ontario, as well as other best practices. In addition, we discussed the management of infection prevention and control

in long-term-care homes directly with members of PIDAC and also considered legislative and ministry policy requirements.

Our audit focused on *C. difficile*, FRI, MRSA, VRE, and the prevention of urinary tract infections and skin breakdowns (such as bed sores) that can become infected. We selected these HAIs primarily due to their potential negative impact on resident health. We specifically selected MRSA and VRE which, because they are antibiotic-resistant organisms, may be more difficult to treat when they cause infections (because few antibiotics are available to treat them), and have significantly increased in prevalence in recent years. In addition, we looked at *C. difficile* because of the reported widespread use of antibiotics in long-term-care homes, which increases the chance of developing *C. difficile*.

We did not rely on the Ministry's internal audit service team to reduce the extent of our audit work because it had not recently conducted any audit work on infection prevention and control in long-term-care homes. None of the homes we visited had

an internal audit function, although all the homes conducted some procedures, which we reviewed, to help verify whether selected prevention-and-control processes were followed.

Summary

An estimated 30% to 50% of health-care-associated infections (HAIs) are preventable in acute-care institutions that have effective infection-prevention-and-control processes in place. Although little information exists concerning HAIs in long-term-care homes, it should be recognized that homes' main challenges in preventing and controlling infections tend to be somewhat different than those of hospitals. For instance, homes have a very limited ability to isolate residents with an infectious disease, cognitively impaired residents tend to wander, and staff often have limited HAI training. To address these challenges, all three homes we visited had a number of formal and informal processes in place to prevent and control HAIs. For example, most residents at the homes were immunized annually against influenza, the homes had established specific cleaning schedules for residents' rooms, and the homes collected and reviewed information on the cases of certain infections. However, as the following observations indicate, there is room for improvement in a number of areas:

- Although the Ministry of Health and Long-Term Care (Ministry) has introduced a number of initiatives to help prevent and control infectious diseases in long-term-care homes, it does not have information on the total number of cases of most HAIs in long-term-care homes. The information collected at the homes we visited was generally not comparable because the homes defined and counted HAIs in different ways.
- Although the three homes all had policies to screen new residents for febrile respiratory illnesses (FRIs), such as influenza, documen-

tation at two of the homes indicated that just 60% to 80% of new residents sampled were screened. At the third home, there was no evidence of formal screening for FRIs.

- Each home had a policy to test new residents for tuberculosis (TB) within 14 days of admission, as required by legislation. One home tested all new residents in our sample, but the other two homes tested only 70% and 80% of new residents in our sample, respectively. Further, when testing was performed, in some cases it did not take place until 60 to 125 days after a resident's admission to the home.
- Hand hygiene is the most important activity for controlling the spread of infectious diseases. Each home recently conducted its first review of staff compliance with certain hand-hygiene policies. (*C. difficile*, MRSA, and VRE are most commonly spread via the hands of health-care workers.)
- Homes generally did not have unoccupied rooms to move infectious residents into, and indicated that it is disruptive to move other residents (some of whom may have paid a premium for a private or semi-private room) out of their rooms with their personal belongings. According to Ontario's Provincial Infectious Diseases Advisory Committee (PIDAC), residents with an FRI who share a room should have the curtain drawn around their bed. However, all three homes indicated they would only pull a curtain around a resident's bed if the resident requested it.
- Although two of the homes had policies to clean all touched surfaces in residents' rooms daily, in accordance with PIDAC's recommendations, the third home's policy was unclear; but the home indicated that all touched surfaces in residents' rooms are cleaned daily. Although PIDAC recommends cleaning the rooms of residents who have *C. difficile* twice a day, none of the homes did this.
- None of the homes had processes in place, such as sign-off sheets, to record whether

residents unable to reposition themselves were repositioned every two hours in accordance with the home's policies to prevent skin breakdowns (such as bed sores).

- In the 2008/09 fiscal year, 81 *C. difficile* outbreaks in homes were reported to the Ministry. We noted that the judicious use of antibiotics has been shown to reduce the incidence of *C. difficile*. However, although all the homes' contracted pharmacies provided at least some information on antibiotic use, none of the homes had a formulary that lists the antibiotics physicians can prescribe, as recommended by PIDAC.

- Unlike hospitals, long-term-care homes are not required to report publicly on certain patient-safety indicators, such as health-care-acquired cases of *C. difficile*, MRSA and VRE, as well as hand-hygiene compliance among health-care workers. One of the homes we visited posted certain infection rates publicly, but the other two homes did not.

- All three homes had designated an Infection Prevention and Control Professional (ICP), in accordance with ministry requirements, but none of the ICPs had specific training in infection prevention and control as recommended by PIDAC, and they were all performing this role in addition to various other functions.

We would like to acknowledge the good co-operation we received from the long-term-care homes we visited.

We sent this report to the homes we visited and the Ministry, and invited them to provide an overall response. To be succinct and avoid repetition, we summarized the overall responses we received from the homes below, followed by the Ministry's overall response. We also summarized the homes' responses to specific recommendations following each recommendation and included the Ministry's responses, if applicable.

■ OVERALL MINISTRY RESPONSE

The health, safety, and well-being of residents of Ontario's long-term-care homes are of paramount importance to the Ministry. In considering any aspect of care provided in these homes, it is important to note that they are primarily the "home" of their residents. The Ministry requires homes to comply with legislation and regulations as well as standards and criteria set out in policy and service agreements. Homes are currently required to have an infection-prevention-and-control program, which includes ongoing surveillance to determine the presence of infections and the provision of training to all staff. The Ministry has sent a letter to all homes reminding them of their obligation to meet these standards.

To improve care for residents, the new *Long-Term Care Homes Act, 2007,* which will be proclaimed into force when its regulations are finalized, requires that all homes have an infection-prevention-and-control program. Draft regulations released for public consultation in May 2009 include provisions on various infection-prevention-and-control measures. These regulations enhance current requirements and are consistent with certain key recommendations made by the Provincial Infectious Diseases Advisory Committee (PIDAC) that are relevant to long-term-care homes. The Ministry encourages homes to implement best practices recommended by PIDAC to the extent they are able. During winter 2010, the Ministry will engage the Regional Infection Control Networks, homes, and other stakeholders in discussions on how best to meet the recommendations in PIDAC's August 2009 best-practice document on *Routine Practices and Additional Precautions* in all health-care settings.

In consultation with its sector partners and stakeholders, the Ministry is also implementing a number of initiatives, including a Pressure Ulcer Awareness project, the adaption of the

"Just Clean Your Hands" program for use in long-term-care homes, and a computerized care-management system that will help health professionals in homes assess and monitor the care needs of residents. As well, the Ministry assembled a joint Task Force on Medication Management that examined issues related to medication-management safety in long-term-care homes and their impact on the quality of care and life of residents.

SUMMARY OF LONG-TERM-CARE HOMES' OVERALL RESPONSES

Overall, the homes generally agreed with our recommendations but expressed concerns in some areas that limited financial and human resources may affect their implementation. One home highlighted that its ability to implement the recommendations is limited by its role in the health-care system because, unlike a hospital, it provides a home for its residents to live in and therefore has unique infection-prevention-and-control challenges.

Detailed Audit Observations

ROLES AND RESPONSIBILITIES FOR INFECTION PREVENTION AND CONTROL

Long-term-care homes are licensed or approved by the Ministry of Health and Long-Term Care (Ministry) under three different laws: the *Nursing Homes Act*, the *Charitable Institutions Act*, and the *Homes for the Aged and Rest Homes Act*. These three acts do not have identical requirements regarding infection prevention and control, but the ministry policies set out in the *Long-Term Care Homes Program Manual* apply to all types of homes. All three acts and the manual will be replaced by the *Long-Term Care Homes Act, 2007*, which received royal assent in June 2007 and will be proclaimed into force when its regulations are finalized.

The Ministry is responsible for setting standards of care and conducting inspections of long-term-care homes. The Ministry conducts annual unannounced inspections of all homes to monitor compliance with legislation and ministry policies, among other things. This includes monitoring certain aspects of infection prevention and control. The number of unmet criteria noted during the inspection is publicly reported on the Ministry's website.

Homes are responsible to adopt, follow, and monitor effective infection-prevention-and-control policies and procedures. Physicians and nurses working in the homes have professional responsibilities related to infection prevention and control, as set out in standards and guidelines published by their respective regulatory colleges. Further, other home staff, including personal support workers and cleaning staff, and residents themselves, their families, and other visitors, all play a role in preventing and controlling the spread of infections in homes. So, too, do other organizations, including Regional Infection Control Networks and local public health units, as shown in Figure 4.

INITIATIVES AND BEST PRACTICES FOR PREVENTING AND CONTROLLING INFECTIONS ACQUIRED IN LONG-TERM-CARE HOMES

Ministry Initiatives

A number of initiatives for preventing and controlling infections arose from the outbreak of severe acute respiratory syndrome (SARS) in Ontario and other parts of the world in 2003. Key among these were the Ministry's establishment of a Provincial Infectious Diseases Advisory Committee (PIDAC) and Regional Infection Control Networks (RICNs).

PIDAC was established as part of Operation Health Protection, a three-year plan that the Ministry issued to revitalize the public-health system in Ontario, following recommendations from reports written in response to SARS. PIDAC is a multi-disciplinary scientific body that provides evidence-based advice regarding multiple aspects

Figure 4: Selected Key Roles and Responsibilities for Infection Prevention and Control in Long-term-care Homes
Prepared by the Office of the Auditor General of Ontario
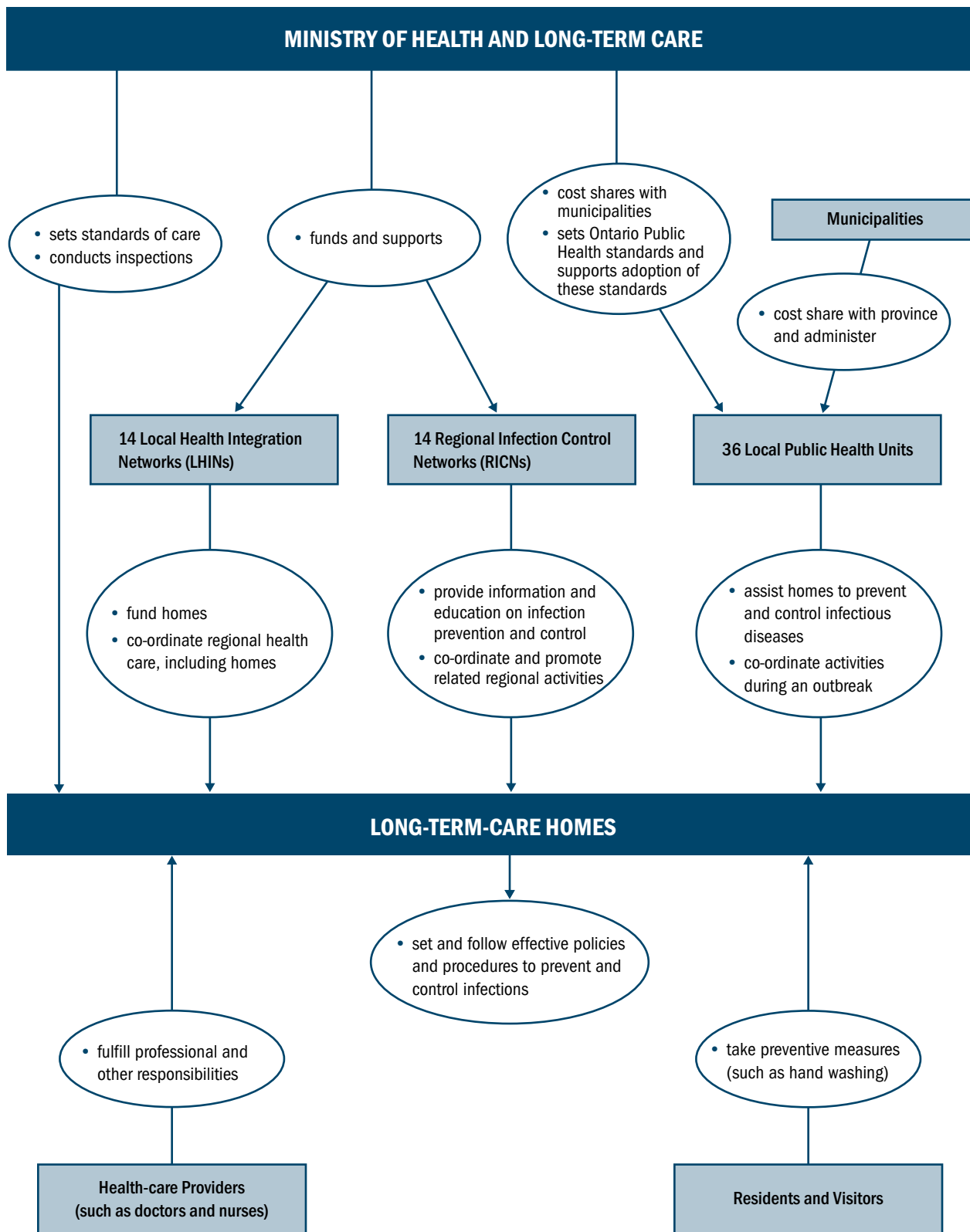
of infectious-disease identification, prevention, and control to Ontario's Chief Medical Officer of Health. PIDAC's work on preventing and controlling infections includes:

- issuing a number of best-practice documents that incorporate applicable guidelines and recommendations from entities such as the Public Health Agency of Canada and the College of Physicians and Surgeons of Ontario, as well as recommendations from medical literature (see the Appendix for a list of such documents); and
- in conjunction with the Ministry, developing educational material to enhance infection-control training for front-line staff (see Core Competencies Projects in the Appendix for examples).

Fourteen RICNs have been established throughout Ontario (one in each LHIN), one of which was still in the start-up phase at the time of our audit. The RICNs are to co-ordinate infection-prevention-and-control activities and promote standardization in health-care facilities across Ontario. In 2008, the RICNs issued the results of a province-wide survey of different health-care settings, including long-term-care homes, conducted to identify and evaluate infection-control resources. As well, a number of the RICNs have undertaken various initiatives pertaining to infection prevention and control in homes, including hosting educational sessions and developing and disseminating resource material.

At the time of our audit, the Ministry was in the process of adapting the program materials for its "Just Clean Your Hands" Hand Hygiene Improvement Program for use in homes (see the Appendix for details). It was also providing training and other support for "Stop! Clean Your Hands," a collaborative effort between the Canadian Patient Safety Institute, the Community and Hospital Infection Control Association—Canada, Accreditation Canada, and the Public Health Agency of Canada.

As well, at the time of our audit, the Ministry was preparing for the new *Long-Term Care Homes Act, 2007,* which is to come into force once its regulations are finalized. The Ministry told us that, as part of the development of these regulations, it is redesigning its inspection processes for long-term-care homes to be more risk-based and will include several risk indicators related to infection control, such as the prevalence of pneumonia and urinary tract infections.

Best Practices

Although there is minimal data available concerning HAIs in long-term-care homes, PIDAC has noted that an estimated 30% to 50% of health-care-associated infections in acute-care facilities, such as hospitals, are preventable. Some of PIDAC's key best practices, as outlined in the documents listed in the Appendix, are shown in Figure 5. PIDAC has also stated that an infection-prevention-and-control program that is effective in preventing health-care-associated infections can substantially reduce health-care costs. More importantly, such a program can also substantially reduce the morbidity (disease) and mortality (death) associated with these infections.

Figure 5: Selected Best Practices for Preventing and Controlling Health-care-associated Infections

Source of data: Publications of the Provincial Infectious Diseases Advisory Committee

screening: to identify residents with MRSA, VRE, and FRI

routine practices and infection-specific precautions: proper hand hygiene; proper cleaning of resident rooms; use of personal protective equipment—such as gloves, long-sleeved gowns, and face masks—when appropriate; placement of residents in private rooms when appropriate

immunization: Immunization of residents and staff to prevent the acquisition of communicable diseases

antibiotic use: the judicious use of antibiotics to reduce resident susceptibility to certain infectious diseases and help prevent infectious diseases that are antibiotic-resistant

surveillance: tracking and analyzing infection data in order to take timely corrective action

Accreditation

The Ministry recognizes two accreditation organizations for long-term-care homes: Accreditation Canada and the Commission on Accreditation of Rehabilitation Facilities. At the time of our audit, the three homes we visited were accredited by Accreditation Canada. Accreditation Canada examines the quality of health services at homes with the aim of helping them improve the quality of service they provide to residents. The accreditation process includes reviewing organizational practices pertaining to infection control, such as whether the home tracks infection rates and whether the home delivers education regarding hand hygiene.

SCREENING

Screening generally enables homes to identify newly admitted residents who have an infectious organism or disease, and to implement certain additional measures and precautions, if needed. Screening generally involves considering various factors to identify which residents have symptoms of an infectious disease or have a higher risk of having acquired certain organisms or diseases. Samples, where appropriate, are then taken from these residents and forwarded to a laboratory, which determines whether the residents have the organism or disease. In some cases, a home will extend screening to every resident admitted. This is called "universal screening."

In its best-practice documents, PIDAC notes that screening is an important step in keeping an infectious organism or disease from spreading to other residents, staff, and visitors. PIDAC recommends that homes should:

- assess all residents being admitted or readmitted for symptoms of FRI, such as cough, shortness of breath, and fever. Homes are encouraged to take an "active" approach to this screening; for example, staff should ask residents about possible symptoms and take into account whether the residents have been in any contact with others that might have put them at risk. Homes may also use "passive" screening, such as posting signs requesting that residents who have FRI symptoms notify staff.
- actively screen all residents being admitted or readmitted to determine their risk of having MRSA or VRE. Staff should ask, among other questions, whether the resident has previously had MRSA or VRE; if he or she has been admitted to or has spent more than 12 continuous hours as a patient in any health-care facility, such as a hospital, in the past 12 months; and if he or she has been recently exposed to a health-care-facility unit with a MRSA or VRE outbreak. A "yes" to any of these questions makes a resident high risk, and homes should take a sample from such residents to determine if they actually have MRSA or VRE.
- regularly conduct audits to evaluate their screening practices as part of a continuous program for managing and improving quality.

Legislation also generally requires homes to screen all new residents for tuberculosis within 14 days of admission unless the resident was tested in the last 12 months.

Respiratory Illnesses

We found that the three homes we visited all had policies requiring new residents to be screened for FRIs on admission, as well as for tuberculosis within 14 days of admission. In addition, two of the homes used a checklist to document when FRI screening was complete.

For FRIs, our sample of new residents at the two homes that used checklists indicated that, at one home, there was documentation that 80% of new residents were screened and, at the other, 60% of new residents were screened. At the third home, there was no evidence of formal screening for FRIs; however, the home informed us that all new residents were informally screened.

With respect to tuberculosis, our sample indicated that one home had screened all new residents, while the other two only screened 70% and 80%. Where screening was done, it was completed more than 14 days after admission for 29% of new residents sampled at one home; for 40% at the second home; and for 75% at the third home. We noted cases in which screening did not take place until up to 60 days after admission at two homes and 125 days at the third.

Except for one home's evaluation of its tuberculosis-screening practices and another home's review of five resident files, none of the three homes had conducted any formal review of their screening practices for respiratory illness in 2007 or 2008. The home that had formally evaluated its tuberculosis screening practices noted that, in 2007, only 53% of new residents sampled had been screened for tuberculosis as required. As a result, in December 2008, the home began monitoring whether all required steps are completed whenever a new resident is admitted, including screening for tuberculosis.

Methicillin-resistant *Staphylococcus aureus* (MRSA) and Vancomycin-resistant Enterococci (VRE)

Although there is little authoritative guidance on when universal screening is appropriate, two of the three homes we visited had policies to screen all residents for MRSA and VRE on admission and readmission, such as from a hospital. The third home did not screen new or returning residents for MRSA or VRE; however, in early 2009, it began asking its sending facilities, such as hospitals, whether residents admitted to the home had MRSA or VRE. In addition, at the time of our audit, this home was in the process of arranging electronic access to the results of hospital tests, such as for MRSA and VRE, which its residents have undergone. Doing this may reduce the need for additional testing for some residents. We noted that the other two homes generally did not request similar information.

We reviewed a sample of new residents and readmitted residents for 2008 at the two homes with policies to screen for MRSA and VRE. One of these homes screened all residents in our sample for MRSA, but told us it did not screen any residents for VRE because it had not had a case of VRE in the last couple of years. At the other home, almost two-thirds of residents sampled were not screened for MRSA and VRE. Neither of the two homes had undertaken any formal reviews to ensure that residents admitted or readmitted to the home were screened for MRSA and VRE, something that their established policies stipulate should be done.

We also observed that none of the homes visited had a policy to screen residents considered to be a VRE contact (that is, for example, a resident whose roommate has VRE or who has been in physical contact with a resident found to have VRE). Only one of the homes had a policy to screen residents considered to be a MRSA contact.

RECOMMENDATION 1

To ensure that residents with infectious diseases are identified quickly enough to minimize the risk of the disease spreading to others, long-term-care homes should periodically monitor whether their screening processes are in accordance with the recommendations made by the Provincial Infectious Diseases Advisory Committee and legislative requirements.

SUMMARY OF LONG-TERM-CARE HOMES' RESPONSES

The homes generally agreed with this recommendation. One home noted that it will work with its Regional Infection Control Network to update certain screening processes to be in accordance with recommendations from the Provincial Infectious Diseases Advisory Committee. As well, it will review its screening processes quarterly, with summarized results reported to its Infection Control Committee and Professional Advisory Committee. Results

will be tracked electronically and reviewed for trends. Where needed, an improvement action plan will be put into place. Further, this home indicated that it will continue to pursue access to hospital electronic records, including lab test results, and will request that hospitals provide information on any infectious diseases that new and returning residents may have. This home also indicated that it would work with infection-control organizations to identify appropriate time intervals after which re-testing for key infections, such as MRSA, would be prudent.

Another home commented that it will establish policies concerning the screening of all residents re-admitted to its home, and will monitor to ensure that all admissions are screened for FRIs, MRSA and VRE, and that residents admitted with diarrhea are screened for *C. difficile* in accordance with its policies. Using information gained from the monitoring process, its Continuous Quality Improvement Committee will review potential methods to improve the home's processes. This home also indicated that because many cases of illness are acquired by residents when they are at other health-care organizations, such as hospitals, it would be beneficial both to the home and system-wide if these organizations had a standardized exit surveillance-screening process. In particular, the organizations should provide homes with screening test results, as appropriate, because this would assist the homes in controlling the spread of infectious diseases.

RESIDENT CARE

Routine Practices and Infection-specific Precautions

There are a number of practices that, if always used by homes with all their residents during all care, can help prevent and control the transmission of microorganisms that cause infectious diseases.

Health Canada and the Public Health Agency of Canada call these "routine practices." According to PIDAC, only the consistent use of routine practices—particularly washing hands before and after contact with a resident and the resident's environment—will prevent the spread of infectious diseases. PIDAC has also noted that additional precautions are necessary to prevent and control certain infectious diseases such as MRSA, VRE, and *C. difficile*. With respect to these practices and precautions, PIDAC states the following:

- *Hand Hygiene*—Before and after contact with each resident and the resident's environment, staff must wash their hands with an alcohol-based rub (70% to 90% alcohol preferred) or soap and water. An alcohol-based rub is generally preferred when hands are not visibly soiled. However, soap and water may be more effective than an alcohol-based rub in removing *C. difficile* spores. All health-care settings, including long-term-care homes, must develop and implement a hand-hygiene program that includes ongoing monitoring and observation of hand-hygiene practices.

- *Use of personal protective equipment*—When entering the room of a resident infected with *C. difficile*, health-care workers must wear gloves and gowns. When providing direct care to a resident with MRSA or VRE, they must wear gloves and should wear gowns. They must remove their gloves and gowns before exiting the resident's room. Homes should monitor compliance with the recommended use of personal protective equipment.

- *Use of private rooms*—Long-term-care homes should place residents with certain infectious diseases and residents suspected of having *C. difficile* in a private room with its own toilet. If all the home's private rooms are occupied, infection-prevention-and-control staff should be consulted to arrange for residents to share a room with similarly infected residents (this is known as "cohorting" residents).

- *Cleaning of resident rooms*—All touched surfaces in each resident's room must be cleaned daily. As well, homes should take special precautions in cleaning the rooms of residents having or suspected of having *C. difficile* because this organism has been found on surfaces such as door handles and faucets. (We understand that PIDAC expects to release a best-practice document on environmental cleaning in spring 2010.) Disease-specific recommendations for *C. difficile* include:
  - If the resident has or is suspected of having *C. difficile*, homes should clean all horizontal surfaces in the resident's room and all items within reach of the resident twice daily with a hospital-grade disinfectant. Staff should pay particular attention to cleaning frequently touched areas such as bed side-rails, telephones, and toilets.
  - Homes must communicate clearly with cleaning staff to ensure that they know which rooms require twice-daily cleaning.
  - Homes should develop and use a checklist to monitor that cleaning is done twice daily.

Similarly, Health Canada recommends that homes clean resident rooms according to a predetermined schedule that assigns staff to specific tasks for keeping surfaces clean and dust free. This is consistent with the Ministry's *Long-Term Care Homes Program Manual*. As well, PIDAC states that homes should conduct periodic audits of their cleaning protocols to make sure that they are followed.

Hand Hygiene

PIDAC notes that the most common way microorganisms are transmitted is on the hands of health-care providers and that, therefore, hand hygiene is the most important activity for controlling the spread of infectious diseases. However, PIDAC also notes that, despite the importance of hand hygiene, compliance with hand-hygiene protocols by health-care providers is low. Health Canada has also observed that studies have repeatedly documented that health-care providers, including resident-care staff in long-term-care homes, fail to wash their hands. A 2005 study at two Ontario homes noted that overall hand-hygiene compliance was less than 15%.

Various studies have noted that impediments to handwashing include:
- lack of time due to, for example, understaffing and inaccessibility of sinks;
- inadequate supplies for handwashing;
- concerns over handwashing products and the effects of frequent washing on hands;
- belief that handwashing is not necessary if gloves are used; and
- skepticism about the value of washing hands when they are not visibly soiled.

All three of the homes we visited had policies in place with respect to hand hygiene that were consistent with best practices noted by PIDAC, including when hand hygiene should take place, which products to use, and appropriate handwashing techniques. Also, they had all provided one or two hand-hygiene educational sessions to staff between January 2008 and March 2009.

In 2007, one of the homes participated in a pilot project for the "Stop! Clean Your Hands" initiative. The home indicated that its involvement included an educational session for staff, as well as displaying hand-hygiene posters throughout the home.

At the time of our audit, all three homes had recently conducted their first audit to determine compliance with their hand-hygiene policies. We reviewed the results of the audits and noted that, with a few exceptions, homes were reporting 80% to 100% compliance. Given Health Canada and others' observations that resident-care staff often fail to wash their hands, such unexpectedly good results may indicate the need for these homes to review their audit-monitoring methodology to ensure that it is independent and objective.

As previously noted, the use of alcohol-based hand rub is generally preferred for hand hygiene if hands are not visibly soiled. PIDAC states that for maximum efficacy, alcohol-based hand rub must

be available at the place where staff provide care to residents. We noted that one of the homes had alcohol-based hand rub available in resident rooms and in its dining room and nursing stations. At the second home, alcohol-based hand rub was available near one sink on each floor, and, starting in spring 2009, health-care staff were to carry a caddie containing the hand rub. The third home had alcohol-based hand rub available in numerous locations including corridors, resident dining rooms, and nursing stations.

Use of Personal Protective Equipment

All three homes we visited had policies in place regarding the use of personal protective equipment, such as gloves, gowns, and face masks, which were consistent with best practices noted by PIDAC. As well, for residents who had infectious diseases, such as *C. difficile*, the homes' policies were to place signs on the doors stating that additional precautions, such as wearing gloves and a gown, must be taken by anyone entering the room.

We noted that the three homes reviewed, to varying extents, whether their resident-care staff wore gloves when appropriate. Two of the homes had completed one review of a few resident-care staff, while the third home conducted regular reviews three times a week in 2008. As well, two of the homes reviewed whether resident-care staff washed their hands after removing the gloves, and one home looked at whether staff washed their hands before putting on gloves. Our review of the results indicated few problems at two of the homes, whereas the third home indicated compliance was just over 50%.

None of the homes had conducted reviews of the use of other personal protective equipment, such as gowns and masks.

Use of Private Rooms

One infection-specific precaution PIDAC recommends is isolating in private rooms residents who have certain infectious diseases. At the homes we visited, between about 5% and 49% of residents had a private room. When placing residents in private rooms is not possible, PIDAC recommends cohorting residents with similar infectious diseases. All three homes told us that isolating and cohorting residents is generally not practical because each resident's room is his or her "home" containing his or her own personal belongings. The three homes also told us that they generally do not have unoccupied rooms, it is disruptive to move residents out of their rooms, and many residents have paid a premium to be in a private or semi-private room.

If a resident with *C. difficile* has to share a room or bathroom with other residents, PIDAC recommends that the resident be provided with a commode chair. Two of the homes had policies consistent with PIDAC's recommendation; the third home did not. Only one of the two homes with policies to provide commode chairs reported having residents with *C. difficile* in 2008. However, this home had not conducted any reviews to determine whether staff had provided a commode chair to residents with *C. difficile*.

Health Canada indicates that homes should consider separating residents with an FRI who share a room from other residents by at least one metre. Further, PIDAC recommends that homes should have the curtain drawn between resident beds. One of the homes we visited had reviewed the distance between residents in four rooms and found that these residents were often not adequately separated. As well, all three homes indicated that curtains are only drawn around a resident at a resident's request; for example, if they want privacy.

Cleaning of Resident Rooms

PIDAC indicates that all touched surfaces in each resident's room must be cleaned daily. Health Canada recommends that homes clean resident rooms according to a predetermined schedule that assigns staff to specific tasks.

Two of the three homes we visited had policies to clean all touched surfaces in each resident's

room daily. The third home's policy was unclear, but the home indicated that all touched surfaces in each resident's room are cleaned daily. All three homes had a schedule of cleaning duties assigned to specific staff. As well, two of the homes began using microfibre cleaning products, such as microfibre cleaning cloths and mops, in 2008. Various studies indicate that these cleaning products are more effective than conventional products at removing microorganisms.

PIDAC's best practices identify special requirements for cleaning the rooms of residents with certain infectious diseases, such as *C. difficile*. This is because *C. difficile* produces spores that a number of chemicals are unable to destroy. Even with the right chemicals, applying force to create friction is necessary to remove the spores. PIDAC also recommends that the rooms of residents who have *C. difficile* be cleaned twice daily, and that when the infection clears up, a more thorough cleaning should occur, including throwing away toilet brushes and disposable items such as paper towels and toilet paper.

All three homes had policies on cleaning the rooms of residents with *C. difficile*. However, only one home's policy required that the rooms of residents with *C. difficile* be cleaned twice a day. Notwithstanding this policy, this home, like the other two homes, only cleaned the rooms of residents with *C. difficile* once a day. Two of the homes indicated that they inform housekeeping staff when a resident becomes better so that his or her room will be cleaned more thoroughly. The third home did not have processes to notify housekeeping of the need for a more thorough cleaning.

We observed that two of the three homes monitored their cleaning practices as recommended by PIDAC. Both of these homes inspected the cleanliness of resident rooms on a regular basis and identified some areas where cleanliness was deficient, including floors, vents, windows, and door handles. Both homes indicated that deficiencies were discussed with staff and corrective action was taken. We noted that the results of these audits were not summarized to determine an overall level of cleanliness in the homes. One of these homes also audited the cleanliness of a room whenever it was vacated, such as when a resident passed away or moved to another room. The third home did not inspect the cleanliness of resident rooms on a regular basis.

Immunization

PIDAC notes that immunization is one of the most effective measures for preventing residents and staff from acquiring communicable diseases. PIDAC recommends that homes have immunization programs for residents that include pneumococcal pneumonia immunization and annual influenza immunization. PIDAC notes that homes should offer appropriate immunization for staff, such as annual influenza immunization, which can protect not only staff but also residents from acquiring influenza.

The Ministry set certain target immunization rates for residents and staff of long-term-care homes up to January 2009. As Figure 6 shows, in 2008, the homes we visited were generally close to or above the targeted rates for influenza immunization of residents and staff. However, all three homes were below the targeted pneumococcal immunization rate for residents. The Ministry indicated that it was reviewing the appropriateness of developing updated target vaccination rates because these targets have not been shown to influence immunization rates.

Figure 6: Target and Actual Immunization Rates at Three Long-term-care homes, 2008

Source of Data: Ministry of Health and Long-Term Care and audited long-term-care homes

Type of immunization	Ministry Target (%)	Range at homes visited (%)
annual influenza immunization for residents	95	91 to 96
annual influenza immunization for staff	70	63 to 85
pneumococcal immunization for residents	95	63 to 77

Prevention of Selected Infections

Research indicates that following best practices can help prevent certain other infections, including infected skin breakdowns, such as infected bed sores, and urinary tract infections. For example, repositioning an immobile resident every two hours may help prevent skin breakdowns, and minimizing catheter use may help prevent urinary tract infections.

Skin Infections Following Skin Breakdowns

Skin breakdowns, also known as pressure ulcers (for example, bedsores), can become infected, causing pain and possibly more serious complications, or even death in extreme cases. Although little Canadian data is available, U.S. studies have found that the prevalence of pressure ulcers ranges from 2% to 28% of residents in long-term-care facilities.

The Ministry's *Long-Term Care Homes Program Manual* requires that homes develop and follow policies for managing skin care, including assessing each resident's skin upon admission and quarterly thereafter. The Program Manual, as well as other best-practice guidelines, also states that people at risk for pressure ulcers should be repositioned at least every two hours.

All three homes visited had policies in place requiring that each resident's skin be assessed upon admission and quarterly. We examined a sample of files of residents with skin breakdowns and noted that all residents had a skin assessment completed upon admission. However, although one home completed all quarterly assessments in 2008, the other two completed 73% and 82% of the assessments respectively. In February 2009, one of these homes implemented a checklist to document that various items were being performed, including quarterly skin assessments.

All homes indicated that they conducted a periodic review to ensure that the skin assessments were being performed as required. However, none of the homes summarized their reviews to determine whether there were any home-wide issues to be addressed.

All three homes had policies on managing skin care, including repositioning residents who could not reposition themselves at least every two hours. One of the homes had developed a sign-off sheet to document that a resident had been repositioned. However, at the time of our audit, staff at the home were generally not using it. Neither of the other homes were using a sign-off sheet to document that a resident was repositioned.

Urinary Tract Infections

Research indicates that urinary tract infections are generally the most commonly reported bacterial infection in residents. Because these infections are particularly associated with incontinence, it is important to periodically assess a resident's continence. A practice for preventing these infections is to minimize the use of catheters. Although there is little authoritative research on other ways to prevent urinary tract infections, some sources suggest that ensuring adequate fluid intake may help in preventing these infections.

All three homes visited had policies for performing continence assessments within seven days of a resident's admission and quarterly assessments thereafter, in accordance with the Ministry's Program Manual. We found that initial continence assessments were completed for all residents in our sample. However, although one home completed almost all the quarterly assessments, the other two homes completed less than 75%. In February 2009, one of the homes we visited began using a checklist to document that various items, including quarterly continence assessments, were completed as required. The other two homes had no formal monitoring practices to ensure that the quarterly continence assessments were being completed.

Various studies indicate that, for general good health, the recommended minimum daily fluid intake for residents is 1,500 millilitres. All three homes visited had policies consistent with this and monitored the amount of fluid consumed each day by each resident. We noted that only 10% to 20% of

resident files sampled at two of the homes showed that the resident had consumed the recommended amount of daily fluid. In contrast, at the third home, all resident files sampled showed that the residents had consumed at least the recommended amount of fluids.

RECOMMENDATION 2

In order to better prevent the transmission of infectious diseases:

- long-term-care homes should monitor whether prevention best practices (such as hand hygiene and the use of personal protective equipment) and infection-specific precautions (such as twice-daily cleaning of rooms of residents who have *C. difficile*) are conducted in accordance with the recommendations made by the Provincial Infectious Diseases Advisory Committee (PIDAC) and review their monitoring methodology to ensure that abnormally high compliance rates are reflective of actual practices;
- the Ministry of Health and Long-Term Care should develop guidance to assist homes in determining how best to meet PIDAC's recommendations on isolating and cohorting residents who have or are at high risk of having infectious diseases, given the limited availability of private rooms; and
- long-term-care homes should continue to promote and monitor the immunization of residents and staff.

To help prevent residents from acquiring an infected skin breakdown, long-term-care homes should adopt processes, such as using a sign-off sheet for recording when residents are repositioned, to enable supervisory staff to monitor compliance with established procedures.

MINISTRY RESPONSE

The new *Long-Term Care Homes Act, 2007*, which will be proclaimed into force when its regulations are finalized, requires that all homes have an infection-prevention-and-control program that includes daily monitoring to detect the presence of infection in residents as well as measures that prevent the transmission of infections. Draft regulations on infection prevention and control released for public consultation in May 2009 include provisions on various measures including hand-hygiene programs, the availability of personal protective equipment, and immunization.

The Ministry plans to redevelop 35,000 beds in older long-term-care homes over the next decade to ensure more equitable access to quality accommodation. These beds will be redeveloped according to structural requirements detailed in the Ministry's Long-Term Care Facility Design Manual (May 2009) which provides for larger rooms that have a maximum of two beds and that all have wheelchair-accessible washrooms. This will assist homes in keeping residents with infectious diseases adequately separated.

SUMMARY OF LONG-TERM-CARE HOMES' RESPONSES

The homes generally supported this recommendation. One home indicated that it will develop an objective tool to monitor compliance with various best practices recommended by the Provincial Infectious Diseases Advisory Committee (PIDAC), including hand hygiene and the use of personal protective equipment, and will develop a plan to address any items arising from this monitoring. The home's Infection Control Committee and Professional Advisory Committee will review summarized results twice a year and provide direction. In addition, to increase hand hygiene compliance, the home will install moisture stations to protect staff's hands from over-washing and will use new technologies to enhance staff education, such as a substance applied to the hands that visually demonstrates

the contamination left behind if hands are not washed properly. This home also noted that it will institute room cleaning checklists to ensure that rooms are cleaned in accordance with PIDAC recommendations, especially the rooms of residents with *C. difficile*. The checklists will be placed on housekeeping carts and will be completed by staff as each room is cleaned, thereby enhancing data accuracy and enabling supervisors to access this information quickly. Another home indicated that it will continue to improve its strategies to prevent the transmission of infections, including following the best practices recommended by PIDAC. However, the home commented that it is constrained by its funding: it would need additional staff because existing staff do not have time available to take on more responsibilities. The home also recognized the need to validate the results of its review of hand hygiene. It will continue to monitor the use of personal protective equipment and cleaning activities on an informal basis and, if risk indicators demonstrate a need for change, will establish a formalized process. Nonetheless, the home indicated that it will review its procedures and routines, within the limitations of its human resources, with the goal of enabling twice daily cleaning of rooms with residents who have *C. difficile*.

Two homes highlighted a number of the challenges regarding isolating or cohorting residents who have or are at a high risk of having an infectious disease, including the impracticality of moving a resident's furniture and belongings, and the possible traumatic impact a move may have on frail residents and residents with dementia. One of these homes noted that putting an infectious person in a private room will delay the admission of another resident and result in lost income for the home. However, this home suggested that having an infirmary in the home, where infectious residents could be temporarily moved, would be one way of helping prevent the spread of certain infectious diseases.

With respect to promoting and monitoring the immunization of residents and staff, one home noted that it will continue to promote the importance of immunization for residents and staff, as recommended by its local public health unit and other regulatory authorities. Another home indicated that it will develop an immunization strategy to further promote the immunization of residents and staff, which will outline the location and optimal time for staff vaccinations. This home is exploring the use of automatic reminders for staff when it is time for their next immunization. Further, committees in this home will continue to monitor the immunization rates of residents and staff over time, and will put in place an improvement action plan, if required.

Regarding the use of a sign-off sheet when repositioning residents who are unable to reposition themselves, one home indicated that it has implemented "point of care" electronic tablets at nursing stations and near residents' rooms to enable more accurate tracking of certain information including pressure-ulcer-prevention activities. This home noted that it will continue identifying residents with a high risk of a skin breakdown and developing strategies to prevent these, such as by using pressure-relief mattresses. In addition, the home will continue to track and analyze pressure ulcer rates, and benchmark with other homes and with industry-wide benchmarking through participation in the Canadian Institute for Health Information's long-term-care quality indicator database. Another home worried about the potential time involved to document when residents are repositioned and therefore supported the use of sign-off sheets only for residents with a high risk of a skin breakdown or pressure ulcer. The third home also implemented the use of sign-off sheets for high-risk residents. This home commented that, in addition to the sign-off sheets, informal monitoring by supervisors enables it to verify residents' well-being.

ANTIBIOTIC USE

Residents in long-term-care homes use antibiotics primarily to treat infections. However, infectious bacteria are becoming resistant to antibiotics, which is increasing the risk that antibiotics will no longer effectively treat certain infections in the future. In fact, certain bacteria that cause infections have become resistant to the preferred antibiotics for their treatment.

Research indicates that there is an association between a person's increased use of antibiotics and the resistance of infections to certain antibiotics. In addition, individuals are at increased risk for acquiring certain infections, such as *C. difficile* and MRSA, if they are taking antibiotics. As mentioned in Figure 2, *C. difficile* infection usually occurs when the use of antibiotics reduces the normal levels of good bacteria found in the intestines and colon of a resident. This reduction in good bacteria allows the *C. difficile* bacteria to grow and produce toxins that make the resident sick. Because of this risk, the U.S. Food and Drug Administration revised the safety warnings for certain antibiotics in June 2007. The warnings now indicate that taking the antibiotic poses a risk of *C. difficile* and that nearly all antibiotics have been associated with an increased risk of *C. difficile*.

Unlike hospitals, long-term-care homes are not required to identify outbreaks of *C. difficile* to their local public health unit. They are also not required to report outbreaks of *C. difficile* to the Ministry, although quite a few of them do. In 2008/09, 81 *C. difficile* outbreaks were reported to the Ministry. However, the reported information did not include the total number of residents who acquired *C. difficile* during these outbreaks or the resident outcomes (for example, deaths).

The fact that there have been a number of *C. difficile* outbreaks in long-term-care homes in Ontario reinforces the need for the judicious use of antibiotics. Further, medical research indicates that antibiotics are frequently prescribed in long-term-care homes, with one study of Canadian and U.S. homes

identifying that antibiotics were prescribed to 79% of residents over a one-year period.

PIDAC's recommendations to limit the increase and spread of antibiotic-resistant infections include that homes should:

- develop an "antibiotic stewardship program" by implementing policies and procedures to promote judicious antibiotic use—one policy should be that homes have a drug formulary that lists the antibiotics physicians can prescribe; and
- review actual antibiotic use to assess prescribing appropriateness.

None of the three homes we visited had implemented the recommended antibiotic drug formulary. However, the physicians we spoke to at these homes indicated that they do try to minimize the use of antibiotics.

All three homes we visited had a process in place to monitor antibiotic usage to some extent. At one home, the pharmacy periodically provided information to the home's physician on the use of particular drugs, including certain antibiotics. The other two homes received certain information on antibiotic usage directly from their pharmacy:

- One home received information on the use of specific antibiotics overall and by physician.
- The other home periodically received information on the use of specific antibiotics overall, as well as on the total number and percentage of residents taking antibiotics. It also received a comparison of the percentage of residents on antibiotics relative to the other long-term-care homes that the pharmacy services (approximately 135 homes and 17,000 beds). No information was received on antibiotic-prescribing patterns by physician.

These two homes indicated that their professional advisory committee, which included, among others, the home's administrator, director of care, and physician, reviewed the information provided by the pharmacy. These reviews were informal and not documented.

None of the three homes had overall summary information on the reasons why certain antibiotics were prescribed, and therefore they could not analyze antibiotic use patterns. Although each home indicated that either its physician or professional advisory committee examined the reports from its pharmacy, to be able to fully evaluate the information would require a labour-intensive review of residents' health records to determine the reason for the drug use. All three homes relied primarily on their physicians—who prescribe the antibiotics—to tell them whether any changes were required regarding the use of antibiotics.

In our *2007 Annual Report*, we noted that the Beers Criteria lists certain high-risk drugs that experts have indicated are generally more harmful than beneficial to older adults. At that time we found, however, (using information from the Ministry's Ontario Drug Benefit Program), that at least 20% of residents in 30 homes were dispensed at least one of the eight high-risk drugs in our sample. While acknowledging that there may be situations where the use of these drugs is warranted, given the higher level of usage of the selected Beers Criteria drugs we detected in certain homes at that time, we recommended in our *2007 Annual Report* that the Ministry, in conjunction with the College of Physicians and Surgeons of Ontario, periodically review the use of higher-risk drugs. Our current audit did not review the use of Beers Criteria drugs. However, with respect to antibiotic use, we believe it would be beneficial for the Ministry, in conjunction with the College of Physicians and Surgeons of Ontario, to perform a similar periodic review of the use of antibiotics in long-term-care homes.

RECOMMENDATION 3

To help prevent antibiotic-resistant organisms and reduce the susceptibility of residents to certain infections, the Ministry of Health and Long-Term Care, in conjunction with other interested stakeholders, should:

- assist long-term-care homes to develop a drug formulary; and
- periodically review the use of antibiotics in long-term-care homes so that follow-up action can be taken where the use of antibiotics seems unusually high.

MINISTRY RESPONSE

The *Ontario Drug Benefit Act* and the *Drug Interchangeability and Dispensing Fee Act* govern the administration of Ontario's public drug programs. The Ministry maintains and publishes the Ontario Drug Benefit Formulary/Comparative Drug Index (Formulary), which identifies all the drug products that eligible individuals, such as residents in long-term-care homes, may receive under these programs. The Formulary is to be used by prescribers and pharmacists as a guide for prescribing and reimbursement. Creating a separate formulary for antibiotic use in homes would lead to duplication of the process and may result in undue confusion for physicians and pharmacists. However, the Ministry is supportive of each home developing internal policies based on evidence-based information to promote best practices for antibiotic use. This is based on the Ministry's recognition that decisions relating to the use of antibiotics are generally the responsibility of a resident's physician. The Ministry relies on the physician's professional judgment in deciding which antibiotic to prescribe based on each resident's unique medical history.

It is the mandate of the physician's and other drug prescriber's professional regulatory colleges to educate, direct, and, potentially, sanction prescribers regarding prescribing practices. Also, many pharmacies contracted by homes review medication-use patterns and trends, including those for antibiotics, to identify issues, and will work with the home as appropriate. In addition, an interdisciplinary team at each

home is responsible for reviewing residents' charts to determine, among other things, the patterns and appropriateness of antibiotic use. Furthermore, the Ministry received the Joint Task Force on Medication Management in Long-Term Care's report in fall 2009, which examined issues relating to medication-management safety and was reviewing its recommendations. The report and its recommendations is to be shared with stakeholders.

SUMMARY OF LONG-TERM-CARE HOMES' RESPONSES

Although the homes were not requested to respond to this recommendation, two of the homes highlighted that they rely on their physicians' clinical judgment in prescribing medication for residents on a case-by-case basis, and that their physicians were aware of the risks associated with the medications. One home questioned whether a formulary was necessary and was concerned that physicians might be reluctant to have any restrictions placed on what drugs they can prescribe under the Ontario Drug Benefit Plan. The other home, however, commented that it will present this matter to its Professional Advisory Committee, which reviews drug utilization, for opportunities to improve monitoring of antibiotic use that would result in value-added data for resident care. As well, this home indicated that it would work to support Ministry-led initiatives that promote the effective and safe use of antibiotics for its residents.

SURVEILLANCE

PIDAC defines surveillance as the systematic, ongoing collection, collation, and analysis of data with timely distribution of the information to those who require it in order for action to be taken where necessary. PIDAC notes that there is conclusive evidence to show that the establishment of a surveillance system is associated with reductions in infection rates. Surveillance is particularly useful in monitoring the effectiveness of infection-prevention-and-control programs.

The Ministry requires long-term-care homes to have an ongoing program of surveillance to determine the presence of infections. As well, the standards set by Accreditation Canada, under which the three homes we visited were accredited, require homes to monitor infection rates. Recommendations regarding surveillance of infections that PIDAC has issued and that other organizations have published include that homes should:

- identify which infections they will track, based on evaluation of the types of infections for which their residents are most at risk. PIDAC suggests the homes consider tracking various infections, including *C. difficile*, MRSA, VRE, FRIs such as influenza, skin infections, and urinary tract infections.
- use standard definitions for determining when a resident has a particular infection and when infections should be counted in the home's tracking system. This ensures that the information collected is consistent, accurate, and reproducible.
- regularly analyze the information gathered and identify trends signalling the need for corrective action, such as staff education or changes in practice.
- Have a certified Infection Prevention and Control Professional (ICP) and/or trained individuals who have passed an education program endorsed by the Community and Hospital Infection Control Association–Canada. The ICP's responsibilities generally include the surveillance of infections.

The Ministry's annual unannounced inspection of each home identifies, among other things, whether homes have an ongoing program of surveillance in place to determine the presence of infections. According to ministry information, over 95% of homes had such a program in place in 2008/09.

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Selecting and Defining Infections

None of the homes we visited had conducted a formal evaluation to identify which infections their residents were most at risk for. However, all the homes had informally selected certain infections to track and periodically added new infections based on circumstances in their homes.

PIDAC has standard definitions for over 15 infections. Most definitions are based on symptoms, such as "two or more loose watery stools within 24 hours," but some require laboratory confirmation. Two of the homes we visited had adopted all of PIDAC's recommended infection definitions. The third home had adopted only three specific definitions and otherwise used general symptoms that may indicate an infection, such as cough, diarrhea, or vomiting.

Tracking Infections

At the homes we visited, resident-care staff, including personal support workers and nursing staff, identify if a resident has symptoms of an infection. Either the nursing staff or the home's physician assesses the resident and if the resident has an infection, this information is recorded on an infection-control tracking form. Staff collect the forms monthly and input the data into each home's electronic tracking system. Using their systems, the homes can compile infection statistics for review by various internal committees and/or senior management.

We noted that all three homes used a manual form to track resident infections. Although they included certain infections, such as FRIs, skin infections, and urinary tract infections, on their forms, many infections, including *C. difficile* and MRSA, were not specifically tracked. However, the homes informed us that they would record these infections in a category labelled "Other."

For their infection statistics to be as meaningful as possible and able to be compared with those of other homes, and to facilitate the most appropriate follow-up action, long-term-care homes should

distinguish between infections acquired within the home and pre-existing infections of newly admitted residents. PIDAC's best-practice document on surveillance (June 2008) states that any "health-care-associated" infection, such as ones acquired at long-term-care homes, is an infection that includes those occurring in the period beginning more than 48 to 72 hours after admission of a resident. PIDAC has more specific guidance with respect to tracking *C. difficile* in its best-practice document (November 2007), which indicates that the case is considered to be acquired in the home if the resident's symptoms occur more than 72 hours after his or her admission, or if the resident was readmitted with *C. difficile* that he or she had acquired at the home sometime in the previous four weeks.

We found that the homes we visited had different policies for counting infections in their tracking systems. For example, one home used PIDAC's definition to track *C. difficile* infections. Another home tracked *C. difficile* infections that occurred more than 72 hours after a resident's admission, as well as all reoccurring infections, whether acquired at the home or elsewhere. The third home tracked all new and reoccurring *C. difficile* infections regardless of whether they were acquired at the home or elsewhere. Because the three homes have different policies for tracking infections, their infection rates were not comparable.

Reviewing and Reporting Infection Data

We requested information for the 2008 calendar year on MRSA, VRE, *C. difficile*, FRIs, and urinary tract infections from each of the three homes we visited. Two of the homes reported no cases of either MRSA or VRE in 2008; the third reported only a few. With respect to *C. difficile*, although one home reported no cases, the other two reported six and 15 cases respectively. As well, we noted that the incidence of FRIs and urinary tract infections varied considerably among the three homes. With respect to FRIs, using data provided by the homes, we estimated that the number of cases per 10,000

resident days ranged from seven to 18. With respect to urinary tract infections, we estimated that the number of cases per 10,000 resident days ranged from four to 18. Each home established its own data-collection methodology, so the comparisons may not be exact.

All three homes indicated their senior management review daily reports that highlight concerns about specific residents, such as the onset of new or worsening symptoms of an infection.

PIDAC indicates that it is a best practice to evaluate infection rates against benchmarks. Benchmarks provide homes with a targeted maximum rate for infections and enable homes to evaluate their actual infection rate against the target. Possible benchmarks that a home could use include the rate of infections in the home at a particular point in time in a prior year (known as a baseline rate), and the incidence rate of infections at other homes. A 2008 report issued by the Regional Infection Control Networks noted that only 15% of non-acute-care facilities (primarily long-term-care homes) used external benchmarks, and 21% did not use any benchmarks at all.

Although none of the three homes we visited had formally established baseline rates, all three indicated that they compare their current infection statistics against statistics from previous periods. For example, one home compared its infection statistics to infection statistics from prior months and from the previous year. Another home indicated that it generally does a month-to-month comparison of statistics four times a year. The third home said that it generally reviews each quarter's infection data for changes from previous quarters. All three homes told us that their comparison of infection statistics in 2008 with statistics from prior periods did not identify any areas requiring corrective action.

We also observed that two of the homes were comparing their number or rates of certain infections against other homes. One of these homes had adopted a benchmark of having infections in its home be no more than the median of rates of infec-

tion of the other homes against which it was tracking. We noted that this home exceeded the median rate of certain infections during a number of months in 2008. For example, the home exceeded the median rate of FRIs in five of the six months it analyzed. The home told us that it communicated the results to staff and offered additional infection-control training.

Under the *Health Protection and Promotion Act*, homes are required to report information to their local public health unit on certain diseases, such as tuberculosis and influenza, as well as outbreaks of respiratory infections and gastroenteritis (symptoms of which include diarrhea and vomiting). The Ministry requires that homes report directly to it any outbreaks that the home reported to its local public health unit. However, homes do not have to report many other infectious diseases, such as MRSA and VRE. Hospitals have similar reporting requirements but, effective September 1, 2008, they must also identify when a gastroenteritis outbreak is caused by *C. difficile*. Long-term-care homes are not required to identify this.

Ontario hospitals are required to report publicly on several patient-safety indicators including health-care-acquired infectious diseases, such as *C. difficile*, MRSA, and VRE, and on hand-hygiene compliance among health-care workers. Long-term-care homes, however, are not subject to similar reporting requirements. Although one of the homes we visited publicly posted information on the number of certain infections within the home, no other information on infection rates was publicly reported. As well, neither of the other two homes publicly reported any information on infection rates.

Staff Training on Surveillance Activities

PIDAC states that if resident-care staff, such as personal support workers and nurses, are responsible for reporting infections or suspected infections, it is critical that they undertake training to ensure that potential infections are identified and reporting expectations met. As well, the Ministry requires

homes to provide an educational session to all staff annually that includes infection-control practices.

A 2009 Canadian survey of infection prevention and control in long-term-care homes noted that almost one-third of responding homes identified as an important issue the need for infection-prevention-and-control education. In addition, a recent Ontario-wide survey, facilitated by the Regional Infection Control Networks, noted that 47% of non-acute facilities—mostly long-term-care homes—indicated that educating staff on infection prevention and control was a key issue they were facing.

None of the homes we visited had provided specific training to staff on their surveillance responsibilities, such as training on the case definitions for different types of infections and the reporting requirements for these infections. However, all three homes required new nurses and personal support workers to "shadow" more experienced individuals in the same position for varying lengths of time prior to working independently to learn their duties, which, we were informed, would include infection-surveillance responsibilities. As well, the orientation sessions for new staff at the three homes all included some discussion of surveillance. The homes also provided some specific training regarding certain infections, such as influenza, and indicated that the symptoms of the infection are discussed to enable staff to better identify residents with infections.

The average attendance rate, by topic, for a sample of educational sessions that we examined ranged from approximately 15% to 45% at the three homes. None of the homes tracked whether staff attended at least one educational session annually on infection control practices. Nevertheless, we noted that, during 2008, two of the three homes held more than one session on each specific infection-control topic, and they would also pay staff to attend the session if they attended outside of their regular shift. However, the third home, which had the lowest attendance rates, only pro-vided one session per topic and did not compensate staff who attended.

Infection Prevention and Control Professional

According to PIDAC, the responsibilities of an Infection Prevention and Control Professional (ICP) may include various functions, such as the surveillance of infections. The Ministry's *Long-Term Care Homes Program Manual* requires that homes designate an ICP, and indicates that the individual should possess expertise or be willing to acquire expertise in infection control. The Program Manual also states that the ICP is responsible for surveillance activities in the home. Further, PIDAC recommends that homes have a staffing ratio of one full-time ICP per 150 to 200 beds.

A recent Canadian survey of infection prevention and control in long-term-care facilities identified that only 8% of ICPs were certified and that there was only an average of 0.6 full-time-equivalent ICPs per 250 beds. This is well under PIDAC's recommended ICP-to-bed ratio. In addition, an Ontario survey of the non-acute-care sector, primarily long-term-care homes, issued in 2008 by the RICNs, identified that just 5% of ICPs were certified.

Although each of the homes we visited had a person designated as its ICP, this role was on top of various other functions performed by these individuals. None of the designated ICPs had attended a program endorsed by the Community and Hospital Infection Control Association–Canada, nor had any of the ICPs obtained a Certification in Infection Control. The homes indicated that it has been a challenge to obtain and retain well-trained ICPs.

None of the homes had an ICP-to-bed staffing ratio within the range recommended by PIDAC. All three homes told us that they did not have the resources to meet this recommendation. However, all three homes indicated that, if needed, they could contact other sources for information related

to infection prevention and control, such as their local public health unit or Regional Infection Control Network. All three homes told us that, if necessary, their physicians could contact physicians at their local hospital who had expertise in infection prevention and control.

RECOMMENDATION 4

To enhance the effectiveness of infection-prevention-and-control programs, the Ministry of Health and Long-Term Care, in conjunction with the long-term-care homes, should:

- require long-term-care homes to identify and track infections in a consistent and comparable manner, using standard definitions and surveillance methods;
- establish reasonable targeted maximum rates/benchmarks for the more prevalent infections; and
- look into requiring that long-term-care homes report publicly, as hospitals do, on certain patient-safety indicators, such as cases of *C. difficile* and hand-hygiene compliance among resident-care staff, using standard definitions and surveillance methods.

As well, long-term-care homes should ensure that staff, including designated infection-prevention-and-control professionals, have the infection-surveillance training recommended for their position.

MINISTRY RESPONSE

Current Ministry requirements on infection prevention and control outlined in the Program Manual state that every long-term-care home must have an ongoing program of surveillance to determine the presence of infections and provide education and training for all staff. As well, draft regulations under the new *Long-Term Care Homes Act, 2007,* include provisions on surveillance and education. In particular, the draft regulations will require homes to ensure

that the presence of infections in residents is monitored and recorded, and that this information is analyzed daily and reviewed at least once a month to detect trends, for the purpose of reducing the incidence of infection and outbreaks. The computerized care-management system announced in January 2009 and expected to be fully implemented in homes by summer 2010 will help health professionals in homes assess and monitor the care needs of residents. In particular, this system will better enable homes to identify and assess residents with various infections, including MRSA, *C. difficile* and respiratory infections. Further, the system will enable homes to track and monitor resident infections in a consistent manner using the same definitions, such that the data gathered will be comparable across all homes. The Ministry will receive data quarterly.

The Ministry will review the appropriateness of establishing targeted maximum rates/benchmarks for the more prevalent infections. However, the rates of certain infections, such as influenza and noroviruses (whose main symptoms include diarrhea and vomiting), in each long-term-care home often reflect the rates of these viruses in their local communities. As well, the rates are influenced by the vulnerability of the residents in the home. Therefore, the rates of these infections may not be reflective of the home's internal infection-prevention-and-control practices. However, for other specific infections (such as skin infections), each home should establish its own baseline because this provides the home with the information necessary to assess the impact of the home's infection-prevention-and-control program's improvement activities over time.

The Ministry fully supports public reporting and is looking into the reporting of patient safety indicators for long-term-care homes.

SUMMARY OF LONG-TERM-CARE HOMES' RESPONSES

The homes generally supported this recommendation. However, one home was concerned with publicly reporting information on certain patient safety indicators because it believed it would be difficult to select the indicators and that there would be a negative public perception of homes unless the indicators were thoroughly explained. This home also highlighted that implementing best practices, reviewing whether practices are followed, and tracking indicators is very time consuming. Therefore, this home strongly believes the key to moving forward in this area is for the government to strengthen the overall staffing in long-term-care homes and, more specifically, to provide for a trained full-time Infection Control Practitioner (ICP) in each home. The home is also looking forward to the Provincial Infectious Diseases Advisory Committee's (PIDAC's) release of additional information for long-term-care homes.

Another home indicated that, while it continues to identify infections using PIDAC's case definitions, it has been working to improve the consistency of its tracking methods to ensure comparability of data. This home commented that clear definitions of outbreaks and guidelines for tracking infectious illnesses would be helpful on a system-wide basis. The home noted that the establishment of targeted maximum rates/benchmarks that are applied to all long-term-care homes might be helpful in tracking system-wide success over time. With respect to public reporting, this home commented that additional research into meaningful measures that reflect the unique circumstances of long-term-care home residents is needed. For example, the size of a given long-term-care home, the ability to restrict resident movement between areas within the home, and seasonal infection rates in the local population that visits

the home are factors that influence infectious disease transmission. This home commented that, although various courses are offered to its staff, it agreed that a designated professional with infection-surveillance training would be of benefit to its residents. The home indicated a number of challenges in recruiting a nurse to take the ICP training program, such as the shortage of qualified nurses in its area, the need to maintain appropriate staffing levels, and the availability of funding.

The third home commented that it will continue to work with its Regional Infection Control Network and other infection control bodies to identify and obtain the most appropriate level and type of training and education for its ICP. As well, in the interim, the home will clarify the components of the ICP role and implement electronic tracking of activities falling within each of these components to ensure complete coverage.

Appendix—Details of PIDAC and Ministry Initiatives

BEST-PRACTICE DOCUMENTS

PIDAC has developed the following documents on best practices that are applicable to long-term-care homes. These documents incorporate the applicable guidelines and recommendations from entities such as the Public Health Agency of Canada and the College of Physicians and Surgeons of Ontario, as well as recommendations from medical literature.

- *Best Practices for Cleaning, Disinfection and Sterilization* (March 2006, revised April 2006)—focuses on medical equipment.
- *Best Practices for Hand Hygiene* (May 2008, revised January 2009)—includes guidance on when, why, and how staff in long-term-care homes should wash their hands.

- *Best Practices for Infection Prevention and Control Programs in Ontario* (September 2008)—includes guidance on the human resources and skills needed for an infection-prevention-and-control program, as well as the specific activities that should be included.
- *Best Practices for Infection Prevention and Control of Resistant* Staphylococcus aureas *and Enterococci* (March 2007)—includes guidance on controlling the transmission of MRSA and VRE and managing residents with MRSA and VRE.
- *Best Practices Document for the Management of* Clostridium difficile *in all Health Care Settings* (December 2004, most recently revised January 2009)—includes guidance on identifying clusters of *C. difficile*, preventing their transmission, and managing residents with the infection.
- *Best Practices for Surveillance of Health Care-Associated Infections in Patient and Resident Populations* (June 2008)—includes guidance on tracking and monitoring health-care associated infections.
- *Preventing Febrile Respiratory Illnesses* (September 2005, revised August 2006)—includes guidance on detecting and containing clusters and outbreaks of common respiratory infections, such as influenza.
- *Routines Practices and Additional Precautions* (August 2009)—includes guidance on reducing the risk of the transmission of micro-organisms.

In addition, at the time of our audit, PIDAC was expecting to publish in spring 2010 a best-practice document that would provide additional guidance to long-term-care homes on environmental cleaning.

CORE COMPETENCIES PROJECTS

In response to the 2004 *Final Report of the Ontario Expert Panel on SARS and Infectious Disease Control*

by Dr. David Walker and the Ministry's Operation Health Protection plan, PIDAC and the Ministry developed educational material to enhance infection-control training for front-line staff. In spring 2007, the Ministry and PIDAC developed three educational modules: routine infection-control practices; hand hygiene; and the chain of infection transmission for hospital staff. These modules were posted on the Ministry's website for health-care professionals. According to the Ministry, at the time of our audit, work was underway to adapt these modules for other health-care workers and other facilities, such as long-term-care homes. The Ministry also indicated that further educational modules will be developed on topics such as additional precautions and surveillance.

HAND HYGIENE IMPROVEMENT PROGRAM

Proper hand hygiene (that is, using alcohol-based rub or soap and water to clean hands) by health-care workers is one of the most effective ways of preventing HAIs. In March 2006, the Ministry and the Public Health Agency of Canada held a workshop to learn from the world's leading authorities—such as the World Health Organization and experts from across Canada, the United States, and the United Kingdom—about programs that resulted in sustainable change in hand-hygiene practices. The workshop also discussed how these programs could be adapted for use in Ontario. On the basis of this workshop, the Ministry developed the "Just Clean Your Hands" Hand Hygiene Improvement Program, which it originally focused on implementing in hospitals. At the time of our audit, the Ministry indicated that it expects to have this program adapted for use in long-term-care homes by the end of 2009.

Literacy and Numeracy Secretariat

Background

The Ministry of Education (Ministry) is responsible for the system of publicly funded elementary and secondary school education in Ontario. Its responsibilities include developing the primary and secondary school curricula, setting requirements for student diplomas, and providing funding to school boards. The Ministry also set up the Education Quality and Accountability Office (EQAO)—a government agency—to provide independent assessments of student achievement by testing students in reading, writing, and mathematics. It is the responsibility of the Ministry and the school boards to review EQAO assessment reports and adjust strategy and training to foster continuous student improvement. The Ministry's overall target is that 75% of all 12-year-olds achieve at least a level-three score, equivalent to a B grade, on province-wide EQAO testing for reading, writing, and mathematics.

The Ministry's Literacy and Numeracy Secretariat (Secretariat), the subject of this audit, was established in November 2004 to work with over 4,000 elementary schools across 72 school boards. It serves English- and French-language schools in both public and Catholic school boards. The Secretariat's mandate is to provide support to school boards and schools to assist them in fulfilling their responsibilities to improve the achievement of children from junior kindergarten (JK) to grade 6, as measured by EQAO test results, and to close gaps in achievement for lower-performing student groups and schools.

The Secretariat works to boost student achievement by collaborating with school boards and schools to set targets, support boards in implementing secretariat initiatives, and foster a sense of goodwill and enthusiasm within the education sector. Along with funding a number of program initiatives designed to enhance teaching strategies and improve student achievement, the Secretariat employs over 80 experienced educators, called student achievement officers (SAOs), who work directly with schools and school boards across the province to implement strategies to improve reading, writing, and mathematics skills.

Since it was established in 2004, the Secretariat has spent $340 million, with almost $288 million transferred to school boards to help them meet student-achievement targets. The details of these expenditures over the last five years are shown in Figure 1.

On April 1, 2009, the two areas in the Ministry responsible for improving student achievement, the Literacy and Numeracy Secretariat (grades JK to 6) and the Student Success/Learning-to-18 Division (grades 7 to 12), came together to form the Student

Figure 1: Literacy and Numeracy Secretariat Expenditures, 2004/05–2008/09 ($ 000)

Source of data: Ministry of Education

Program	2004/05	2005/06	2006/07	2007/08	2008/09	Total
Ontario Focused Intervention Partnership			24,747	34,470	33,436	92,653
Capacity Building	8,485	34,232	8,725	4,195	3,775	59,412
Resources	2,402	39,522	10,007			51,931
School Effectiveness Framework				11,700	11,400	23,100
Schools Helping Schools					9,859	9,859
Equity of Outcome			4,200	5,000		9,200
Turnaround Strategy			6,243			6,243
Tutors in the Classroom		1,613	1,642	1,511	1,205	5,971
Character Education			1,731	1,689	1,505	4,925
Schools on the Move			377	749	953	2,079
other programs	13,981	5,480	3,128	0	0	22,589
Program Total	**24,868**	**80,847**	**60,800**	**59,314**	**62,133**	**287,962**
administration	890	8,135	14,285	15,028	13,279	51,617
Total Expenditures	**25,758**	**88,982**	**75,085**	**74,342**	**75,412**	**339,579**

Achievement Division. The responsibilities of the Secretariat will carry on substantially unchanged in the new division. The purpose of the amalgamation was to better align ministry responsibilities for all students from JK to grade 12.

Audit Objective and Scope

The objective of our audit was to assess whether the Literacy and Numeracy Secretariat had adequate procedures in place to:

- measure and report on the effectiveness of its activities in fulfilling its mandate to ensure that students in Ontario achieve a high level in reading, writing, and mathematics by age 12; and
- ensure that its transfer payments to school boards are properly managed and directed to the areas in greatest need of support for students' achievement levels to improve.

The scope of our audit work included researching practices around student achievement in other jurisdictions; reviewing and analyzing ministry files, administrative directives, policies, and procedures; and interviewing ministry staff as well as supervisory officers and principals at one French-language school board and five English-language school boards across the province. The school boards we visited were the Conseil scolaire de district catholique du centre-sud, Toronto Catholic District, Peel District, Thames Valley District, Lakehead District, and Thunder Bay Catholic District. Our audit also included a review of related activities of the Ministry's Internal Audit Services Branch. We reviewed the Branch's recent reports and considered its work and any relevant issues identified when planning our audit work.

Summary

The Ontario government made a significant commitment to improving student achievement when, in 2004, it set a goal that 75% of all 12-year-olds (grade 6 students) would score a level-three standard (approximately a B average) on province-wide testing for reading, writing, and mathematics by

2008. Although the Ministry of Education (Ministry) had not achieved this goal by 2008, substantial progress has been made over the last five years, and the number of children achieving level three on Education Quality and Accountability Office (EQAO) testing has increased on average from 56% in 2003/04 to 65% in 2007/08 (this report uses 2007/08 numbers because results for the 2008/09 fiscal year were not available at the time of our audit).

Further increasing the percentage of students achieving a B average on the EQAO literacy and numeracy tests will be a challenging undertaking. During our audit, we noted a number of areas that could be improved to help achieve this goal.

Some of our more significant observations were:

- Although the Literacy and Numeracy Secretariat (Secretariat) and the school boards we visited have done some limited assessments of how secretariat program initiatives have contributed to improving student achievement, further analysis is required to assess the effectiveness of the various programs in improving student outcomes. Better analysis in this area would have enabled the Secretariat to ensure that its spending of almost $288 million was directed to the initiatives that provide the most benefit.

- The information in reports submitted by school boards was insufficient to assure the Secretariat that funds were being spent on its initiatives and to track, over time, their impact on student outcomes. This lack of structured financial and performance reporting limits the Secretariat's ability to carry out a comparative assessment of its program initiatives. Given that the Secretariat's window of opportunity to help improve student achievement closes after students reach the age of 12, it is important that the Secretariat develop effective improvement programs during those critical years. To be able to do so, the Secretariat must know which program initiatives work best and which should be modified or eliminated.

- School board improvement plans were initiated to help teachers, principals, and school board staff plan and implement strategies to improve student achievement. The Ministry has developed a framework to help school boards and schools implement an effective improvement planning process. However, neither the Secretariat nor the boards we visited documented, monitored, or reported on the plans to the extent necessary to assess whether the plans were contributing to improved student achievement. Because it exercised only limited oversight, the Secretariat did not have the information needed to identify patterns and trends among school boards. Thus, it could not determine how effective the various plans were so that the most successful initiatives could be shared with other boards.

- Secretariat program funding was not always allocated to school boards and schools with the greatest need. Funding for some of the secretariat improvement initiatives was based on average daily enrolment (rather than on relative needs); in other cases, the Secretariat could not fully explain how the amount of funding that went to each school board was determined. For instance, we found that for one major program, the funding for the board with the greatest number of schools designated as low-performing was only $17 per student, while several boards, with no schools designated as low-performing, received more than twice this amount per student.

- The Secretariat routinely uses certain boards as "bankers" to act as distributors of funds to third parties or other school boards. We question the need for such arrangements and noted that there is no Memorandum of Understanding or agreement between the Secretariat and the banker boards outlining respective roles and responsibilities, accountability relationships, reporting requirements, and service levels to be provided. Also, the

Secretariat paid banker boards administrative fees that in some cases appeared excessive.

- Final report card marks for most students should be relatively comparable to their EQAO scores for reading, writing, and mathematics. The Ministry does not do this type of comparison, but we carried out our own analysis comparing report card marks to EQAO scores. We noted that, at the school boards we visited, approximately half of the student report card marks for grades 3 and 6 matched their EQAO scores. An additional 43% of the report card marks were within plus or minus one assessment level of the EQAO scores, with over twice as many of these report card marks exceeding EQAO results versus falling short of them. We believe this type of analysis would be useful to conduct—significant differences could highlight areas where adjustments to student assessment practices or EQAO testing warrant consideration.

OVERALL MINISTRY RESPONSE

We would like to thank the Office of the Auditor General for the work put forth in preparing this report; the recommendations will be of assistance to the Literacy and Numeracy Secretariat as it refines its future work.

In 2008, a leading research company evaluated initiatives undertaken by the Ministry to raise student achievement between February 2007 and October 2008 and concluded "that over its brief history, Ontario's Literacy and Numeracy Secretariat has had a major and primarily positive impact on Ontario's education system." In six years, student achievement has increased from 56% to 67% of students reaching level 3 in the grade 3 and 6 EQAO tests, the achievement gaps for English language learners and students with special needs has been reduced, and the percentage of Ontario elementary schools in which fewer than 50% of students were meeting provincial expecta-

tions has been reduced from 19% to less than 5%. Ontario's high school graduation rate has increased from 68% to 77% of students graduating within five years. Ontario is recognized internationally as a school system of "excellence and equity," a leader in achieving multi-year continuous improvement in student outcomes, both increasing student achievement and increasing equity for diverse student groups.

The Ministry has provided leadership in creating a significant shift in the teaching and learning culture of Ontario's schools. This has required that the Secretariat function in a continuous cycle of research, dialogue with school boards and schools, development of strategies, pilot implementation, assessment, review, refinement, and expansion.

Ministry initiatives work in an integrated way to improve student learning and achievement and narrow the gaps. While individual programs are evaluated to varying degrees, it is difficult to quantify the degree of impact of individual strategies. Evidence that our approach has credence exists in the analysis of outcomes, which reaffirms that the Ministry, in partnership with district school boards, schools, and staff, is significantly improving student achievement and closing the gap. The Ministry recognizes that some areas need to be strengthened, and the recommendations will help us to do so.

Detailed Audit Observations

MEASURING AND REPORTING ON PROGRAM EFFECTIVENESS

The Ministry's priorities are to attain high levels of student achievement, close gaps in student achievement, and maintain high levels of public confidence. It has implemented a number of initiatives to ensure that more students succeed. One

of these initiatives is the Literacy and Numeracy Strategy, which identifies practices that improve student achievement. The government's Reach Every Student strategy affirms that strong literacy and numeracy skills are the critical foundation for all other academic achievement. Accordingly, the Secretariat's goal is to ensure that all students achieve a high level of literacy, numeracy, and comprehension, with a province-wide total of 75% of 12-year-olds (grade 6) meeting the provincial standard (level three or a B average) on reading, writing, and mathematics testing by 2008. Figure 2 shows EQAO results over the last five years.

Over the last five years, the average results for both English- and French-language schools have gone up overall by almost 10%, from 56% to 65%. Although French-language schools achieved the Ministry's goal in 2007/08, with at least 75% of 12-year-olds scoring a level three in reading, writing, and mathematics, English-language schools have not. The percentage of English-speaking 12-year-old students at the provincial level-three standard is still only 65%. However, the percentages of students who scored at level 2.7 (or about 10% below the target level three) in reading, writing, and arithmetic were 79%, 85%, and 75%, respectively. This suggests to us that the Ministry's goal to have 75% of 12-year-olds achieve at least

a level-three score on EQAO testing, while challenging, is not unreasonable. The Ministry recently reiterated this goal.

At a symposium sponsored by the Secretariat in November 2005, the Premier stated that four out of every 10 students were not meeting the provincial standard. He further stated, "Those children are at risk. They are at risk of doing poorly throughout their school years. They are at risk of dropping out of high school. They are at risk of growing up and achieving less than they are capable of." Better test scores are a sign of progress, but from the results discussed above, it is evident that in 2008 there were still 3.5 out of every 10 students who were not meeting the provincial standard, and who could therefore be at risk. In this regard, although progress is being made, the Ministry has not yet met its overall goal of 75% of 12-year-olds achieving at least a level three on EQAO testing by 2008. It advised us that it plans to achieve the goal by continuing with a number of initiatives, including:

- strengthening the networks of educators who focus on student work and effective pedagogy so they can learn from and with each other;
- supporting the work of the School Effectiveness leads through regional professional learning sessions;
- building capacity at the board level;

Figure 2: Percentage of Grade 6 Students at or Above the Provincial Standard (EQAO Level 3 or a B Average)
Source of data: Education Quality and Accountability Office

	2003/04	2004/05	2005/06	2006/07	2007/08	Increase
English-language Schools						
# of students	146,169	143,421	146,711	145,901	140,420	
reading (%)	58	53	64	64	66	8
writing (%)	54	59	61	61	67	13
mathematics (%)	57	60	61	59	61	4
average (%)	**56**	**61**	**62**	**61**	**65**	**9**
French-language Schools						
# of students	6,760	6,672	6,540	6,639	6,390	
reading (%)	63	67	68	68	75	12
writing (%)	68	70	73	74	80	12
mathematics (%)	70	74	76	76	78	8
average (%)	**67**	**70**	**72**	**73**	**78**	**11**

- supporting board improvement planning ;
- building on and sustaining the School Effectiveness Framework;
- continuing field-based support through the student achievement officers;
- intensifying support for low-performing boards; and
- analyzing and using data to target improvement strategies to the areas of greatest need.

The Ministry relies on EQAO test results to measure the success of its programs. However, this approach to measuring success does not consider the effect of programs on the same students over time. Other jurisdictions track the test scores of individual students over time, for example, by comparing a particular group of students' grade 3 results with their grade 6 results three years later (this is called "cohort tracking"). In our view, if the Ministry did this type of tracking in addition to the test-score analysis it currently undertakes, it would have a better measure of the value its investment in programs and initiatives has achieved.

Another measure of student achievement relates to the range in scores between high-performing and low-performing student groups and schools. Educational research shows that jurisdictions that have narrower gaps in achievement between the top- and bottom-performing student groups and schools also tend to have higher average scores than do those where the gap is larger. Yet Ontario does not publicly report on how wide the gap is between the highest and lowest performers. This measurement would help the Ministry evaluate whether it is meeting its goals and responsibilities for student achievement, and enable it to track, for selected student groups and schools, whether the gap is being reduced over time.

RECOMMENDATION 1

The Ministry of Education should develop more comprehensive indicators for measuring and reporting on its effectiveness in improving student achievement. In addition to reporting

the percentage of 12-year-olds who are at or above the provincial standard, it should also consider reporting changes in the gap between the top-performing and lower-performing student groups and schools, as well as how specific student cohorts perform over time while participating in the programs and initiatives intended to improve their performance.

MINISTRY RESPONSE

The Ministry agrees that additional indicators would be useful in reporting its effectiveness in improving student achievement. In September 2009, the Education Quality and Accountability Office (EQAO) began reporting information on tracking student cohorts and how they perform over time. This analysis was dependent on the Ministry's full implementation of the Ontario Education Number to track each student.

In addition, the EQAO produces for the Ministry and school boards a report of the test results for specific student groups. The Ministry uses this information to track over time the gap in achievement between the overall student population and specific student groups (for example, English-language learners, students with special needs, and boys). Also, the Ministry tracks trends over time in the proportions of students at each of levels 1 through 4. This information informs ministry planning and priorities from year to year.

The Ministry will continue to examine and use this information to further assess the effectiveness of its programs and to refine its initiatives in improving student achievement and narrowing the gaps.

SCHOOL BOARD IMPROVEMENT PLANS

School board improvement plans are intended to help teachers, principals, and senior school board staff plan and implement strategies to improve

student achievement in both the short and long terms. Improvement plans are also a mechanism through which the public can hold schools and boards accountable for student success and through which improvement can be measured. An effective improvement plan includes strategies for improvement, indicators of success, performance targets, relevant timelines, and reporting on student achievement.

Completion and Review of Improvement Plans

School boards, superintendents of education, principals, and teachers all have varying roles in preparing and monitoring improvement plans at the school board and school levels. The Ministry has produced a number of guidelines to help school boards prepare effective improvement plans. One of these guidelines is the School Effectiveness Framework, which provides key indicators of school effectiveness for the purpose of building board and school capacity to:

- identify strengths and weaknesses;
- perform self-assessment and analysis;
- achieve better improvement planning;
- implement high-yield strategies; and
- determine the monitoring and feedback strategies necessary for improvement and accountability.

In early 2008, a consultant the Ministry engaged to review school board improvement plans reported that there was a wide variety of plan formats, which made it a challenge for the Secretariat to identify patterns and trends from board to board. In addition, the absence of a common planning template means less usage of a common language that could help school boards to duplicate the successful practices of other boards. In response to this report, the Ministry adopted "SMART" goals—that is, goals that are specific and strategic, measurable, achievable, result-based, and time-bound—to be incorporated into improvement plans. The Ministry

recommended that school boards develop their improvement plans based on these SMART goals.

Although there is no formal requirement that improvement plans be submitted to the Ministry, we found that all 72 school boards have been submitting their plans every year. We noted, however, that once the Secretariat received the plans, there was limited documentation to demonstrate that the plans were reviewed to ensure that all the required components of an effective plan had been addressed. We selected a sample of 13 improvement plans of large and small school boards and noted that some school boards set SMART goals that were vague, difficult to measure, and not within the board's direct control. To realize the benefit of its SMART initiative, the Ministry should review improvement plans and document each board's degree of consistency with the SMART guidelines.

Among the responsibilities of the Ministry's student achievement officers is working with school boards to set student achievement targets and develop improvement plans. However, there was no documentation of feedback to the school boards on whether they had included all the required components of an effective plan. We were informed that student achievement officers provide verbal feedback only. Without consistent and concise documentation of these informal discussions, there is no assurance that any possible shortcomings in the improvement-planning process have been communicated to the proper levels of authority within the school board. This lack of documentation, combined with the lack of detailed consistent reviews, hinders the Secretariat in its ability to follow up on whether any previously observed shortcomings have been addressed.

Monitoring and Reporting the Achievement of Plans

In our review of the improvement-planning process, we noted that the accountability mechanisms in place at the Ministry were informal, with little or no documentation. The Secretariat does not require

that school boards periodically report the results of the monitoring and measurement of their improvement goals. Rather, it is left up to school boards to decide when and how to monitor the improvement plans. As a result, the Ministry has little assurance that school boards are meeting the goals or timelines in their improvement plans and that, where necessary, corrective action is being taken to meet goals. We noted that British Columbia uses a formal achievement contract with school boards to more closely monitor their improvement plans. This contract requires the boards to submit the goals, objectives, performance indicators, and progress made to improve student achievement. In addition, any goal not met is either to be carried forward until it is achieved or deleted with an explanation of why it is no longer relevant.

We reviewed the improvement plans for 13 school boards and noted that 10 of them did not provide information on the progress made in the implementation of past improvement strategies. All 13 of the Ontario boards in our sample had mechanisms in place to track and report on the achievement of goals, but this was generally not done. We noted that in Alberta the Ministry of Education provides funding for student improvement projects; school boards are required to submit annual reports that include financial information as well as results on student learning outcomes achieved, lessons learned, and effective practices that demonstrate the greatest impact on student learning. Without proper documentation, monitoring, and objective evaluations of the results of improvement strategies, it is difficult for the Secretariat to ensure that school board improvement plans are achieving their intended goals. More detailed board improvement plans that assess whether their goals have been achieved, with recommended actions when goals are not met, would assist the Secretariat in its review of the results of school board program strategies.

To help it identify overall provincial trends, the Secretariat receives an annual mid-term review from the 72 school boards. These mid-term reviews include responses to a number of inquiries from the Secretariat, including a summary of the board's initiatives to improve student achievement. This report is used mainly as a planning document by the Ministry and also as a school board self-assessment tool. What the report does not include, however—and what would make the report more useful for the Ministry as it tries to determine trends—is information on the achievement of improvement-plan goals.

If the Secretariat determines that a school board has performed poorly in any of the areas reported on in a mid-term review, there are no formal procedures in place to take corrective action. We were informed by ministry staff that, instead, informal discussions are held with the board in partnership with the Ministry's student achievement officers to develop strategies for improvement. We found no documentation with respect to this process. In addition, none of the boards we visited had received any report-back from the Secretariat indicating compliance with ministry expectations for board improvement or corrective actions that might be necessary. Staff at one school board we visited said that it would be beneficial if the Secretariat would provide written feedback on the mid-term reports to avoid any misunderstanding, which sometimes occurs when student achievement officers provide only verbal feedback. Formal feedback would also provide the Ministry with a more objective basis for assessing the effectiveness of student achievement officers.

Furthermore, we noted that school improvement plans are generally not made available for parents and other stakeholders to review. Of the 13 school boards we reviewed, only three had posted their improvement plans on their board's website. In British Columbia, the school board achievement contracts, along with the improvement plans from every school district, are available on board and school websites for review by interested parties.

RECOMMENDATION 2

To ensure that the improvement-planning process is sufficient to support boards, administrators, principals, and teachers in helping students to improve results and progress toward the provincial standard in achievement testing, the Ministry of Education should:

- implement a formal improvement-plan review process to help ensure that all of the necessary components of an effective plan are included;
- require that school boards post improvement plans online to enhance accountability and transparency;
- consider adopting the practice followed in some other provinces of using a formal contract with school boards that would require school boards to periodically report their results in achieving the goals in their improvement plans; and
- properly document the result of its monitoring efforts along with any required corrective action to be taken and any subsequent follow-up where plans are not complete.

MINISTRY RESPONSE

The Ministry agrees that the board-improvement-planning process and documentation should be improved. A board improvement plan is designed by boards to articulate the actions required to improve student learning and achievement K–12. This is most effectively accomplished through a combination of pressure and support.

Since 2005/06, the Ministry has provided annual feedback to school boards to support the ongoing refinement of their improvement plans. In 2007, the School Effectiveness Framework was created to guide school and board analysis and improvement planning. In 2008, a global leader in enhancing student achievement and improvement planning was commissioned to

perform a comprehensive review of all board improvement plans. It made recommendations through a written report back to each board on ways to improve plans and provided the Ministry with a detailed analysis, which formed the basis for refinement in the current year. In 2008/09, the Ministry developed a template of expected components for an effective plan. School board plans were gathered in June 2009 and a written review has been provided to each board identifying areas for improvement. Revised plans, which also incorporate an analysis of the most recent Education Quality and Accountability Office (EQAO) data, are to be submitted to the Ministry in October. These will form the basis for three meetings between ministry staff and school board staff throughout the year as they review plans, progress made, and expected outcomes relating to student learning and achievement.

The Ministry will continue to work with school boards to enhance the improvement planning process, including more effectively documenting feedback to and discussions with boards regarding their plans and actions. The Secretariat will also encourage boards to post their board improvement plans online.

MONITORING AND FUNDING OF PROGRAM INITIATIVES

To achieve its goals of attaining high levels of student achievement and closing gaps in that achievement, the Secretariat and the Ministry have implemented a number of initiatives to ensure that more students succeed. The programs currently offered by the Secretariat are as follows:

- Ontario Focused Intervention Partnership (OFIP)—Schools identified as low-performing or static are given targeted support, such as allowing teachers time away from the classroom to participate in professional

development activities that will help them to increase their effectiveness.

- School Effectiveness Framework—To improve the way planning is done, this program helps boards and schools to identify areas that require attention and implement strategies for enhancing strengths and addressing weaknesses.
- Schools Helping Schools—High-performing schools work with low-performing schools to help the latter improve student performance. The program also provides networks for schools and boards to learn from each other.
- Capacity Building—Strategies are developed to help improve practices throughout the school system. For example, investments are made in initiatives that enhance teacher knowledge and skills.
- Tutors in the Classroom—College and university students tutor elementary school students in literacy and mathematics under the supervision of classroom teachers.
- Schools on the Move—Schools that have made substantial progress in raising student achievement and sustained this progress over several years are highlighted to share successful practices with other schools.

Monitoring Student Achievement Initiatives

To develop its student achievement initiatives, the Secretariat gathers information about the status of student achievement in the province and how to best support large-scale change. It looks at lessons learned from international educational reform efforts, such as research on how to effectively build and sustain improvement. The programs the Secretariat develops are also based on advice from educational advisors hired by the Ministry. Overall, the main impetus behind program initiatives is the Secretariat's collaboration with school boards to set targets, support board-identified projects, and build capacity, all with the goal of improving student achievement.

Program delivery happens at the board level. School boards are responsible for implementing the Secretariat's program initiatives for improved student achievement. But the Ministry is ultimately responsible for achieving its goal of having 75% of 12-year-olds (grade 6 students) meet the provincial standard on province-wide reading, writing, and mathematics testing. According to educational research, the level of educational accomplishment reached by age 12 is generally seen to set the pattern for future learning and academic success that will help students to develop adequate skills to pursue lifelong learning and expand their career opportunities. At a 2005 symposium sponsored by the Secretariat, a former Minister of Education added to this idea, noting that educators must "understand and deal with as many of the child's challenges by age eight and have the job essentially done by age twelve." In other words, there is a relatively small window of opportunity to help improve student achievement. Therefore, it is important that the Secretariat's interventions be timely and that it develop—and ensure that school boards deliver—effective improvement programs to increase student achievement during those crucial years. To be able to do so, the Secretariat must know which program initiatives work best and which should be modified or eliminated.

Government guidelines for transfer-payment accountability require that ministries have the oversight capacity to ensure that recipients (in this case, the school boards) are using the funds for the intended purpose and achieving the desired results. Appropriate oversight would include communication with the school boards on a regular basis, ongoing monitoring to ensure that objectives are achieved (including receiving reports from school boards), and taking corrective action when necessary. The school boards we visited had not carried out sufficient assessments of secretariat initiatives and how these contributed toward improving student achievement. Although the Ontario Focused Intervention Partnership (OFIP) program is assessed annually, a more complete

assessment of its other initiatives would help the Secretariat demonstrate the effectiveness of all its programs. As a result, we questioned whether the Secretariat or school boards have adequate information to know whether secretariat resources are being directed to the program initiatives that provide the most benefit.

The Ministry informed us that it was difficult to evaluate each program individually, that it is the sum effect of all its programs that contributes to student achievement, and that a number of strategies have been pursued to support learning. The Ministry informed us that, for instance, it has achieved two consecutive four-year collective agreements between school boards and their staff. As well, and in contrast to the $288 million the Secretariat has spent on its programs over the last five years, $1.4 billion has been spent on the Primary Class Size Reduction program over that time period. The Ministry advised us that during 2008/09, the original goal for this program was achieved, with 90% of kindergarten to grade 3 classes having 20 or fewer students and all primary classes having 23 or fewer students.

While acknowledging the Ministry's position, we still believe that it would be useful to identify which programs and initiatives work—and do not work as well—in schools. Surveys, focus groups, and even anecdotal evidence may be useful in determining the effectiveness of initiatives, highlighting best practices, and disseminating these practices throughout the province's school boards.

Program Funding

Funding for the Secretariat's programs is allocated to school boards. We reviewed how funding was allocated for six secretariat programs and found that funding for Tutors in the Classroom was allocated on the basis of need and that a set amount was provided for each school for Schools on the Move. However, over $200 million had been spent on the other four programs over the last five years, and either the funding was based on average daily

student enrolment or the Secretariat could not fully explain the method it used to allocate funding.

Funding that is based on average daily enrolment, as opposed to relative need, does not focus scarce resources on the highest priorities that have been identified by assessments such as EQAO testing, nor does it target funding to low-performing schools or boards. This method of funding also does not sufficiently account for the fact that some schools have either students who are more challenging to educate than others or just a much higher percentage of students who need additional help.

One of the programs for which the Secretariat could not fully explain its funding method was the Ontario Focused Intervention Partnership. Our review indicated that funds were allocated partly on the basis of enrolment and partly on the basis of schools' needs, but the Secretariat could not explain the rationale for much of the program's funding. Funding for school boards with 1,000 students or more ranged from $13 to $83 per student. The board with the greatest number of schools designated as low-performing (75 schools where less than half the students achieved the provincial standard) received funding of only $17 per student while several boards with no schools designated as low-performing received twice this amount per student. Such inequities are partly due to the fact that a major portion of Ontario Focused Intervention Partnership funding is based on prior years' allocations, with annual additions for new funding. Under such circumstances, inequities can develop and become more evident over time.

Government accountability guidelines for transfer payments stipulate that agreements for funding should include specific, measurable results for the initiative being funded and should also indicate reporting requirements. School boards should therefore be required to report on the use of funds and the results achieved. We noted that not all school boards submitted reports to the Secretariat and that there was little follow-up to obtain these reports. From our review of the reports that were submitted by school boards, we noted that the financial and

outcome information they provided was insufficient for the Secretariat to know whether funds were spent for their intended purpose, whether there were any unspent funds, or whether the outcomes of the funding were achieved. During the 2008/09 fiscal year, the Secretariat began to recover unspent funds by reducing the current year's grants, but this was possible for only those school boards that reported spending by program initiative.

Use of Financial Agents

In some cases, the Secretariat uses financial agents to act as distributors of ministry funds to third parties or other school boards. These agents include the Council of Directors of Education (CODE) and a number of school boards, and are collectively referred to as "banker boards." Our review of these financial arrangements generally indicated that proper accountability measures to effectively monitor the banker boards and ensure that government funds were being spent appropriately were not in place. Specifically, our concerns included:

- Since the 2004/05 fiscal year, the Secretariat has paid banker boards $1.1 million in administrative fees. We calculated the amount of the fees paid compared to the amount of the contracts and found that, although administration fees averaged about 13%, some fees were substantially more and appeared excessive. We also questioned the need for administrative fees if the Secretariat instead made all its payments directly to school boards.
- Since the 2004/05 fiscal year, often near year-end, the Secretariat has advanced funds to banker boards without specifying their purpose or its expectation that the funds be transferred to recipient boards on a timely basis. As a result, some of the funds have remained unspent over a number of years. Figure 3 shows a list of unspent funds at CODE and at the school board that received the greatest amount of advanced funding.

- We noted the contracts between the Secretariat and CODE and the banker boards that we reviewed were vague. They did not contain specific requirements such as the purpose of the funds advanced, the specific measurable deliverables, and the time frame of the contract. Without a properly constituted agreement, it is difficult for the Secretariat to ensure that funding expectations and obligations are fulfilled.
- Because the Secretariat had poor financial records and controls, it could not provide us with a list of the total funds on deposit with various banker boards. However, we were able to determine that one board was the Secretariat's main distributor of funds to the other boards. Our review of the largest banker board showed that, of the $22 million advanced to the board, the Secretariat had information on how only $5.8 million had been spent. The Secretariat could not provide us with documentation showing that it had approved payments or where the remaining balance had been spent. We contacted the board and were provided with a list of the fund recipients, but we could not determine whether the funds disbursed were used for the intended purpose.
- The Secretariat did not properly monitor the use of funds at CODE. Because the Secretariat either did not maintain proper financial records or had only limited documentation, we selected a sample of 16 payments CODE

Figure 3: Funds Unspent by Two Banker Boards

Source of data: Council of Directors of Education and York Region District School Board

Fiscal Year	Funds Advanced	Funds Unspent at Year End (Cumulative)
2004/05	8,343,699	8,090,537
2005/06	26,400,000	26,133,689
2006/07	15,500,000	29,060,115
2007/08	4,927,149	18,126,319
2008/09	1,350,000	12,126,811

had made to determine whether the expenditures were supported by documentation. We obtained this information directly from CODE and found that of the 16 disbursements (totalling $555,000), only two of them were made under a letter of agreement, contract, or proposal, and only four payments were supported by invoices. We were not able to match $108,000 of the total $555,000 in payments to specific funding proposals. Furthermore, we reviewed expenditure documentation for 86 proposals that had been approved for funding, and found that the Secretariat could provide information to support only $18 million in expenditures out of a total of $24 million paid out by CODE.

The Secretariat needs to implement proper financial controls, maintain complete financial records, and put better monitoring procedures into place. As well, the Secretariat should reconsider the need to pre-flow funds to banker school boards.

RECOMMENDATION 3

To ensure that student achievement initiatives are effective and that limited resources are used appropriately, the Literacy and Numeracy Secretariat should:

- formally evaluate how well all its program initiatives contribute to improving student achievement, and modify or eliminate the less effective initiatives;
- ensure that its program funds are allocated to the areas of greatest need;
- ensure that program funds are being spent for the intended purpose;
- ensure that expenditures made by the Council of Directors of Education are appropriately approved and supported; and
- reconsider pre-flowing funds to "banker" school boards.

MINISTRY RESPONSE

The Ministry agrees with the recommendation.

To assess the effectiveness of the Ministry's overall strategy to improve student achievement, an external review by a leading Canadian research company was commissioned. The report noted that "over its brief history, the Secretariat has had a major and primarily positive impact on Ontario's education system." In addition, the most recent annual evaluation of the Ontario Focused Intervention Program (OFIP) demonstrates that OFIP schools achieved improvements in student achievement that were at least double the improvements observed in schools in general. A current analysis of the impact of the School Effectiveness Review program indicates that schools involved in district effectiveness reviews achieved greater gains than did schools in general. The Ministry will develop a schedule to review its current programs over a three-year period.

Funding decisions within specific programs are made in accordance with several factors: enrollment, number of low-performing schools, geographic and distance factors, as well as the readiness of a board or school to implement the changes needed. For example, one northern board covering a large geographic area, with 1,357 students, received $112,585 in funding, or $83 per student, while a board in the south with more than 240,000 students received more than $4 million, or $17 per student. The Ministry accepts that it needs to be more transparent and document its funding decisions for each of its program areas.

The Ministry also acknowledges that improved monitoring of the use of funding by boards would better inform decision-making. During the 2008/09 school year, boards were required to report spending by program and funding allocation and provide feedback on the implementation and impact of the various

initiatives. The Ministry will review and improve this process and its documentation. Since the audit, the Ministry has received documentation that supports the full amount paid out by the Council of Directors of Education. The Ministry will assess its use of lead boards as well as review and improve its financial oversight procedures and documentation with respect to its financial agents to be in accordance with the government's Transfer Payment Accountability Directive.

CONSISTENCY OF STUDENT ASSESSMENTS

In the elementary education system, a number of student assessments are made throughout the school year. Of all these assessments, the only ones that parents generally see are report card marks and the EQAO test scores for grades 3 and 6. It is important that the information provided by these assessments is relatively consistent. In our 2003 audit of Curriculum Development and Implementation, we noted that one possible method of measuring consistency in student assessment for some subjects is to compare report card marks to EQAO scores. We recommended that the Ministry implement procedures to monitor and report on consistency in the student assessment practices used in the province. Comparing report card marks to the EQAO scores could highlight areas that the Ministry or EQAO may need to address, identify students who need to be followed up on, and assist in planning. A more in-depth review may reveal individual schools, classes, or students that may be outliers.

During our current audit, we noted that the Ministry did not have procedures in place to assess the consistency between report card marks and EQAO scores. From our visits to school boards, we noted that some boards do compare the marks with the scores. However, such comparison is mainly left up

to school principals and teachers to do when planning and developing strategies for helping students improve overall achievement.

At each school board we visited, we did our own comparison of the report card marks—for reading, writing, and mathematics—to EQAO scores (of an average of 22,500 students in grades 3 and 6). Figure 4 shows our analysis of the last two years for both grades.

Approximately half of the student report card marks for both years matched EQAO scores. An additional 43% of report card marks were within plus or minus one assessment level of the EQAO scores. We also noted that in both years over twice as many report card marks exceeded EQAO results than fell short of them—31% of report card marks were higher than the EQAO result while 15% of report card marks were lower. We believe that the Ministry should conduct a similar comparative analysis and ensure that school boards follow up on significant differences. For instance, the fact that the EQAO score of 4% of students bears no resemblance to their report card mark could indicate issues requiring teacher training on curriculum expectations and what student work at each achievement level should look like.

Figure 4: EQAO Scores Compared to Report Card Marks (%) for the Schools We Visited

Source of data: Education Quality and Accountability Office, and Ministry of Education

	2006/07	2007/08
scores equal report-card grade level	53.2	53.6
discrepancy of one grade level	43.0	42.9
discrepancy greater than one grade level	3.8	3.5
Total	**100.0**	**100.0**

RECOMMENDATION 4

To help ensure that students are being assessed in a consistent way, the Ministry of Education should monitor the results from different types

of assessment, especially those from report cards and Education Quality and Accountability Office (EQAO) tests, to identify any major discrepancies for follow-up.

MINISTRY RESPONSE

The Ministry agrees with this recommendation. Over the past three years, the Ministry has worked with school boards to develop the technical capacity to gather student and school data to permit analysis. The Ministry now holds student report card data over several years and is in a position to undertake a study of student report card and EQAO results to determine the degree of comparability between the two indicators and to identify appropriate areas for follow-up. In early October, the Ministry issued a competitive tender to initiate this study.

At present, in boards where there is a significant gap between report-card and EQAO results, the results are examined at the school level by teachers and principals. There could be a number of reasons for this gap, including differences between the two assessment processes and specific circumstances pertaining to the student and family. Such situations are most effectively assessed in the classroom, where the needs of individual students can be addressed.

ONTARIO STATISTICAL NEIGHBOURS INFORMATION SYSTEM

The Ontario Statistical Neighbours is an information system for analyzing school performance, demographics, and school program information. The information in the system comes from three main sources: Statistics Canada (2006 Census data), the Ministry of Education, and the EQAO. All publicly funded schools in the province with elementary enrolment are included in the database. It is intended to help the Secretariat with its strategic planning and to help identify similar schools to

facilitate the sharing of best practices. It supports strategic planning, capacity building, and program development, and provides data to help schools and boards make decisions based on research and evaluation. Ontario Statistical Neighbours does not rank schools, nor does it identify any specific individual, student, teacher, or principal.

This system provides the Secretariat with useful information for decision-making and monitoring. For example, the Secretariat can relate school performance information with contextual data, such as the percentage of students living in low-income households, students whose first language learned at home is different from their language of instruction, and students with special education needs.

Eight elementary school principals whom we interviewed told us that information from Ontario Statistical Neighbours is useful for planning and for developing school improvement plans and strategies for improving student achievement. However, the principals' use of the tool was infrequent because the principals did not have direct access to the system—instead, they had to go through the time-consuming process of getting the information from their student achievement officers.

We noted that a number of school boards have therefore developed their own systems to gather information that is similar to that found in Ontario Statistical Neighbours. In our view, given that there are 72 school boards in the province, enabling school boards to have direct access to Ontario Statistical Neighbours for planning purposes could be more economical than the boards having to develop and maintain individual systems.

RECOMMENDATION 5

To ensure that all school boards and schools can obtain useful and relevant information to develop strategies for improving student achievement, the Ministry of Education should consider granting them direct access to the Ontario Statistical Neighbours information system. This would be more cost-effective than

school boards having to develop and maintain their own systems.

MINISTRY RESPONSE

The Ministry agrees with this recommendation. For the past two years, school boards have been able to access the Ontario Statistical Neighbours database by contacting the Ministry. Surveys and focus groups with school board senior staff and principals have informed the Ministry that the database would be very useful to super-intendents of schools and of some interest to principals. As a result, the Ministry has been working for the past year to develop an online version of the database that would give school boards direct access to the information.

Ministry of Finance

OntarioBuys Program

Background

OntarioBuys is a government initiative launched in 2004 to achieve savings in the procurement of goods and services in the broader public sector (BPS), especially by hospitals, school boards, colleges, and universities. There is no specific legislation or regulation under which OntarioBuys operates. The BPS Supply Chain Secretariat, part of the Ministry of Finance (Ministry), is responsible for administering and managing OntarioBuys. In March 2009, the government announced in the provincial Budget that it would introduce legislation to expand the program's mandate to include other sectors.

While certain other provinces may provide funding to improve a specific component of the supply chain, Ontario is the only province in Canada with a formal program that provides funding and advice to BPS organizations to help them improve their supply-chain-management practices for the entire supply-chain spectrum. Specifically, OntarioBuys encourages BPS organizations to engage in collaborative ordering, delivery, warehousing, and payment for goods and services. It also funds projects that propose cost-saving improvements in other administrative processes, such as human resources, payroll, and financial management. According to the 2008 Ontario Budget, the goal of OntarioBuys is to reduce the time and money spent by the BPS on procuring goods, and funnel savings back into front-line services.

Although OntarioBuys commenced its operations in the 2004/05 fiscal year, its first full year of operation was 2005/06. Since 2004/05, OntarioBuys has provided funding of about $148 million for two areas. About $88 million has been paid for the formation and/or expansion of collaborative groups called "shared-service organizations" (SSOs). An SSO is a centralized organization that BPS institutions join as members. The SSO acts on behalf of its members to obtain better prices for goods and services through group purchasing. The SSO may also serve its members by developing more efficient purchasing practices and making other collaborative arrangements, such as establishing centralized warehouses, distribution systems, and information systems. The remaining $61 million has been used to fund 53 projects aimed at helping BPS institutions become more efficient and effective in their supply-chain and other back-office processes.

The BPS Supply Chain Secretariat has increased its staffing from 17 people in 2007/08 to 31 in 2008/09 and engaged external consultants to assess BPS business-case proposals for funding of projects over $1 million.

Figure 1 shows OntarioBuys expenditures for the five years ended March 31, 2009.

Figure 1: OntarioBuys Total Expenditures, 2004/05–2008/09 ($ million)

Source of data: OntarioBuys

Legend:
- funding provided to SSOs and projects
- direct operating expenses

(x-axis: 2004/05, 2005/06, 2006/07, 2007/08, 2008/09)
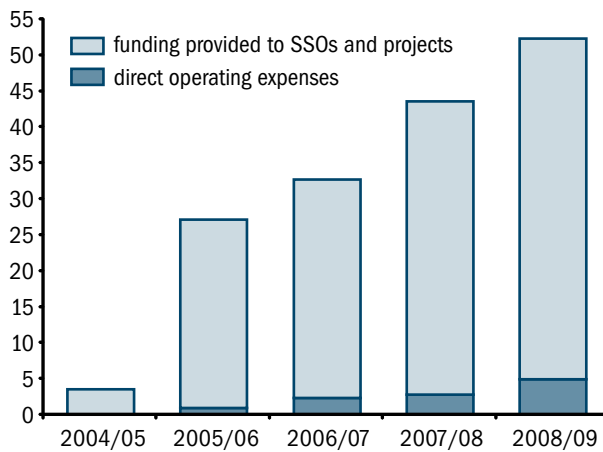
Audit Objective and Scope

The objective of our audit was to assess whether OntarioBuys had adequate systems and procedures in place to:

- ensure that projects were approved and delivered in accordance with program objectives, policies, and funding agreements; and
- measure and report on OntarioBuys' contribution to improving the cost-effectiveness of government and BPS services to Ontarians.

The scope of our audit included review and analysis of relevant files and administrative procedures and interviews with appropriate OntarioBuys staff, senior management of three other ministries—Health and Long-Term Care, Education, and Training, Colleges and Universities—as well as senior management at shared-service organizations and at various broader-public-sector institutions such as hospitals, universities, colleges, and school boards. We also met with the Ontario Hospital Association and interviewed senior management of various local, regional, and national group purchasing organizations. In addition, we reviewed relevant audit reports issued by the Ministry's internal audit services. Wherever possible, we relied on their audit work to reduce the extent of our audit.

Summary

In March 2009, the government announced in its Budget that OntarioBuys had helped broader-public-sector (BPS) entities redirect $45 million in savings toward front-line services. All $45 million came from the hospital sector, of which $20 million was from one shared-service organization (SSO). However, almost all of this $20 million in savings was kept by the SSO and was not redistributed to the hospitals to provide front-line services. Instead, most of the savings were retained by the SSO for developing information technology for its back-office processes. The balance of the reported savings came from a number of projects; however, OntarioBuys did not verify these savings nor was it able to demonstrate that the reported savings had actually been invested in front-line services. Our review indicated that for a number of projects, the savings figures could not be substantiated.

We acknowledge that OntarioBuys has undertaken significant efforts to promote its collaborative supply-chain initiatives. BPS entities that received OntarioBuys funding advised us that the additional resources provided have enabled them to focus more attention on the supply-chain area. Nevertheless, participation is currently well below the level required for OntarioBuys to achieve its goals, particularly in the education sector. Our specific findings are as follows:

- The province has spent about $58 million to fund the formation or expansion of nine SSOs in the health sector and $30 million for one SSO in the education sector. At the time of our audit, 50% of Ontario hospitals with 70% of Ontario's total beds were participating in

health SSOs. There was limited participation in the education SSO, which may be due in part to the fact that various educational institutions had initiated a number of their own purchasing consortia over the years.

- Since 2005, the education SSO has received $30 million in approved OntarioBuys funding. The SSO had committed to sign up 13 of the province's 116 school boards, colleges, and universities as well as 1,000 suppliers by June 2009 to participate in a new electronic purchasing system called e-Marketplace. However, the e-Marketplace had yet to become operational by June 2009, and no institutions had formally signed up to be members. Subsequent to our audit, OntarioBuys informed us that the e-Marketplace would be operational by October 2009.

We noted three operational areas at OntarioBuys where improvements are required—the review of business cases submitted for funding approval, the monitoring of funded projects for achievement of contract deliverables, and competitive procurement processes:

- OntarioBuys bases its funding approvals for SSOs on business cases prepared by BPS organizations. The business cases are to include estimated costs and potential savings, and OntarioBuys engages consultants to review on its behalf all business cases for projects with funding of over $1 million. The underlying business case for the education-sector SSO—the largest SSO funded—projected that its collaborative purchasing and e-Marketplace initiatives would yield benefits/savings of $669 million over five years. This included total savings to group members of $294 million through their use of the e-Marketplace and $375 million from group purchasing. However, our review of the business case, file documentation, and external consultants' reports found that the estimated savings were often based on

unreasonable assumptions. We also found no evidence that three-quarters of the project risks identified had been resolved. OntarioBuys' management told us that the issues had been discussed and addressed, but there was no documentation to show how the risks, including a number of high risks, were resolved.

- Similarly, with respect to the $61 million spent on projects for improving supply-chain and back-office processes, evidence was lacking that projected costs and savings were appropriately assessed. For example, one project's projected savings were based on a hospital's extrapolating the results from its emergency unit to the entire hospital without any evidence to support the reasonableness of such a projection. For another project, the estimated costs submitted for funding were revised three times over a four-month period, from $455,000 to over $1 million. The amount of OntarioBuys funding was based on a percentage of estimated costs. However, we found no documentation on file to show that either the cost revisions or the projected savings had been properly assessed. OntarioBuys indicated that these projects were approved prior to April 2007 when it did not have sufficient staff.

- Once projects were approved and funds provided, OntarioBuys did not have program-specific guidelines for consistent and effective monitoring of their progress. There were no program-specific guidelines for conducting site visits, documenting work performed, verifying deliverables prior to the release of final payments, and closing files for completed projects. We noted that some files contained detailed review notes with good supporting documentation to verify the reported project status. However, many others did not. OntarioBuys indicated that it had hired more staff in 2008/09 to strengthen the monitoring processes. As a result of the insufficient

number of staff devoted to monitoring in the earlier years and the lack of program-specific guidelines, projects—especially those approved before 2008—were not consistently and effectively monitored.

- In response to our request for a listing of projects and their related savings that made up the total reported savings of $45 million announced in the Ontario Budget, OntarioBuys provided a list supporting the project savings up to the end of March 2009. Our review of a sample of projects from this list, which accounted for 75% of the $45 million, indicated that, other than for one project with savings of $20 million, the reported savings provided to us were questionable. For example, savings totalling $7.3 million were reported for two projects for the fiscal years from 2006/07 to 2008/09, yet these two projects were supposed to have been completed by December 2006. In fact, neither project was completed at the time of our audit. Subsequent to our review, OntarioBuys advised us that there were other savings not included on the original list and that, notwithstanding the concerns we raised, the reported total savings of $45 million constituted a reasonable estimate.
- According to OntarioBuys, the SSOs and BPS organizations involved in the projects have spent about $45 million of the funding provided to them since the 2004/05 fiscal year to hire some 270 consultants for a variety of reasons. We reviewed a sample of consulting contracts totalling $15 million from various projects and found that over 40% did not comply with the competitive procurement requirements of the project funding agreements.

OVERALL MINISTRY RESPONSE

The Ministry welcomes the review and findings of the Auditor General. The recommendations will be used to improve OntarioBuys to ensure it delivers value for money to Ontarians.

Ontario's broader-public-sector (BPS) organizations spend more than $10 billion annually acquiring the goods and services needed to deliver health care, education, and other vital public services. This substantial and complex expenditure of public money, cumulatively as large as the supply chains of some of Ontario's largest corporations, needs to be efficient and effective for proper support of front line services and for BPS organizations to satisfy their accountability obligations.

As the Auditor General has noted, Ontario is the only province with a formal program to help BPS entities improve their practices for the entire supply chain spectrum. OntarioBuys has undertaken significant efforts to promote integrated supply chain leading practices, predominantly through the introduction of its Supply Chain Guideline.

We appreciate the Auditor General's efforts to help improve OntarioBuys to ensure it delivers value for money to Ontarians. The Ministry will use the recommendations of the Auditor General's report as a basis for moving forward with the OntarioBuys program. The Ministry is already working to improve documentation of the program's internal business processes and reported savings, and to monitor its funded projects more closely. The Ministry recognizes that some areas need to be strengthened, and the recommendations will help us do so.

Detailed Audit Observations

PROMOTION AND COMMUNICATION

As a new initiative, OntarioBuys has made considerable efforts to publicize and promote its program to other government ministries and

the broader public sector. Promotional activities conducted by OntarioBuys designed to increase BPS participation in the program included:

- holding joint seminars and conferences with the Ontario Hospital Association on supply-chain-management practices;
- attending and presenting educational sessions on supply-chain-management practices within the health-care sector;
- meeting with various universities, colleges, and school boards in Ontario to promote the OntarioBuys program;
- consulting with BPS sectors and obtaining feedback on the supply-chain guidelines that it was developing;
- working with other ministries to promote the OntarioBuys program to their respective BPS organizations; and
- informing and educating suppliers on the BPS initiatives funded by OntarioBuys.

Our interviews with senior management at other ministries as well as with staff at various health and education associations showed that they generally supported the OntarioBuys program.

One significant communications component of OntarioBuys is the dissemination of leading practices and the sharing of information to help BPS members spend their money more effectively. In this regard, OntarioBuys has published a supply-chain guideline; a compendium of leading practices in integrated supply-chain management; a report on supply-chain modernization in Ontario health care; sample business-case templates for BPS organizations to use; and performance-measurement-related documents for the hospital sector.

OntarioBuys informed us that, following the recommendations of a 2007 consultant's report, it plans to improve its website to enable increased dissemination of the above-noted documents as well as enhanced communication among OntarioBuys, its projects, and the broader public sector.

As of the time of our audit, OntarioBuys had developed annual communication and promotion plans to focus on objectives for the coming year, but it had not developed any long-term communication and promotion plans to address the program's overall goals. OntarioBuys informed us that, prior to the March 2009 Budget, it developed only short-term plans because the program was an annual budget initiative that could have been terminated at any time.

The 2007 consultant's report also indicated that communications were not performed to a "desired" level and that existing staffing had limited additional communications capacity. In response to this, the BPS Supply Chain Secretariat in late 2008 established a new unit with designated staff to concentrate on communications activities, including the development of a long-term communications plan.

APPROVAL OF REQUESTS FOR FUNDING

As of March 31, 2009, OntarioBuys had disbursed about $88 million for the development or expansion of SSOs. The funding enabled these SSOs to provide their members with wide-ranging assistance such as group purchasing, centralized warehousing and distribution, and implementation of management information systems so that their supply chains are better managed. OntarioBuys had also disbursed about $61 million for the development and implementation of projects focused on improving specific areas of the supply chain for individual institutions. Examples of such projects included electronic cataloguing, warehouse automation, and research-data sharing. According to its guidelines, OntarioBuys can fund up to 100% of the costs that parties applying to become an SSO incur as they put together their SSO proposal, including all the costs of background analysis and preparation, up to 75% of the costs of actually forming the SSO, and up to 85% of the costs of the projects for improving the supply chain of individual institutions. Figure 2 gives an overview of the funding OntarioBuys has approved and funded for these purposes over the last five years.

Figure 2: OntarioBuys Funding, Approved and Paid, 2004/05–2008/09, ($ million)

Source of data: OntarioBuys

Purpose	Amount Approved	Amount Paid
SSOs		
9 health SSOs[1]	81.9	57.5
1 education SSO[2]	41.1	30.1
Total—10 SSOs	**123.0**	**87.6**
Supply-chain-improvement Projects		
45 projects—health sector	66.8	57.2
4 projects—education sector	2.7	2.3
4 projects—other sectors	3.6	1.1
Total—53 Projects	**73.1**	**60.6**
Total	**196.1**	**148.2**

1. with 79 signed-up hospitals
2. with 0 signed-up members

OntarioBuys approves funding requests—whether for SSOs or for supply-chain-improvement projects—on the basis of a review and evaluation of the applicant's business case. A business case typically includes a description of the proposal's goals, expected benefits, and estimated costs, as well as an implementation strategy. OntarioBuys may request additional information or support during the course of the review. For proposals requesting more than $1 million, OntarioBuys engages external consultants to review the business case and to identify significant risks or concerns. The Ministry of Finance's internal audit staff also conduct a general review of the business cases of proposals requesting more than $1 million. If the review leads to approval, the applicant must sign a transfer-payment agreement that sets out the terms and conditions for funding.

Our observations with respect to requests for the funding of both SSOs and individual supply-chain-improvement projects are in the following sections.

SSO Requests

Since its inception, OntarioBuys has approved and funded business-case requests for 10 SSOs—nine in the hospital sector and one in the education sector. These SSOs are expected to be self-sustaining, primarily through savings generated from their members' obtaining lower prices for their purchases and implementing more efficient supply-chain practices.

To assess the adequacy of the OntarioBuys review-and-approval process for requests for SSO funding, we examined the business cases and project files with the largest projected savings and costs.

Health-sector SSOs

As of March 31, 2009, OntarioBuys had disbursed about $58 million for the formation of nine health-sector SSOs, as shown in Figure 3. Four of the SSOs existed before the establishment of OntarioBuys. OntarioBuys funding enabled these four organizations to expand and include additional institutions. Prior to the formation of these SSOs, Ontario hospitals and other health-care-sector BPS organizations relied mainly on two national purchasing groups to meet their collaborative purchasing needs.

We reviewed the proposal for the largest SSO, "A". As Figure 3 indicates, prior to the establishment of OntarioBuys, 18 hospitals from two separate working groups were exploring in 2003 the potential savings from collaborative purchasing and other supply chain functions. Subsequently, these hospitals decided to merge into one group to review these areas for potential savings. When OntarioBuys invited applications for the formation of SSOs, this group of hospitals applied for funding in December 2004 to form an SSO. OntarioBuys approved funding of $22 million for this SSO in February 2005 and added another $2 million in funding as a result of changes to the SSO agreement. By March 2006, six of these hospitals had decided to join other SSOs or opted to buy supplies through national purchasing groups. We found that the costs that the proposed SSO stated for its business case and the savings estimates were reasonably supported. The SSO has since generated savings and become self-sustaining.

Figure 3: Funding for Health-sector SSOs

Source of data: OntarioBuys

SSO	Funding ($ million)	Pre-existing/ New SSO
A	24.2	pre-existing[1]
B	8.1	new
C	7.7	new
D	4.5	pre-existing
E	3.9	new
F	3.8	new
G	3.1	pre-existing
H[2]	1.7	new
I	0.5	pre-existing
Total	**57.5**	

1. Before the OntarioBuys program began, the SSO that became "A" consisted of two working groups that subsequently merged in 2004.

2. "H" was proposed as an SSO for the northwest and northeast areas of the province. The proponent was provided with $1.7 million to assess the feasibility of the SSO for this region and concluded that it would not be viable. Subsequent to our audit, OntarioBuys informed us that they have recovered $600,000 from the proponent.

One proposed health SSO covering the northwest and northeast parts of the province—"H" in Figure 3—was found to be not viable after $1.7 million was provided to this proponent to assess the feasibility of forming such an SSO. Subsequent to our audit, OntarioBuys informed us that $600,000 of this total has been recovered.

Education-sector SSO

The single SSO proposal from the education sector was the largest OntarioBuys initiative in terms of projected benefits/savings—$669 million over five years. This included estimated savings to group members of $294 million on implementation of an electronic e-Marketplace purchasing site and $375 million from group purchasing. Our review of the business case, file documentation, and external consultants' reports found that OntarioBuys' approval of a total of $41 million in funding was based on questionable assumptions about savings and the level of participation of suppliers and educational institutions. Specifically, we found the following:

- An external consultant was engaged in 2007 to review and validate the expectations, assumptions, and methodology used in preparing the proposal, including the financial model (operating revenues, expenses, and balance sheet), implementation timetable, resource plan, and the anticipated benefits from e-Marketplace and group purchasing. Although the consultant's report did not address the reasonableness of the specific assumptions used, it did identify over 200 risks relating to this project. For example, one risk was low supplier participation because most suppliers were not e-Marketplace ready and would have to invest heavily in resources to connect with the system. Furthermore, we found that follow-up action was taken for only about 50 of these over 200 project risks. OntarioBuys informed us that it discussed and addressed the remaining 150 risks—but there was no documentation to show how the risks were resolved. A number of them were clearly identified as high or medium risks by an external consultant. For instance, the consultant recommended that supplier readiness be assessed to mitigate against the risk of low supplier participation, but this assessment had still not been performed at the time of our audit.

- In contrast to projected savings to be achieved by the largest health-sector SSO, which were based on participation by only 12 members, the projected savings to be achieved by the education-sector SSO required that 116 educational institutions participate fully both in group purchasing and in e-Marketplace. However, 65% of Ontario's 44 colleges and universities and 80% of Ontario's 72 school boards were already participating in various local purchasing collaborative groups. OntarioBuys had not realistically considered the likelihood that these institutions would not fully participate in both group-purchasing and e-Marketplace services. In fact, no

institutions had even signed up as members of e-Marketplace at the time of our audit.

- The $375 million in projected savings from group-purchasing activities was determined arbitrarily. On the one hand, the business case extrapolated this amount on the basis of 116 member institutions spending $4.4 billion on purchases. On the other hand, the minutes of an SSO board of directors meeting indicated that the same $375-million figure was arrived at on the basis of $3.3 billion in purchases. It appeared that the business case essentially worked back from the $375 million of savings to arrive at the necessary expenditures required to generate the projected savings. Subsequent to our audit fieldwork, OntarioBuys provided us with a new group-purchasing-savings estimate of $113 million over five years, a 70% decrease from the original projection but still more than the amount of funding OntarioBuys originally provided to the SSO.

- The methodology used in the education sector's proposal to calculate the $294 million in estimated process savings from the use of e-Marketplace was based on extrapolating one university's 2004 electronic procurement savings to 116 institutions. We found no evidence that OntarioBuys staff or its consultants assessed the reasonableness of this methodology or validated the data used. OntarioBuys staff indicated that they also found the savings of $294 million provided in the SSO business case to be unreasonable, which is why they did not include the $294 million in their analysis of the business case. However, the analysis itself did not explain why the $294 million had been excluded.

Project Requests

In addition to reviewing OntarioBuys' approval process for SSO requests for funding, we also

reviewed its approval process for a sample of requests for funding for projects to improve the supply-chain practices of individual institutions. We found inconsistencies in OntarioBuys' evaluations and related documentation, as well as insufficiently documented business-case reviews. It was left up to individual OntarioBuys staff reviewers to follow up and document the information they deemed to be important, but there was no documented evidence of supervisory oversight to ensure that significant concerns were being satisfactorily addressed. The following are some examples:

- One project involved the implementation of an information system to allow educational institutions and students to access research sites. The project revised its estimated costs numerous times, from an initial $455,000 to a final estimate of over $1 million. However, our review showed no documentation on file to validate the various cost revisions. Project review staff told us that verbal discussions did occur with the project managers, but we found no documented explanation of the reasonableness of these cost revisions. The same project estimated 40% in cost savings from collective purchasing, or more than $500,000 annually. However, we found no documentation that OntarioBuys assessed the reasonableness of this estimate when approving its additional investment.

- For another project that received $1 million in OntarioBuys funding, an external consultant noted that the project's estimates for the cost of implementation were "deliberately conservative" and that implementation would likely cost 30% less. However, we found no documentation of any follow-up to resolve the issue. Because projects are funded on the basis of a percentage of projected costs, overestimating costs could result in OntarioBuys distributing excessive amounts of funding to these projects. We also noted in this regard that OntarioBuys had no program-specific guidelines for recovery of overfunded

amounts. Subsequent to our audit, OntarioBuys advised us that it has initiated recovery actions on three projects and has received funding back from two of them.

- Another project extrapolated the savings achieved from reductions in staff time and inventory in a hospital emergency room to the entire hospital. OntarioBuys did not request the emergency-unit data to verify the results, and we found no documentation to show that OntarioBuys assessed the reasonableness of this extrapolation.

We noted that there was no central tracking of the comments and issues that reviewers identified in their project reviews of each file. This made it much more difficult to determine whether issues had been addressed or whether action was still required.

OntarioBuys acknowledged that supervisory oversight was not well documented in the years prior to 2007/08. According to OntarioBuys, as more staff have been hired, the supervisory-oversight process and related documentation have become more rigorous. It has also developed a centralized summary template tracking reviewers' comments that is to be used for project reviews.

RECOMMENDATION 1

To ensure that estimated costs and benefits in business cases are appropriately assessed before being approved, OntarioBuys should:

- obtain the necessary supporting materials from applicants to appropriately assess the reasonableness of projected savings and estimated costs; and
- address identified risks and document actions taken or to be taken to mitigate these risks.

MINISTRY RESPONSE

OntarioBuys will develop guidelines to codify and strengthen current practices with respect to the assessment of savings and costs by January 31, 2010, and will provide mandatory training to staff once these guidelines are developed.

OntarioBuys will develop guidelines on the identification, documentation, and tracking of project risks by November 30, 2009, and will provide mandatory training to staff once these guidelines are developed.

MONITORING OF FUNDED PROJECTS AND EXPENSE CLAIMS

Oversight of the Status of SSOs and Projects and the Achievement of Deliverables

The Ontario government requires that OntarioBuys comply with the Transfer Payment Accountability Directive in its transfer payment agreements with the BPS for funded projects. The Directive requires that, once transfer payment agreements are signed, OntarioBuys have the oversight capacity to ensure, through ongoing project monitoring on a timely basis, that projects are providing the services for which the funds were received. Transfer payments must be monitored after disbursement to ensure that all contracted conditions and deliverables are being met. When recipients fail to meet the transfer payment conditions, the unspent funds must be assessed then recorded as an accounts receivable balance, as required by the government's Transfer Payment Recovery Operating Policy.

Although OntarioBuys is required to comply with the above directives, we found that it had not developed program-specific guidelines for consistent and effective monitoring of transfer payments. Specifically, no guidelines existed outlining requirements such as the level and type of documentation needed to support the review conducted; timeliness and extent of the review and monitoring of the project status and required achievements; management of payments; timeliness and frequency of site visits and work required, if any, during the site visits; and procedures to be performed prior to the release of

the final project payments and the closing of files for completed projects.

In general, the level of documented monitoring varied among project files. We did note that some files contained detailed review notes with good supporting documentation to verify the reported project status. However, many others did not. For instance:

- At the time of our audit, OntarioBuys reported cumulative savings of $4.8 million over three years from an electronic purchasing project that had a completion date of December 31, 2006. Our audit showed that OntarioBuys had committed $2 million to the project and that the final payment of $600,000 was made in March 2007. We found no evidence that OntarioBuys verified that the funds were spent in accordance with the project's funding agreement and that the project had actually been completed before the release of the final payment. When we approached the BPS organization's project management to verify the reported savings, they informed us that the project was still not completed. Our discussion with OntarioBuys staff indicated that they learned of the project's incomplete status only when a new project manager informed them in February 2008. Furthermore, OntarioBuys staff informed us that they had verbally approved a project completion extension to September 2008. However, other than reporting the above $4.8 million in achieved savings, OntarioBuys undertook no formal review of the project's status after granting the verbal extension. When we inquired about that status, OntarioBuys staff visited the project site and found that $636,000 of its funding was still unspent, with $94,000 in interest adding to it. When we followed up with project management in May 2009, they informed us that the funds had still not been spent and that the expected project completion date had been revised again to later this year.

Subsequent to our audit, the reported savings of $4.8 million were revised downward to $1.1 million.

- OntarioBuys reported cumulative total savings for another project of $2.5 million ($820,000 annually) over a three-year period from the 2006/07 fiscal year to 2008/09. This initiative, also related to electronic purchasing, was to have been completed by December 31, 2006. However, when we approached the BPS organization's project management, the manager told us that the project was not completed and that he was unsure how the savings number was arrived at because no baseline had been established against which potential savings could be measured. Approved funding for the project was $1.7 million, and total payments made up to March 2007 amounted to $1.3 million. The balance was to have been released later in 2007 when the project was to have been completed. However, at the time of our audit, the project was still ongoing, and we found no documents relating to an extension. After we raised the issue with OntarioBuys, the reported savings of $2.5 million were revised downward to zero.

- Between 2005 and 2008, OntarioBuys disbursed a total of $6 million to the education-sector SSO to fund its development of an implementation plan and business case. The funds were paid through three separate agreements and amendments to those agreements. But only for the first agreement did OntarioBuys request an expenditure report for actual spending. OntarioBuys did not request any final actual expenditures for the other two agreements to assess whether there were unspent funds.

Our audit also found that OntarioBuys staff were manually monitoring their assigned projects through tools such as Excel spreadsheets and individual file notations. An information system to help staff track individual project progress, required

deliverables, the achievement of deliverables, outstanding information to be reviewed, and the progress of payments need not be complex nor costly. Ontario Buys informed us that it was in the process of developing an information system to address this concern.

RECOMMENDATION 2

To ensure that the shared-service organizations (SSOs) and projects that OntarioBuys funds achieve contract deliverables and that funds are used for the intended purpose, OntarioBuys should:

- develop monitoring guidelines to assist its staff in consistently conducting appropriate oversight of the SSOs and projects funded; and
- monitor, on a timely basis, the progress of funded SSOs and projects against contract deliverables and take appropriate action when there are significant delays.

MINISTRY RESPONSE

OntarioBuys will develop guidelines to codify and strengthen its current project-monitoring practices by December 31, 2009, and will provide mandatory training to staff once these guidelines are developed. OntarioBuys is upgrading to an electronic transfer payment tracking system, which it expects to be completed in December 2009.

OntarioBuys will provide mandatory training to staff on the TP Accountability Directive, including modules on the assessment of business cases and project monitoring.

Consulting Services

Funding agreements for all OntarioBuys SSOs and projects include a copy of the OntarioBuys procurement policy guidelines. SSOs and projects

are required to comply with these guidelines when acquiring services, including those of consultants.

The guidelines state that SSOs and projects must use an appropriate level of competition to obtain the best value for funds to be spent on consultants. In particular, if the estimated contract value is $25,000 or more, but less than $100,000, SSOs and projects must invite at least three potential vendors to submit written quotes and proposals. If the estimated contract value is greater than $100,000, an open and transparent public Request for Proposal (RFP) process must be followed. Exceptions to these competitive requirements must be approved in writing by the Ministry.

According to OntarioBuys, the SSOs and the BPS organizations involved in funded projects since 2004/05 have spent about $45 million for some 270 consultants. However, OntarioBuys did not maintain information on these consultants, such as the purposes for which they were hired, the contract rates and amounts, and the subsequent payments made. Upon our request, OntarioBuys prepared a list of consultants from information gathered from the various SSOs and projects. Using this list, we reviewed a sample of consulting contracts totalling $15 million from various SSOs and projects and found the following:

- Almost half of the contracts we reviewed did not comply with the guidelines for obtaining competitive quotes. Predominantly, single-sourcing was used to contract for consultant services. According to the guidelines for significant contracts, single-sourcing is allowed only if a consultant has specific knowledge that cannot be provided by any other party, if it is an urgent situation, or if only one vendor can provide the requested services. In addition, approval for single-sourcing must be obtained in writing from the Ministry. In the cases noted above, we found no written approval to allow for single-sourcing.
- For 40% of the completed consulting contracts, the total payments exceeded the

contract ceiling price, and most of these consultants continued to be paid beyond the contract period. We found no evidence of amended contracts to support the final payment amounts or the extension of the payment period.

OntarioBuys staff said that they were also concerned about SSOs and projects not complying with the procurement guidelines, especially given that BPS project managers had all signed certificates indicating compliance. In fact, they noted that one project single-sourced $1.1 million of $2.6 million in consultant contracts without prior approval. When this was discovered in late 2007, OntarioBuys requested that this project submit documentation supporting the decisions relating to consultant contracts for a six-month period. OntarioBuys staff indicated, however, that owing to resource constraints, they did not review the contracts for other SSOs and projects to ensure that procurement policies had been complied with. OntarioBuys recognized that this was a high-risk area and requested that the Ministry's internal audit services review this area in 2007/08. In its 2007/08 audit plan, internal audit services included plans to visit BPS institutions to determine whether funding provided was monitored and the terms and conditions of the transfer payment agreements complied with. However, owing to staffing requirements in other areas, including providing assistance to our Office on the annual Public Accounts audit, the work was postponed to 2008/09. As a result of our review of OntarioBuys in 2008/09, internal audit decided to delay this work until 2009/10.

RECOMMENDATION 3

To ensure that significant consulting-service contracts are awarded in an open, fair, and transparent manner, OntarioBuys should monitor broader-public-sector compliance with the required procurement policies.

MINISTRY RESPONSE

OntarioBuys will create project procurement monitoring guidelines by November 30, 2009, and will provide mandatory training to staff once these guidelines are developed.

OntarioBuys will inform projects about increased monitoring by November 30, 2009, and will implement the guidelines by February 1, 2010.

Review and Approval of Expense Claims

When conducting project work, project staff and their contracted consultants often incur expenses relating to travel, meals, and hospitality as well as other activities. Claims for these expenses are reimbursed from project funds provided by OntarioBuys. We noted that OntarioBuys did not provide SSOs or the management of supply-chain-improvement projects with a policy or guideline on expense-claim reimbursement. We found cases where, as a result, SSOs reimbursed staff of BPS organizations for expenses that would not be eligible for reimbursement under government policy or, if they were, exceeded the maximum amounts allowed under government policy. For example:

- Several projects reimbursed staff for numerous meal claims for amounts that were considerably more than the maximum amount allowed for Ontario government employees.
- An SSO reimbursed the cost of a dinner to celebrate the signing of an agreement to build an information system.
- The same SSO reimbursed the cost of a second celebration, held in the office, relating to the same agreement.
- An SSO reimbursed the cost of sending flower bouquets to the homes of each of its staff members (including contract staff) in appreciation of work done.

We also noted that OntarioBuys had not developed program-specific guidelines for the

required level of review of these expenditures by its staff.

RECOMMENDATION 4

To ensure that only appropriate expenses are reimbursed, OntarioBuys should provide the management of shared-service organizations and supply-chain-improvement projects with guidelines on the reimbursement of meal, travel, and hospitality expenses, with maximum limits that are reasonable when compared to those for Ontario government employees.

MINISTRY RESPONSE

OntarioBuys will develop a guideline on project expense claims by November 30, 2009. Once developed, existing projects will be advised that compliance is required and new projects will have the guideline incorporated directly into their TP agreements.

PERFORMANCE MEASUREMENT

BPS Participation in SSOs and Projects

According to its mission statement, OntarioBuys is "to facilitate and accelerate the widespread adoption of integrated supply-chain and other back office leading practices by Ontario's Broader Public Sector." After four years of operation, OntarioBuys has not made major headway in facilitating the adoption of integrated supply-chain practices in BPS sectors other than at hospitals. About 50% of Ontario hospitals are members in the eight health SSOs and involved in supply-chain-improvement projects. According to OntarioBuys, these hospitals represent about 70% of Ontario hospital beds.

With respect to the education sector, the one education SSO had not signed up any members for e-Marketplace at the time of our audit, and it had not finalized any group purchasing contracts. The following section relates the performance of OntarioBuys as it involves this SSO.

Education-sector Participation

OntarioBuys has funded one SSO in the education sector, paying out $30 million since 2005. This SSO was formed to achieve two primary objectives: develop an electronic purchasing site called "e-Marketplace" and facilitate group purchasing for the education sector. Provided that the SSO signed up a sufficient number of member institutions and suppliers, membership fees and supplier and purchaser transaction fees were projected to generate sufficient revenues to enable this SSO to become self-sustaining. According to the original March 27, 2008, agreement with OntarioBuys, the SSO committed to the milestones and scheduled completion dates for e-Marketplace shown in Figure 4.

No institutions had signed up as paying members for e-Marketplace at the time of our audit, and no suppliers could go live on e-Marketplace because it was not yet operational. The agreement with OntarioBuys was amended in March 2009 to delay the milestone dates by about a year. The SSO told us that it was considering waiving the institutional membership fees to encourage participation. As well, the SSO informed us that it was revising its formal business case. Subsequent to our audit, OntarioBuys informed us that it had received a revised draft business case in July 2009 but added that it needed significant revisions. It also indicated that the e-Marketplace would be operational by October 2009.

At the time of our audit, the education SSO management indicated that no group purchasing contracts had yet been finalized, although they were working on potential contracts for photocopying machines, photocopy paper, and other office supplies. The SSO also was in the process of engaging an external consultant to review the various options for group purchasing of natural gas. Subsequent to our audit fieldwork, OntarioBuys informed us that, as of June 30, 2009, 39 educational institutions had expressed interest in participating in the above group purchasing contracts, but no formal arrangements had yet been negotiated.

Figure 4: Education SSO Contract Commitments for e-Marketplace to June 2009

Source of data: OntarioBuys

Milestones	Scheduled Completion Date	Actual Completion
outsourcing service agreement with information systems service provider	June 1, 2008	Aug. 7, 2008
signing up at least six institutions to use e-Marketplace	June 1, 2008	no institutions signed up as of June 2009
seven additional institutions to agree to use e-Marketplace	Sept. 11, 2008	no institutions signed up as of June 2009
50 suppliers to join the supplier network	Dec. 10, 2008	no suppliers signed up as of June 2009
six institutions and 500 suppliers to be "live" (fully active, so that institutions can make their purchases) on e-Marketplace	Feb. 20, 2009	e-Marketplace not operational as of June 2009
13 institutions and 1,000 suppliers live on e-Marketplace, processing $30 million of purchases	June 4, 2009	e-Marketplace not operational as of June 2009

Our recent audits of Ontario colleges, universities, and school boards indicated that many of these educational institutions were already members of various purchasing groups, partnering with other public-sector entities such as municipalities and other non-profit organizations. For example, our 2006 audit of four colleges showed that each of the colleges already participated in purchasing groups for goods and services such as natural gas, printing and photocopying, cleaning services, and paper products. We also noted instances where colleges used the prices obtained by the purchasing groups of other colleges to get a better price from their own suppliers. We noted similar examples with school-board purchasing consortia that had already been established.

Our review indicated that the recent group-purchasing initiatives of the SSO—such as purchasing photocopying machines, paper products, and natural gas—were mostly already being undertaken by various existing collaborative purchasing groups. The fact that most institutions in the education sector have already been participating in various collaborative purchasing groups might help explain their reluctance to join the SSO. As well, the significant delay in the implementation of the e-Marketplace might also have contributed to their reluctance.

RECOMMENDATION 5

To assist Ontario educational institutions to more effectively generate savings from improved supply-chain-management practices, OntarioBuys should more formally assess the impact of the various collaborative purchasing initiatives already in place in the education sector on the effectiveness of the education shared-service organization (SSO) and assess whether any changes are necessary to the education SSO's business model.

MINISTRY RESPONSE

OntarioBuys will undertake and complete the recommended assessment of various collaborative initiatives and assess their impact on the education SSO's business model by April 30, 2010.

Reported Savings

In March 2009, the government announced in its Budget that OntarioBuys had helped BPS entities redirect $45 million in savings toward front-line services and it stated that these annual savings would reach the $100-million level by the 2011/12 fiscal year. It also announced that a new co-ordinated, integrated approach to procurement

would result in $200 million in total annual savings within the first three years of operation.

During our audit, OntarioBuys provided us with a list of reported project savings to support the amount announced in the Budget. For our review, we selected four projects with reported savings that accounted for over 75% of the $45 million. Of this $45 million, nearly half—$22 million—came from the largest SSO, providing services to 12 hospitals.

We asked OntarioBuys to provide support for this figure of $22 million and also asked the SSO for its audited financial statements. Our review of the audited statements showed that, after paying for the fees charged by the SSO, a cumulative saving of $20 million was available for distribution to members as of March 31, 2009. Our review also showed, however, that practically all of this $20 million remained with the SSO and was not redistributed to member hospitals to provide front-line services. In fact, only about $337,000 was distributed to the 12 hospitals in the 2006/07 fiscal year, and nothing was redistributed in 2007/08 and 2008/09. The SSO informed us that the hospitals let it keep the remaining $19.6 million of the savings in order to fund the next phase of the SSO's implementation plan, which was to improve its information technology for its back-office processes.

The balance of the $23 million in reported savings came mainly from a number of supply-chain-improvement projects for individual institutions. We reviewed three projects that accounted for about $12 million of the $23 million and found the following:

- Our discussions with the management of two health projects with reported cumulative savings of $2.5 million and $4.8 million, respectively, indicated that these figures were mainly based on estimates. They said that the accuracy of the savings would be difficult to ascertain because no baselines had been established against which the savings could be determined. As noted in the earlier section on oversight of projects, these two projects were to have been completed in 2006 but

were incomplete at the time of our audit in 2009. We also noted in that section that OntarioBuys' revised list of savings, provided to us after we completed the audit, reduced the reported savings of $2.5 million to zero and $4.8 million to $1.1 million.

- OntarioBuys reported that one project saved one hospital a total of $4.6 million over three years to March 31, 2009. When we asked OntarioBuys to provide support for this figure, it could support savings of only $1.1 million. When we visited the hospital in May 2009 to follow up, and hospital management provided us with its latest report, which showed that cumulative savings to June 2008 totalled only $2.5 million—$2.1 million less than what OntarioBuys had reported. Hospital management told us that they had not tracked any savings beyond the $2.5 million. When OntarioBuys gave us its revised list of savings subsequent to our audit, it indicated that the hospital had not included the annualized process savings in the report provided to us and that, with those included, the savings could be as much as $4.2 million.

After the completion of our fieldwork, OntarioBuys gave us a revised list of cost savings that included savings from other projects that we were unable to confirm, having completed our audit some time earlier. However, the fact that reported savings for various projects changed dramatically after our audit raises questions about the reliability of the reported savings.

For many projects, OntarioBuys reported savings that were determined without using baselines. As well, the definition of what constitutes "savings" varied among similar organizations. Our observations in this regard are the same as those made by numerous consultants to the Ministry and OntarioBuys. One pointed out that "it is simply impossible to prove benefits without baselines." Another mentioned that "the lack of a proper definition of savings and a lack of instruction to the SSOs on how to account for savings" would

"undermine the purpose for reporting savings." Of even greater concern is that OntarioBuys did not objectively assess the validity of reported savings for most of the funded projects.

Clearly, OntarioBuys must be more diligent in ensuring that its performance results are valid and supportable before reporting them.

RECOMMENDATION 6

To ensure that reported performance results are credible, OntarioBuys should:
- provide guidelines to shared-service organizations (SSOs) and broader-public-sector institutions on how savings are to be defined and how baselines are to be established and applied for the calculation of savings; and
- objectively assess and verify SSOs' and projects' reported savings to ensure that they are valid before publicly disclosing them as results achieved.

MINISTRY RESPONSE

OntarioBuys will be providing guidelines to shared-service organizations and BPS institutions on developing baselines required to calculate savings as part of the Supply Chain Guideline version 2.0 process already underway. These guidelines will be provided by April 30, 2010.

OntarioBuys will ensure that savings are verified prior to public disclosure and, where savings are projected, ensure they are identified as such.

Other Performance Measures

Guidelines

In March 2008, the government directed OntarioBuys to develop a Supply Chain Guideline document to support and improve BPS supply-chain activities. One year later, OntarioBuys published two principles to guide the BPS sectors: one was a code of ethics for supply-chain management and the other covered standards for procurement policy and procedures. At the time of our audit, OntarioBuys was developing additional principles for possible inclusion in an updated guideline document. After April 1, 2009, any transfer-payment agreement involving more than $10 million in annual funding from the Ministry of Health and Long-Term Care, the Ministry of Education, or the Ministry of Training, Colleges and Universities is to include the supply chain guidelines.

The Ministry set OntarioBuys a performance target for the 2008/09 fiscal year with respect to the guidelines. OntarioBuys was to obtain endorsements from the Ontario Hospital Association and the Council of Academic Hospitals for its code of ethics and procurement guidelines. This performance target had been achieved.

Purchasing of Health Supplies

A second performance target set by the Ministry for OntarioBuys to achieve in 2008/09 was to have 50% of all medical, surgical, and consumable supplies addressed through SSOs.

OntarioBuys told us that it had achieved this target as well. We questioned this assertion for the following reasons:
- OntarioBuys did not track the actual purchases that flowed through the SSOs to determine whether the target was met. Instead, its reported achievement was based on the total purchases anticipated in the SSOs' business cases, assuming that all SSOs have fully implemented their project plans.
- The minutes of a meeting of SSO general managers on April 20, 2009, indicated that there was a need to increase the amount of group purchasing at hospitals because the current level was currently less than 25%.

Redirecting of Savings to Front-line Services

In its 2004 Budget, the government stated that OntarioBuys was "an important initiative to reduce the overall costs of broader public sector...procurement and redirect savings to front-line services." However, we found that OntarioBuys has no way of verifying whether savings are redirected to front-line services. Neither the performance measures of the Ministry's results-based plan nor the supply-chain guidelines that OntarioBuys is developing require that the redirecting of savings to the front line be tracked.

RECOMMENDATION 7

To properly measure and report on performance results, OntarioBuys should:

- use actual purchase information from funded shared-service organizations (SSOs) to determine whether it has achieved the target percentage of having certain supplies purchased through them; and
- develop performance measures and collect the information necessary to assess and report on the redirecting of savings generated by funded SSOs and projects to front-line services.

MINISTRY RESPONSE

OntarioBuys will use actual purchase information to determine whether the SSO participation metric has been achieved and will investigate developing the recommended performance measure(s) and collection of information regarding redirecting savings.

Ministry of Community and Social Services

Ontario Disability Support Program

Background

The Ministry of Community and Social Services (Ministry) administers two acts under which it provides social assistance to approximately 450,000 individuals as well as their qualifying family members for a total of more than 700,000 people. Under provisions of the *Ontario Works Act,* the Ministry provides employment and temporary income support to some 200,000 individuals. This support is provided with the aim of helping recipients find and maintain paid employment. Under the *Ontario Disability Support Program Act* (Act), the subject of this audit, the Ministry provides income and employment support to approximately 250,000 individuals with eligible disabilities as defined by the Act.

Eligible Ontario Disability Support Program (ODSP) disabilities include mental disabilities such as psychoses (for example, schizophrenia), neuroses (for example, depression), and developmental delays. Physical disabilities include diseases of the musculoskeletal system (for example, osteoarthritis), diseases of the nervous system (for example, Parkinson's disease), and diseases of the circulatory system (for example, congenital heart disease). Although Ontario Works program income support is meant to be temporary, most ODSP recipients suffer from chronic disabilities and receive assist-

ance for many years. In some cases, they receive income support for the rest of their lives.

To be eligible for ODSP income support:

- all applicants must first demonstrate financial need by providing evidence that their liquid assets and income levels do not exceed specified amounts; and
- almost all applicants must be assessed to determine if their disability meets the eligibility test established by the Act—no disability assessments are required for people who are receiving Canada Pension Plan disability benefits, for individuals aged 65 and over who are ineligible for Old Age Security, and for individuals residing in prescribed institutions such as psychiatric facilities.

ODSP income support is intended to assist with basic living expenses such as food, shelter, clothing, and personal-needs items. Although employment-support programs are available to ODSP recipients, participation is not required. As a result, relatively few ODSP recipients join such programs.

Income support provided to ODSP recipients is somewhat higher than that provided to Ontario Works recipients. A comparison of typical benefits, all of which are tax-free, between the time of our last audit in 2004 and the 2008/09 fiscal year is shown in Figure 1.

Figure 1: Typical Monthly ODSP Benefits (tax free)
Source of data: Ministry of Community and Social Services

	Single Person		Single Person With One Child[1]		Couple With One Spouse Disabled and One Child[1]	
	2008/09	2003/04	2008/09	2003/04	2008/09	2003/04
basic needs allowance ($)	566	516	709[2]	772	838[2]	875
maximum shelter allowance ($)	454	414	714	652	775	707
Maximum ODSP Benefit ($)	**1,020**	**930**	**1,423**	**1,424**	**1,613**	**1,582**
comparable Ontario Works benefit($)	572	520	920	957	1,036	1,030

1. child 12 years of age and under
2. reduction due to the introduction of the Ontario Child Benefit, up to $50 per month per child

ODSP recipients may qualify for additional assistance, based on established need, for a number of other items, such as:

- health-related necessities, including transportation for medical appointments, medical supplies, special dietary items, and basic dental and vision care; and
- community start-up and maintenance benefits to assist in the cost of establishing a permanent residence.

ODSP is delivered by the Ministry's 44 local offices under the supervision of nine regional offices. Although the cost of ODSP income support is shared between the province (80%) and the municipalities (20%), the municipalities' portion will be reduced to 10% for the 2010 calendar year and eliminated in 2011 and beyond. In 2009, the province began paying 100% of the program's administration costs.

Largely as a result of caseload growth, as illustrated in Figure 2, total annual ODSP benefit payments have risen to more than $3 billion, a 42% increase since the time of our last audit in 2004.

Since 2002, the Ministry's information technology network, known as the Service Delivery Model Technology (SDMT) system, has supported the administration of both the Ontario Works and ODSP programs. SDMT, developed by a private-sector company at a cost of approximately $377 million, has been the subject of separate audits reported on in our 1998, 2000, and 2002 annual reports.

Audit Objective and Scope

Our audit objective was to assess whether the Ministry's policies and procedures were adequate to ensure that:

- only eligible individuals received income support and that the income support provided was timely and in the correct amount; and
- the program was delivered with due regard for economy and efficiency.

The scope of our audit included a review and analysis of relevant ministry files, policies, and procedures, as well as interviews with appropriate staff at the Ministry's head office, three regional offices (Toronto, Central East, and Eastern), and the five local offices that we visited. We also held discussions and obtained information from a variety of organizations that are involved with, or have an interest in, the administration of the ODSP program, including two ODSP program client-advocate groups, as well as Legal Aid Ontario (which often represents applicants in their requests for benefits and in appeals before the Social Benefits Tribunal), and the Social Benefits Tribunal (which hears and rules on appeals regarding benefits that have been denied by the Ministry).

Our work emphasized the policies and procedures in place with respect to the administration of the ODSP program during the 2008/09 fiscal year.

Figure 2: Annual ODSP Income-support Expenditures and Related Caseloads

Source of data: Ministry of Community and Social Services

Fiscal Year	Expenditures		Caseload		Average Expenditure Per Case	
	$ billion	% Increase	Caseload	% Increase	$	% Increase
2008/09	3.025	7.4	253,359	5.3	11,940	2.1
2007/08	2.816	8.0	240,657	5.1	11,700	2.7
2006/07	2.607	7.2	228,885	6.1	11,389	1.0
2005/06	2.433	5.8	215,628	3.6	11,281	2.1
2004/05	2.299	7.9	208,070	2.9	11,049	4.9
2003/04	2.131	–	202,241	–	10,535	–

We concentrated on areas with the largest program expenditures—basic needs and shelter assistance—which together constituted 97% ($2.93 billion) of total program expenditures.

We reviewed the Ombudsman of Ontario's 2006 report on the Ministry's Disability Adjudication Unit (DAU) that made a number of recommendations, including the need for timelier decision-making and the elimination of a four-month cap on retroactive benefit payments. We also considered the actions taken by the Ministry on these recommendations in planning our audit.

We also reviewed several recent audit reports issued by the Ministry's Internal Audit Services. However, the scope of those reports was generally limited to specific issues, as opposed to the payment of the basic needs and shelter allowance, which was the main focus of our audit. We were, therefore, unable to rely on those audits to reduce the scope of our work.

Summary

Following our 2004 audit and the Ombudsman's 2006 report, the Ministry has taken steps to better administer the ODSP. For example, the hiring of additional medical adjudicators has allowed the Ministry to reduce the average wait time for a medical-disability decision to approximately 60 business days, a significant improvement from the

time of our last audit. Another area of improvement since our last audit was the much better documentation in the disability adjudication files.

Nevertheless, serious issues remain in determining an applicant's financial eligibility and the correct amount of assistance to be paid. The Ministry has established a two-stage process to ensure that only qualified applicants receive income support. The first stage is problematic because it relies solely on the individual volunteering financial information. To compensate for the risks associated with this, the Ministry's second stage requires third-party verification of certain information provided by the applicant. However, this verification requirement is largely ignored in practice.

As a result, the Ministry is not adequately ensuring that only eligible individuals receive disability support benefits and that the payments made to recipients are in the correct amount. Other significant findings and observations include the following:

- Although the Ministry has significantly reduced the average wait time for a medical-disability determination decision, 60% of recipients sampled still received late payments. On average, they experienced a 58-day delay after they had been determined to be medically qualified for payments, which is almost three times longer than the outside limit of 21 days established by the Ministry. These delays in receiving approved benefits offset to a significant degree the good

progress made since our last audit in expediting the initial medical determination.

- Oversight procedures are lacking to monitor and assess the fairness and consistency of decisions made by individual adjudicators at the Ministry's Disability Adjudication Unit (DAU). Consequently, eligibility determination rates among adjudicators generally varied from 11% to 49%.

- Many initial decisions were overturned after applicants who were not approved for benefits by the Ministry appealed to the Social Benefits Tribunal. In fact, the Tribunal in the 2008/09 fiscal year overruled the Ministry's decisions in 55% of these appeals. An independent consultant hired by the Ministry in 2008 noted that many Tribunal members approved 100% of all appeals, while one member upheld all the Ministry's decisions.

- Since 2002, the Ministry has not performed any of the periodic medical reassessments—required by legislation—to ensure continuing eligibility for disability support payments. As of March 31, 2009, there were 37,000 individuals identified as requiring such a reassessment to ensure that they still were eligible to continue receiving income support. Of those, 11,000 were overdue, many by several years.

- The Ministry relies on one individual to do all the assessment and reassessment work for any given file, yet the individual's work is neither supervised nor reviewed to ensure that the decisions made comply with ministry and legislative requirements.

- The total amount of overpayments for both active and inactive accounts has increased substantially to $663 million as of March 31, 2009, from approximately $483 million at the time of our last audit in 2004. In many cases, overpayments resulted from what would appear to be recipients fraudulently misrepresenting their circumstances. Often, these overpayments might have been avoided if the Ministry had followed up on tips received from the public, or more effectively reassessed the

eligibility and the amounts to be paid to those individuals whom its own systems identified as high-risk. For example, for a number of years the Ministry ignored five complaints about one recipient family that was later established to have received more than $100,000 in overpayments. One of the tips noted that family members regularly drove new vehicles, including a new imported SUV.

- The Ministry's computerized SDMT information system still lacks key internal controls, and regional and local offices are not receiving, in an easily understandable format, the information they need to effectively oversee program expenditures.

OVERALL MINISTRY RESPONSE

The Ministry of Community and Social Services welcomes the findings and recommendations of the Auditor General with respect to the delivery and oversight of the Ontario Disability Support Program. This is a vital service that ministry staff directly deliver to some of the most vulnerable citizens of Ontario. Within the context of a steadily growing caseload, the Ministry has taken numerous steps over the past several years to improve customer service and business processes. Notwithstanding the gains made over the past few years, the Ministry recognizes the need for continuous quality improvement. In this regard, a number of initiatives that are focused on improved technical and business processes, customer service, and accountability have been introduced in the 2009/10 fiscal year.

Detailed Audit Observations

OVERVIEW OF PROGRAM DELIVERY

From Figure 3, a schematic representation of the ODSP application process, it can be seen that

Figure 3: ODSP Application Process

Source of data: Ministry of Community and Social Services
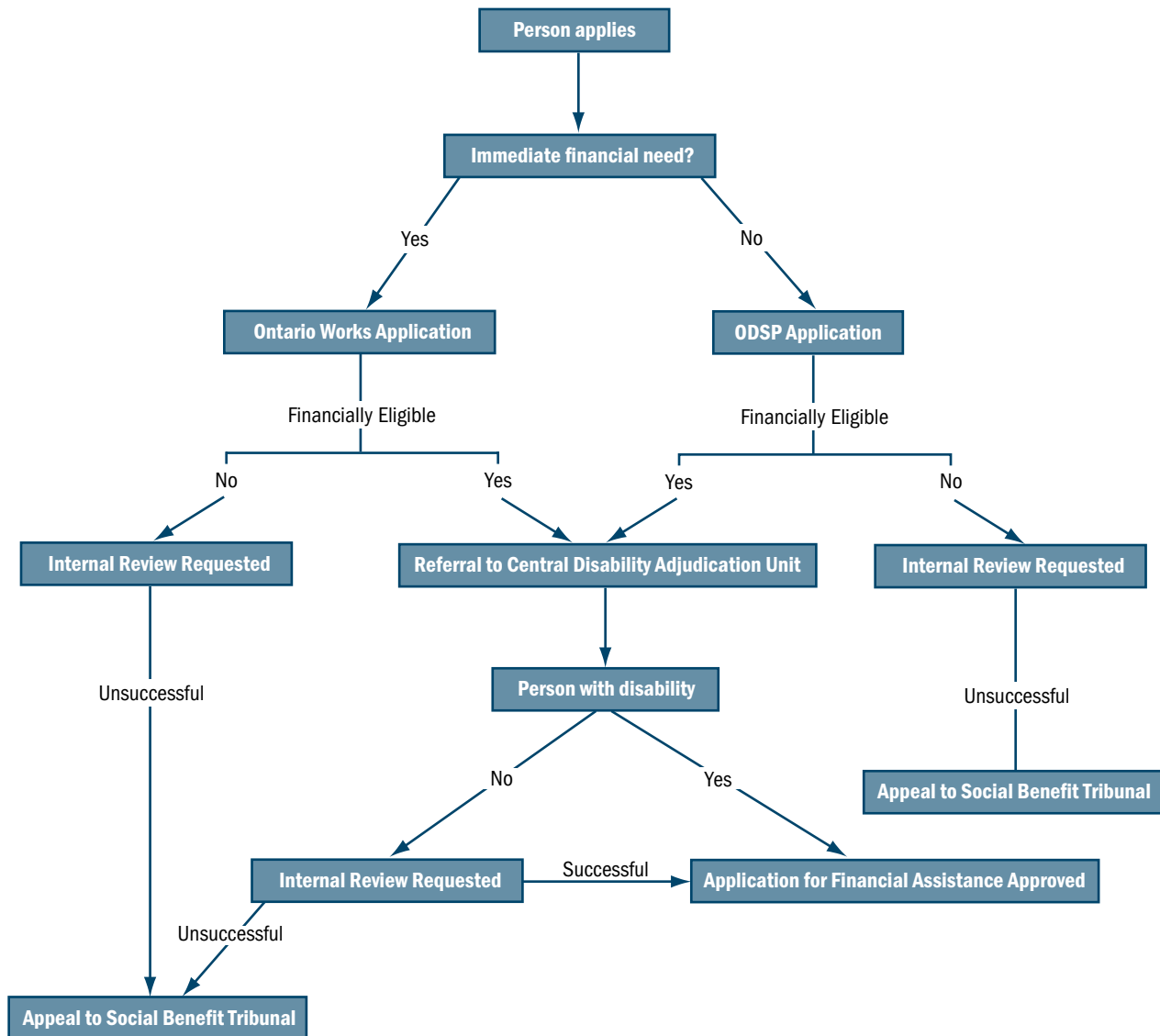
disabled individuals in need of income support are normally referred to one of the Ministry's 44 local offices to apply for ODSP benefits. If the individual's financial need is considered immediate, he or she may be directed to the local Consolidated Municipal Service Manager to apply for Ontario Works Assistance, which is generally granted more quickly than ODSP benefits. The individual can then apply to transfer to the longer-term ODSP program. If the individual's need is not immediate, a caseworker in the local ministry office assesses the person's financial eligibility for benefits through an income-

and-asset test. To be financially eligible, a person's total assets must be at or below:

- $5,000 for a single person; or
- $7,500, if there is a spouse in the benefit unit.

(These amounts can increase by $500 for each eligible dependant.)

Cash, bank accounts, RRSPs, and other assets that can be readily converted to cash are considered when calculating a person's total assets. Certain assets, such as a principal residence, a primary vehicle, locked-in RRSPs, and trust funds in the amount of less than $100,000, are excluded when

determining whether the person's assets are within the prescribed limits.

When assessing a person's income levels, a caseworker considers income from such sources as employment, the Canada Pension Plan, the Workplace Safety and Insurance Board, and Employment Insurance. Generally, to be eligible for even a partial ODSP benefit, 50% of the applicant's total income from other sources must be less than the potential ODSP entitlement.

Once an applicant's financial eligibility has been established, he or she is provided with a disability-determination package. That package contains three forms: a health status and activities-of-daily-living index report; a consent form to have medical information disclosed to the ODSP; and an optional self-report. The first document, which must be completed by a physician or other prescribed health professional, provides information about the applicant's medical condition(s) and impact on daily living activities. The consent form must be completed and signed by every applicant. Completing the third form, which is voluntary, gives applicants the opportunity to describe how their disability affects their daily life.

The completed documents are forwarded to the Ministry's centralized Disability Adjudication Unit (DAU) for review. An adjudicator, usually a professional in the health-care field, reviews the forms and determines whether the individual meets the test for disability (as defined under the Act) and is, therefore, entitled to assistance. If eligibility is approved, the DAU then advises the Ministry's local office that referred the individual to commence benefit payments. The Ministry's target is that the first payment be issued within 21 calendar days of the disability determination. The amounts to be paid are now retroactive to the date the DAU received the completed disability-determination package.

If an adjudicator determines that an applicant fails to meet the test for a disability, the applicant may request an internal review. A team of three different adjudicators reconsiders the application and must provide the reasons for its decision, in writing,

to the applicant within 10 calendar days of receiving the review request.

An applicant whose claim is also rejected by the internal review team may appeal to the Social Benefits Tribunal within 30 calendar days of the internal review decision.

INITIAL FINANCIAL ELIGIBILITY ASSESSMENT

ODSP applicants must provide the Ministry's local office with all the information necessary to establish their eligibility for income support and to determine the correct amount of eligible assistance. To do so, they must provide copies of a number of documents, most of which are to be visually verified by the intake worker and are intended to establish the identity and legal status of the individual. These include a social insurance number card, Ontario health insurance card, birth certificate, and documents verifying a person's status in Canada. Additional documents, such as records verifying school attendance, may also be required, for example, for dependants over the age of 16. When it comes to disclosure of income and assets, the only requirements are a representation by the applicant and a copy of a recent monthly bank statement.

Our review of a sample of ODSP recipients' files found that, although there were some instances where staff failed to review critical documents for establishing an applicant's identity and legal status, this was adequately done in most cases.

However, verifying an individual's income and assets from personal representations and only one monthly bank statement is, in itself, not sufficient. For example, there is no assurance that an individual has provided a bank statement for all of his or her accounts. Furthermore, an applicant could have withdrawn most of the money in the account before the bank issued the monthly statement.

Accordingly, to help verify the income and assets declared by applicants, the Ministry has entered into a number of third-party, information-sharing agreements. Examples include arrangements with

Human Resources and Skills Development Canada for employment insurance information, with the Canada Revenue Agency for tax return information, with Equifax for credit checks, and with the Family Responsibility Office to verify any support payments received. It is ministry policy that the completeness and accuracy of the declaration of an applicant's income and assets must be verified with all four of these organizations.

Nevertheless, we found that two of the three regional offices we visited did not verify an applicant's income and assets information with any of the third-party providers, while the third office met the requirements only about one-fifth of the time. We concluded, therefore, that initial financial eligibility for ODSP recipients is not being adequately verified.

We also note that just one ministry income-support specialist makes all the decisions with respect to assessing an applicant's initial financial eligibility, and that the same individual maintains all the applicant's case files. Supervisors are not required to conduct periodic supervisory reviews of decisions made and files maintained, and we saw no evidence that such reviews were ever undertaken. Such lack of oversight further increases the risk of payments to ineligible recipients.

RECOMMENDATION 1

To ensure that an individual's initial financial eligibility for Ontario Disability Support Program benefits is adequately verified, the Ministry of Community and Social Services should:

- comply in all cases with its own requirements to verify an applicant's declared income and assets with the third parties who have information-sharing agreements with the Ministry; and
- conduct supervisory reviews, at least on a sample basis, of the decisions made and files maintained by intake caseworkers to ensure that staff are adhering to Ministry requirements with respect to financial eligibility verification.

MINISTRY RESPONSE

The Ministry recognizes the need to ensure that only those eligible to receive benefits through the Ontario Disability Support Program (ODSP) are admitted to the program. In order to improve customer service and program integrity, a new initiative, introduced in the 2009/10 fiscal year, will streamline the ODSP case management structure over the next two years. An integral part of this restructuring will be a clarification of accountabilities for all staff involved in the delivery of ODSP, including managers. Staff and managers will be supported to take on these clarified responsibilities through training and revised business processes.

INITIAL DISABILITY DETERMINATION

In our *2004 Annual Report*, we expressed concern about delays in adjudicating applications for disability benefits and recommended that steps be taken to expedite this process. In 2006, the Ombudsman of Ontario conducted an investigation into the Ministry's Disability Adjudication Unit to determine whether there were delays leading to applicants being deprived of benefits that they would otherwise be entitled to. The Ombudsman issued a report in May 2006 with a number of recommendations, including the following:

- The government of Ontario should amend the Act to eliminate the four-month limit on retroactive benefit payments.
- The Ministry should review its adjudication service standards and determine what the optimal processing time should be, given the intent and purpose of the program, and determine appropriate staffing strategies to process applications expeditiously.
- The Ministry should establish service goals for the treatment of pending applications.

Subsequent to our audit in 2004 and the Ombudsman's recommendations, the Ministry

eliminated the four-month restriction on retroactive benefit payments. As previously noted, eligible applicants' retroactive benefit payments now cover the entire period from the time their completed application is received to the time when payments commence, even if that period exceeds four months.

For the year ending March 31, 2009, the DAU received approximately 34,000 new applications for benefits, 17% more than the 29,000 received in the year of our last audit in 2004. Over the same period, the number of adjudicators increased from 30 in 2004 to 43 in 2009—a 40% increase. This has enabled the Ministry to reduce the average wait time for a medical-disability decision to approximately 60 business days after the completed disability-determination package is received. This time frame is well within the Ministry's current internal goal of 90 business days to adjudicate all applications. The average assessment period is a significant improvement from the wait times we found during our last audit in 2004 when many cases had not been adjudicated within four months.

To help ensure that all applicants are treated fairly, they are assessed on a first-in/first-out basis. The Ministry has a triage process that requires that all new applications receive an initial review within 10 business days of receipt. Approximately 25% of all such applications are determined, within the triage time frame, to have a clear, qualifying eligible disability. The remaining 75% of the applications require further review, and of these, approximately one-third are found to have an eligible disability. Our review of a sample of adjudication files noted that the reasons for assessment decisions were generally well documented, which was often not the case in our 2004 audit.

However, as a result of our review of the DAU's adjudication process and the summary information provided us, we noted a number of concerns:

- Responsibility for this disability determination rests with just one individual. In response to our 2006 follow-up report, the Ministry committed that its Chief Medical Adviser would

annually review 50 randomly selected files from each of the unit's adjudicators to ensure that correct medical assessments were being made. As of the completion of this audit, such a review had yet to occur. As a result, there still is no supervisory oversight or review process in place to assess the basis and quality of adjudication decisions.
- The Ministry does not monitor the percentage of applicants approved by individual adjudicators—either at the triage stage or subsequently. We found that these rates varied widely. For example:
  - At the triage stage, the percentage of applicants found to have an eligible disability generally ranged from 13% to 45%, depending on the adjudicator.
  - The percentage of post-triage applicants found to have an eligible disability generally ranged from 11% to 49%, depending on the adjudicator.

The Ministry was unable to provide any explanation for these significant variances. The risk associated with such wide disparities is that individuals with similar medical conditions can get a different decision, depending on which adjudicator's desk their file lands on.

Approximately two-thirds of applicants who are ultimately found to have no eligible disability ask for an internal review. These reviews are done by a team of three adjudicators. As a result of these reviews, some 15% of the original decisions are overturned, which, in our opinion, seemed reasonable. (However, an additional 55% of decisions that are further appealed are overturned by the Social Benefits Tribunal. See Social Benefits Tribunal Appeals later in this report.)

RECOMMENDATION 2

To ensure that all Ontario Disability Support Program applicants are adjudicated fairly and consistently, the Ministry of Community and Social Services should:

- periodically review a random sample of each adjudicator's files to assess whether the decisions are generally supported and fair; and
- monitor the percentage of applicants found to have an eligible disability by each adjudicator and, if there are significant variances, investigate the reasons for them and take corrective action where necessary.

▌MINISTRY RESPONSE

The Ministry has implemented several quality-assurance measures to ensure the integrity of decision-making (for example, team reviews). Further enhancements to existing quality-assurance processes will be introduced to ensure that clients applying for the Ontario Disability Support Program are consistently adjudicated. Regular file reviews by the Chief Medical Adviser are now under way.

SOCIAL BENEFITS TRIBUNAL APPEALS

Applicants who remain unsatisfied after an internal review can appeal to the Social Benefits Tribunal, an independent body that operates at arm's length from the Ministry. The Tribunal hears two types of ODSP appeals: disability-determination decisions relating to an applicant's eligibility for benefits and income-support decisions, which generally relate to disagreements over amounts to be paid and/or recovery of overpayments.

In many cases, a Legal Aid Ontario lawyer represents applicants at the Tribunal. In fact, Legal Aid Ontario estimates that for its fiscal year ending March 31, 2009, its clinics represented approximately 7,500 ODSP cases that will cost approximately $15 million, almost one-quarter of its annual budget.

For the year ending March 31, 2009, the outcomes of the Tribunal's deliberations are outlined in Figure 4.

The average length of time between the request for an appeal and a tribunal member's decision is approximately one year. In the fiscal year ending March 31, 2009, tribunal members overturned some 55% of ministry decisions, which is about 10% lower than the corresponding average rate in the previous two years and 20% lower than at the time of our 2004 audit. However, given the significant increase in appeals, from some 2,700 in 2003 to some 8,000 in 2009, the total number of appeals that resulted in a decision being overturned more than doubled to almost 4,400.

The Ministry retained a consultant to investigate the reasons for the relatively high rates at which the Tribunal overturned its DAU decisions. The consultant identified a number of factors that may contribute to the relatively high overturn rate. The three most significant factors were:

- The appellant appears in person at the tribunal hearing, but not during the DAU process, which is essentially a paper file review.
- Although legal counsel often represent the appellant at the Tribunal, the Ministry's six case-presenting officers appeared only about one-quarter of the time to explain the Ministry's legal submission and rationale for denying the initial appeal.
- The Ministry and Tribunal use different criteria and processes for making decisions. For example, the DAU often denies benefits if evidence is conflicting, whereas the Tribunal seems to favour the appellant if the evidence is inconsistent or where ambiguity exists.

In addition, the consultant noted that the Tribunal and the DAU appear to have a different interpretation of case law such as *Gray vs. Director of ODSP* (Ontario Court of Appeal, 2002), which broadened and liberalized the legal definition of a person with a disability under the Act.

These issues notwithstanding, the consultant also noted that many tribunal members had an overturn rate of 100%, while one member upheld every DAU decision.

Figure 4: Social Benefits Tribunal Decisions, 2008/09
Source of data: Social Benefits Tribunal

Type of Appeal	Decisions Overturned		Decisions Upheld		Decisions Varied		Total Appeals
	#	% of Total	#	% of Total	#	% of Total	
income support	206	21	567	57	217	22	990
disability determination	4,182	59	2,517	36	341	5	7,040

RECOMMENDATION 3

To reduce the need for, and cost of, appeals and the relatively high rate at which the Social Benefits Tribunal overturns Ontario Disability Support Program eligibility decisions, the Ministry of Community and Social Services should consult and work with the Tribunal to narrow the differences in approach to, and criteria used in, assessing individuals with a disability. In addition, to ensure that its rationale for denying a claim is clearly communicated to the Tribunal, the Ministry should ensure that it is represented by a case presenting officer at every hearing.

MINISTRY RESPONSE

The Ministry is in the process of analyzing the factors that may contribute to the Social Benefit Tribunal's overturn rate of the Disability Adjudication Unit's decisions. On the basis of this review, the Ministry will identify potential legal, policy, or administrative strategies to address the issues.

The Ministry is also in the process of reviewing how services can best be delivered, taking into account the bounds of existing resources.

ELIGIBILITY REASSESSMENTS/ CONSOLIDATED VERIFICATION PROCESS

Financial Eligibility Reassessments

It is the Ministry's policy that each local office should conduct a financial eligibility reassessment, or Consolidated Verification Process (CVP), on 2% of its active caseload every month. In other words, approximately one-quarter of all active cases are to be reviewed every year. To help with the case-selection process, the Ministry's head office produces a number of ad hoc reports for local offices that identify potential high-risk recipients, either specifically or by profile.

Although local offices generally met their monthly goal of conducting financial eligibility reassessments on 2% of active cases, the files reviewed were generally not selected from the high-risk group. Only one of the three regions we visited provided us with information on the review of high-risk cases and, in that region, just 15% of those cases were reviewed in the 2007/08 fiscal year.

In addition, financial eligibility reassessments suffered from many of the same deficiencies previously noted for initial financial eligibility assessments. In most cases, the required third-party verifications of income and assets were not performed. The individual's income and assets were determined solely on the basis of his or her declaration and from the review of just a single monthly bank statement, which cannot be relied on to give an accurate picture. We even noted that in some cases there were no new declarations obtained and no new bank statements reviewed.

As noted later in this report, it is our view that if financial eligibility reassessments had been conducted on high-risk cases, and if the required procedures had been followed, there is the potential for overpayments to be significantly reduced. For example:

- A family of four started receiving $900 in monthly income support in 1996. Over the

next two years, the Ministry received five complaints from five different people questioning the family's eligibility, including two complaints within the first two months of benefits being paid. One of the complainants noted that family members regularly drove new vehicles, including a new imported SUV. Although a financial eligibility reassessment was conducted on this recipient in 1999 (after the five complaints were received), the reassessment did not investigate those complaints—and the benefits continued. Although a more in-depth investigation of this recipient's financial eligibility commenced in 2001, that investigation was not completed until 2005, at which time an overpayment of $104,000 was confirmed. The overpayment factors included undeclared income, undeclared assets, and cohabitation. At the time of our audit, the recipient was repaying this overpayment through $60-per-month deductions from current income support.

- A husband and wife started to receive $1,400 in monthly income support in 1994. In 1999, the Ministry's fraud hotline received a tip that they were ineligible, but this tip was never acted upon. In both 2001 and 2002, the recipients were identified as high-risk and therefore deserving of a financial reassessment. However, these reassessments did not take place. Finally, in 2004, a detailed financial eligibility reassessment found that the recipients had been living outside the country, not permitted under the Act, since 1998 and had received overpayments totalling $95,000. None of this overpayment amount has been recovered.

- A recipient and dependent adult started to receive $1,040 in monthly income support in 1991. In both 2001 and 2002, the recipient's file was identified as in need of a financial eligibility reassessment, but no reassessment was undertaken during those years. Although a reassessment did take place in 2003, it did not result in any benefit adjustments. Another

financial eligibility reassessment in 2006 found that the recipient had been receiving CPP disability payments since 1995, and that the amount of those payments made the recipient financially ineligible for income support. As a result, an overpayment of $111,000 was established, and benefits were terminated. None of this overpayment has been recovered.

In most cases, including the preceding examples, the Ministry has had little success in getting recipients to repay overpayments, nor are overpayments resulting from what would appear to be fraudulent representations referred to the police in most cases. We are concerned that individuals who receive ODSP income support under potentially fraudulent circumstances may have little reason to fear any consequences—even if they are caught.

RECOMMENDATION 4

To ensure that recipients continue to be financially eligible for Ontario Disability Support Program benefits and to avoid overpayments, the Ministry of Community and Social Services should:

- ensure that recipients identified as high-risk are prioritized for review;
- comply in all cases with its own requirement to verify an applicant's declared income and assets with the third parties with whom the Ministry has information-sharing agreements; and
- be more proactive in following up on those tips that come from what appear to be bona fide sources.

MINISTRY RESPONSE

The Ministry agrees and has implemented in the 2009/10 fiscal year a revised risk-based approach to Ontario Disability Support Program (ODSP) financial eligibility reassessments. Future enhancements to this approach will include the development of a risk model for

social assistance that will help to ensure that only eligible recipients remain on the program.

Also, to further support compliance with third-party-check and other eligibility review processes, the Ministry will be implementing a series of tools to reinforce its program management and oversight to ensure that all requirements of ODSP service delivery are met.

As noted above, the Ministry is introducing a new initiative that will streamline the ODSP case-management structure. An integral part of this restructuring will be a clarification of accountabilities for all staff involved in the delivery of the ODSP, including managers. Training and revised business processes will help to strengthen case-management activities related to verifying eligibility information received from outside parties.

Management of Outstanding Tasks

The Ministry's Service Delivery Model Technology information system has a feature that allows the assignment of tasks and corresponding completion target dates to individual case files, as well as the tracking of outstanding tasks. A task is essentially a "to do" item that normally entails obtaining or verifying the information necessary to establish the continued eligibility of a recipient and/or the correct amount of assistance. Tasks are system-generated for such things as recipients reaching the age of 60 or 65 (at which time they may qualify for CPP or Old Age Security and receive income that could make them ineligible for ODSP benefits). Many of the remaining tasks are entered manually and are triggered by, for example, a complaint about a person's eligibility or information obtained from third parties through the information-sharing agreements.

It is essential that caseworkers review all outstanding tasks on a timely basis so that any necessary changes can be made promptly and overpayments can be avoided.

Outstanding tasks have increased significantly since the time of our last audit. As of December 2008, there were more than 206,000 outstanding tasks recorded in SDMT, 49,000 of which were overdue by a significant amount of time, with many overdue by more than five years. At the time of our 2004 audit, there were some 57,400 outstanding tasks, excluding approximately 17,000 relating to overdue medical eligibility reassessments. The increase in outstanding tasks is particularly worrisome because it could affect an individual's eligibility for benefits, the likelihood of which is increased by the fact that there are no policies or procedures that require supervisory staff to review and monitor long-outstanding tasks. As a result, the information necessary to assess the eligibility of recipients and determine the correct amount of assistance may often not be obtained on a timely basis.

RECOMMENDATION 5

To ensure that Ontario Disability Support Program benefits are paid only to eligible individuals and in the correct amount, the Ministry of Community and Social Services should monitor case-management activities to ensure that tasks entered into its Service Delivery Model Technology information system are followed up on promptly and that appropriate actions are taken to avoid overpayments.

MINISTRY RESPONSE

The Ministry agrees and has since simplified the technology relating to system-generated tasks. It is also reviewing current business processes for potential refinements or opportunities for improvements from a technology modernization perspective.

As noted above, the Ministry is introducing a new initiative that will streamline the Ontario Disability Support Program (ODSP) case management structure over the next two years. An integral part of this restructuring will be a clarification of accountabilities for all staff involved

in the delivery of ODSP, including managers. This will include clarification of expectations with respect to the monitoring of overdue tasks.

Medical Eligibility Reassessments

An ODSP regulation and policy require that when a person is determined to have an eligible disability that may improve, a follow-up review must occur within two to five years. In the three-year period from 2006/07 to 2008/09, the DAU determined that just under half of the approved ODSP applicants, or approximately 24,000 individuals, had an eligible disability that might improve. All were, therefore, designated for review.

However, the legislative requirement for medical reassessments notwithstanding, the Ministry has failed to conduct any such reassessment since 2002. In fact, during the 2005/06 fiscal year, the Ministry removed 34,000 recipients considered at low risk of improvement from the list requiring a medical reassessment but was unable to demonstrate how the low-risk determinations were made for those recipients.

At the time of our audit, there were 37,000 individuals who had been identified as requiring a medical reassessment to ensure that they were still eligible to continue receiving benefits. Of those, 11,000 were overdue as of March 31, 2009, many by several years.

RECOMMENDATION 6

To comply with the *Ontario Disability Support Program Act* and to ensure that only eligible ODSP recipients continue to receive benefits, the Ministry of Community and Social Services should conduct the required medical reassessments within the legislated time frame.

MINISTRY RESPONSE

The Ministry is pleased to have introduced a new service standard with respect to the initial adjudication of applications to the Ontario Disability Support Program (ODSP). While we have focused our resources and efforts on significantly improving initial adjudication timelines, the Ministry recognizes the importance of ensuring that only those individuals who have an ongoing need for ODSP continue to receive benefits. Therefore, the Ministry began conducting medical reviews in spring 2009. The Ministry will strive to conduct medical reviews within the required time frame.

Income-support Payments to Individuals

Given our concerns with respect to the effective implementation of both the initial and subsequent financial eligibility assessment processes, we reviewed a sample of payments and corresponding files. We noted the following:

- Payments to individuals sampled commenced significantly later than the Ministry's prescribed 21 calendar days after the DAU notified an ODSP office that the applicant had an eligible disability and was, therefore, entitled to benefits. On average, payments to recipients sampled commenced late almost 60% of the time, with the average delay being 58 days. In many cases, there were delays of more than 100 days; one case was delayed 195 days, or six-and-a-half months. These delays in receiving approved benefits offset to a significant degree the good progress made since our last audit in expediting the initial medical assessments.
- In a few cases, information on file was incorrectly considered in determining the benefits entitlement, which resulted in either overpayments or underpayments. For example, the fact that one individual was incarcerated for 50 days and in receipt of CPP benefits was not considered correctly, resulting in overpayments of $4,200 over eight months.

Similarly, a caseworker failed to consider a recipient's written confirmation and supporting documentation that his orphan benefits under CPP had been discontinued, which resulted in an ODSP underpayment of $200 per month, or $1,000 at the time of our audit.

Although the individual amounts of overpayments in our sample were generally small, collectively they may well be significant.

We also noted that, province-wide, the total spent on special dietary allowances has increased substantially since the time of our last audit in 2004. At that time, the payments totalled $18.1 million; in the 2008/09 fiscal year, the amount exceeded $104 million, more than a five-and-a-half fold increase. We found that many payments for special dietary allowances to purchase particular foods, which must be authorized by an approved health professional, seemed questionable. For example, for one family of 10, all 10 people received a monthly special dietary allowance totalling $2,475 per month, resulting in total monthly ODSP assistance of $4,163, or nearly $50,000 per year, tax-free. Another example concerned a family of nine, where all nine received a monthly special dietary allowance totalling $2,194 per month, resulting in total monthly income support of $4,540, or nearly $55,000 per year, tax-free. In addition, we found that, in some cases, payments for supplementary benefits such as community start-up and special dietary allowances were made without the required documentation and receipts being on file.

RECOMMENDATION 7

To ensure that eligible applicants receive the correct financial entitlements within a reasonable time frame, the Ministry of Community and Social Services should ensure that:

- Ontario Disability Support Program payments start within the prescribed 21 calendar days of the determination that the person has an eligible disability;

- all of the information necessary to determine the correct amount of benefits is on file and correctly considered before payments are made; and

- suspicious or unusual circumstances, including those relating to the special dietary allowance, are appropriately flagged for additional follow-up.

MINISTRY RESPONSE

The Ministry agrees and is taking steps to ensure that eligible applicants receive the correct financial entitlements within a reasonable time frame.

The Ministry will be implementing a series of tools to reinforce its program management and oversight to ensure that all requirements of Ontario Disability Support Program service delivery are met.

OVERPAYMENTS

Determination

Overpayments occur when recipients are paid more assistance than they are entitled to receive. Information contained in the Ministry's computerized SDMT tracking system indicates that outstanding overpayments have increased substantially since the time of our last audit in 2004. The total estimated overpayments now stand at $663 million, compared to $483 million in our earlier audit. Figure 5 shows the increase in overpayment amounts, and Figure 6 shows the number of cases involved.

The reason for any overpayment and how the overpayment was calculated should be properly documented in either SDMT or the recipient's paper file. In practice, this is often not the case. For example, with respect to information in SDMT, we noted the following:

- The reason for an overpayment is often too general; for example "eligibility change" is

often cited, which makes it difficult to attribute the overpayment to specific changes in circumstances.

- The SDMT often does not show how the overpayment was arrived at, making it impossible for the caseworker to determine how the amount was calculated so that an explanation can be provided to the recipient.
- If the caseworker makes multiple changes of information in SDMT at once, each of which results in an overpayment, the system often does not record all of the overpayments.
- The system cannot calculate overpayments incurred prior to 2002, the year SDMT was introduced.

Given the above lack of detail in SDMT, caseworkers in most instances do not attempt to verify the completeness and accuracy of the overpayment information recorded in SDMT.

Collection

ODSP benefits are subject to deductions to recover any prior overpayments under the *Ontario Works Act* as well as the *Ontario Disability Support Program Act.* Current ODSP benefit deductions can also be used to recover prior overpayments under these acts' predecessors, the *General Welfare Assistance Act* and the *Family Benefits Act*. In all cases, overpayments are calculated without interest.

Overpayment Recovery—Active Accounts

Overpayments on active accounts are recovered primarily through automatic deductions from the recipient's monthly income-support allowance. The maximum allowable monthly deduction is 10% of the recipient's combined basic needs and shelter allowance. In practice, however, the Ministry imposes just a 5% repayment rate, half the legislated maximum. The monthly deduction can be further reduced or eliminated entirely should the Ministry determine that a 5% benefit reduction would cause the recipient undue hardship. Although the Ministry was unable to provide us with the number of active overpayment cases for which no recoveries are being made, we found among the files we reviewed that about one in five overpayment accounts was being exempted from deductions.

The amounts of overpayments being collected from active cases through automatic deductions of current benefits are shown in Figure 7.

Figure 5: Total Overpayments, 2003/04–2008/09 ($ million)

Source of data: Ministry of Community and Social Services
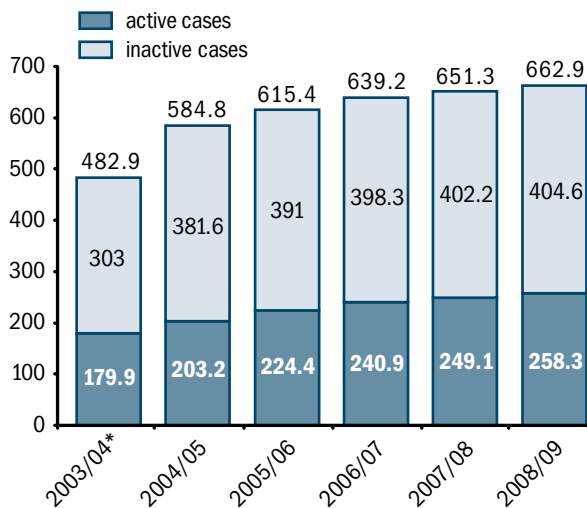
* Amounts are as of December 31, 2003, as reported in our *2004 Annual Report.*

Figure 6: Overpayment Cases, 2003/04–2008/09

Source of data: Ministry of Community and Social Services

	2003/04	2004/05	2005/06	2006/07	2007/08	2008/09
active cases	61,500	63,605	67,481	74,477	70,963	70,550
inactive cases	71,000	84,081	83,809	84,232	84,249	83,415
Total	**132,500**	**147,686**	**151,290**	**158,709**	**155,212**	**153,965**

Figure 7: Overpayments (written-off and collected)

Source of data: Ministry of Community and Social Services

	2003/04	2004/05	2005/06	2006/07	2007/08	2008/09
Amounts Collected						
active cases ($ million)	31.6	32.6	37.2	39.8	39.5	37.0
inactive cases ($ million)	16.2	10.6	9.5	8.6	8.1	8.4
Written-off						
amount ($ million)	–	5.7	7.9	10.8	5.6	12.0
# of cases involved	–	5,984	2,319	4,554	1,827	13,430

Our review of a sample of active accounts in which overpayments were being recovered from current benefits found that payment amounts were generally small in relation to the amount of overpayment. As a result, recovering even a small portion of the total overpayments will take many years and full recovery is unlikely. For example:

- One individual owing $78,000 had his current benefits reduced by $10 per month. If the recipient made no other form of repayment and the recovery rate remained the same, it would take approximately 650 years to collect the outstanding amount.
- Benefits of another individual with a $102,000 overpayment were being reduced by $58 per month. If the recipient made no other form of repayment and the recovery rate remained the same, it would take approximately 147 years to collect the outstanding amount.

Given many recipients' general inability to repay overpayments, it is all the more important to strengthen internal controls and avoid such overpayments in the first place.

Overpayment Recovery—Inactive/Terminated Accounts

As was the case at the time of our last audit in 2004, the Ministry's initial collection effort for inactive/terminated accounts consists of sending three "dunning letters" (debt notices) over a 60-day period, requesting that the debtor arrange a plan to repay the outstanding amount. If there is no response within 30 days of the third letter being sent, it has been the Ministry's practice since 2005 to transfer the account to its internal Overpayment Recovery Unit (ORU)—in effect, an in-house collection agency.

The ORU sends an additional two dunning notices. The first advises the recipient that the recovery unit has been assigned responsibility for the debt and unless arrangements are made within 30 days to pay the outstanding amount, the Ministry will garnish any future tax refunds from the Canada Revenue Agency. Before taking this step, the unit sends a second and final letter, providing another 15 days to settle the amount owing.

Our review of a sample of overpayment files found the following:

- About 40% of overpayment cases had not been transferred to the ORU as required, even though the overpayment had been known, on average, for about three years. We were advised that, in most cases, the reason for not transferring the file was a lack of resources to do the necessary paperwork.
- About 50% of eligible files were transferred to the ORU between a year or two after the overpayment was identified.
- About 10% of the accounts were ineligible for transfer to the ORU for a variety of reasons, which in many cases included a pending appeal to the Social Benefits Tribunal of the amount outstanding.

Summary information provided to us by the ORU indicated that in the period from the unit's

inception in October 2004 to March 31, 2009, the unit received and is currently administering approximately 23,000 overpayment accounts from inactive or terminated accounts with a total value of $141.8 million. (This does not include approximately 28,000 accounts totalling $42 million that was written off during that time.) With respect to these 23,000 accounts, we found the following:

- About 3,200 accounts totalling $12.4 million have not been subject to any collection effort, many for more than two years.
- About 5,300 accounts totalling $40.2 million have been subject to collection efforts, but with no success to the time of our audit.
- About 14,500 accounts with an outstanding balance of $89.2 million have been either referred to the CRA or have entered into voluntary repayment plans for which some amount has been collected. However, the amounts collected from 6,300 accounts since the inception of the unit total just $7.6 million, or approximately 5% of the original $141.8 million in identified overpayments transferred to the unit since 2004.
- Overpayments forwarded to the ORU are not reviewed or assessed with respect to the individual's ability to pay. As a result, the Ministry is unable to take advantage of the opportunity to focus on the recovery of amounts from former recipients who, for example, have returned to work or acquired liquid assets of considerable value and, therefore, have the means to pay.

Temporarily Uncollectible Overpayments

As of March 31, 2009, the Ministry has designated $59 million of overpayments as "temporarily uncollectible." Of this amount, approximately $43 million relates to overpayments transferred from predecessor programs. These monies are considered uncollectible largely because the overpayments are poorly supported and/or have been outstanding for prolonged periods of time ranging as high as 16 years.

Most of the remaining amounts are designated temporarily uncollectible for several reasons, including hardship on the recipients or because the Ministry cannot substantiate the amount overpaid.

Although the Ministry advised us at the time of our last audit in 2004 that it intended to establish the validity and collectibility of all the then-outstanding overpayments by December 2005, this has not occurred. Given that little has been done for so many years to collect this money and that most of the overpayments were made years ago, we doubt whether the Ministry will ever collect much of the $59 million. If this is indeed the case, these accounts should be written off.

RECOMMENDATION 8

To better utilize its limited resources and help maximize the recovery of Ontario Disability Support Program overpayments, the Ministry of Community and Social Services should:

- devote more efforts to minimize overpayments in the first place, given the limitations in recovering significant overpayments from active and inactive recipients;
- ensure that overpayments from inactive accounts are transferred to, and followed up on by, the Ministry's Overpayment Recovery Unit on a timelier basis, with emphasis on accounts that are considered to have the most potential for repayment; and
- assess the validity and collectibility of outstanding overpayments designated as temporarily uncollectible and, where warranted, recommend that they be written off so that attention can be focused on those accounts where collection efforts are likelier to yield results.

MINISTRY RESPONSE

The Ministry agrees that overpayment recovery must be maximized and has recently implemented business and technology changes to improve the recovery of overpayments.

To minimize the possibility of overpayment, the Ministry recently introduced changes to the way that Ontario Disability Support Program (ODSP) recipients report income. The Ministry will continue with its efforts to mitigate overpayments and has recently implemented a risk-based approach to ODSP financial eligibility reassessments. Future enhancements to this approach will include the development of a risk model for social assistance that will help to ensure that only eligible recipients remain on the program and that the payments they receive are accurate.

Finally, the Ministry is assessing the feasibility of accelerating the write-off of aged overpayments and prioritizing overpayment collection on the basis of recipients' and former recipients' ability to repay.

CASE MANAGEMENT

Workload

Our previous audit commented on the then relatively high number of files per caseworker. Subsequent to our 2004 audit, the Ministry hired additional caseworkers. Figure 8 shows the resulting reduction in average caseloads compared to the time of our last audit.

Clearly, the average caseload has decreased significantly from the time of our last audit, by about 35% overall. However, caseloads still varied significantly among the Ministry's nine regional as well as among its 44 local offices, with some offices having double the caseload per caseworker than others. Despite the overall decrease in caseloads, there is little evidence that the quality of work has improved, especially in conducting financial eligibility assessments and in clearing outstanding tasks. Our review of a sample of files continues to show many lingering problems, including, as noted above, a significant increase in overpayments since our last audit.

Figure 8: Caseload Comparison, December 2003 and March 2009

Source of data: Ministry of Community and Social Services

	December 2003	March 2009	% Decrease
Average, All Regions	**389**	**266**	**32**
Regional Averages			
highest	465	318	32
lowest	340	230	32
Local Office Averages			
highest	not available	351	
lowest	not available	161	

Furthermore, the Ministry has no standards in place to assess whether staffing is sufficient to adequately perform all necessary case-management functions and to ensure that the ODSP program is well administered.

We also noted that caseworkers in the three regions we visited took, on average, more than 20 sick days per year, which compares unfavourably to the overall Ontario Public Service average of about 10 days per year.

RECOMMENDATION 9

To ensure that Ontario Disability Support Program caseworkers can effectively carry out their responsibilities, the Ministry of Community and Social Services should:

- assess caseworkers' responsibilities and work processes to establish reasonable caseload benchmarks in each of the 44 local offices; and
- strengthen efforts to monitor sick leave and set targets for reducing absenteeism to more reasonable levels.

MINISTRY RESPONSE

The Ministry continues to review how services can best be delivered within the bounds of existing resources. Building on business and technical improvements, to assist with case

management, the Ministry is planning to implement a new Ontario Disability Support Program (ODSP) service delivery model that will simplify the way ODSP recipients are supported and address staff workload issues. At the same time, the Ministry will strengthen measures to monitor sick-leave usage and ensure that the Ontario Public Service Attendance Support Program is applied appropriately province-wide.

Service Delivery Model Technology System

The Ministry's Service Delivery Model Technology system, the primary information technology network to support social assistance delivered by both Ontario Works and ODSP, was implemented province-wide in early 2002. It was developed to provide a common database with real-time access to case information and to reduce administrative costs while freeing up caseworker time to allow for better customer service to applicants and recipients.

However, as was the case at the time of our previous audits—of Ontario Works in 2002 and ODSP in 2004—we found that caseworkers still expressed considerable dissatisfaction with the SDMT system.

Concerns expressed included the following:

- SDMT continues to make errors that ministry staff cannot explain. For example, although

the system is supposed to automatically detect all Ontario Works payments made to a recipient during any period for which ODSP benefits are granted retroactively, automatic deductions for duplicate Ontario Works payments were often not made, resulting in overpayments.

- Regional and local offices are not receiving, in an easily understandable format, the information they need to effectively oversee program expenditures. For example, some pre-programmed reports are incomplete and inaccurate. As a result, ministry staff have created manual systems or workarounds for tracking functions such as intake, internal reviews, and tribunal appeals.

In addition, the system lacks certain basic internal controls. For example, frontline caseworkers have the ability to create a client file, initiate and approve payments, and close files without supervisory review and approval. In effect, they have considerable powers to act without management's knowledge.

A more complete discussion of the issues and concerns with respect to the SDMT system is included in this chapter's VFM Section 3.11 on the Ministry's Ontario Works program.

Ontario Research Fund

Background

The Ontario Research Fund (Fund) program was created in 2004 to "support scientific excellence by supporting research that can be developed into innovative goods and services that will boost Ontario's economy." The program aims to keep Ontario's researchers at the leading edge by supporting the direct and indirect operational costs of research through its Research Excellence Program, and the capital costs of research through its Large Infrastructure Program and Small Infrastructure Program. The Fund is the responsibility of the Ministry of Research and Innovation (Ministry), which was created in 2005 and focuses its efforts on activities that support Ontario's knowledge economy and create high-value jobs. Previously, research funding had been delivered by the Ministry of Economic Development and Trade under various other programs. The guiding principles of the new ministry, as stated in the Ontario Innovation Agenda, include extracting value from public research investments through commercialization and investment in research that will create jobs.

The Ministry has dedicated approximately 15 full-time employees and five support staff to deliver the Fund program. There is no specific legislation related to the Fund, as the program was established by an approved cabinet submission. The program provides research grants to institutions, primarily universities, and requires the research institution to obtain private-sector and institutional support in addition to program funding. The program also requires an advisory board and peer review panels to review research proposals and recommend projects for funding.

Since the inception of the Fund in 2004 to March 31, 2009, transfer payment expenses for the capital and operating components of the program have amounted to $303 million, with total announced program commitments of $623 million, as shown in Figure 1. Other commitments as reflected in Figure 1 represent contribution commitments from research institutions and the private sector.

Audit Objective and Scope

The objective of our audit of the Ontario Research Fund was to assess whether the Ministry had satisfactory systems and procedures in place to:

- measure and report on the program's effectiveness in fulfilling its objectives;
- ensure that resources were being managed with due regard for economy and efficiency; and

Figure 1: Ontario Research Fund Program Commitments, 2004/05–2008/09

Source of data: Ministry of Research and Innovation

Program	# of Projects	Total Expended ($ million)	Ministry Commitments ($ million)	Other Commitments ($ million)	Total Commitments ($ million)
Research Excellence Program (operating)	71	81	306	580	886
Research Infrastructure Program (capital)					
Large Infrastructure Program	89	117	173	519	692
Small Infrastructure Program	906	105	144	233	377
Total	**1,066**	**303**	**623**	**1,332**	**1,955**

- ensure compliance with government directives, ministry policies, and contractual arrangements.

The scope of our audit included discussions with ministry staff, an analysis of relevant files and other documents, and a review of research programs and practices in other jurisdictions. In addition, we spoke with several peer review panel members who review Research Excellence Program proposals for their input on the program. Our audit also included a review of the activities of the Ministry's Internal Audit Services Branch. We reviewed the Branch's recent reports and incorporated any relevant issues into our audit work.

Summary

In our 2003 audit of the Science and Technology Division of the former Ministry of Enterprise, Opportunity and Innovation, we reported significant concern over the lack of effective governance and accountability mechanisms in place for the management of various Ontario research programs. At the time, the province was using external agencies to administer key government research programs. The consolidation of operating and capital research funding into one comprehensive program that is fully managed and administered by the Ministry of Research and Innovation (Ministry) has helped to address this concern. The Ministry has also established a fair and transparent peer

review process to evaluate research proprosals and make funding recommendations to the Minister. However, there are still a number of areas where improvements are required. For example:

- The Ontario Research Fund's (Fund's) overall mandate emphasizes supporting research that will provide economic and social benefits for the people of Ontario through the commercialization of research from our publicly funded research institutions. In a 2004 appearance before the Standing Committee on Public Accounts, the then Deputy Minister stated, "we need to heighten the focus on results, commercialization, that far end of the spectrum." However, $623 million has been committed to research projects in the province and most of the research funded was for basic (that is, theoretical) research that was not focused on commercial potential.

- In our 2003 audit, we noted that the Ministry did not have adequate guidelines in place requiring the institutions it funds to ensure that the research funded will ultimately benefit Ontario. The current policy is to delegate intellectual property management to the institution and allow ownership of any benefits to vest with either the institution or the researcher, who could move to another jurisdiction. This practice has resulted in intellectual property policies that are inconsistent from one institution to another. We noted that, to ensure that research benefits remain within the funding jurisdiction, other jurisdictions

require ownership of intellectual property to rest with the research institution.

- The Ministry now reports on how its programs are performing against three stated targets: the dollar value of investments leveraged from the private sector, the number of individuals with enhanced skills involved in Ministry-funded projects, and active licences that resulted from Ministry-funded projects. However, the Ministry does not measure or report publicly on the program's contribution to the Ministry's overall strategy of creating high-paying jobs and commercializing research. More information is required to assess whether the program is achieving its objectives.

- The Ministry did not have an adequate process in place to ensure that the projects funded through the Large Infrastructure Program supported Ontario's strategic priorities or provided strategic benefits to Ontario. The Ministry generally based its funding on the decisions of the Canada Foundation for Innovation (CFI), with the result that the province funded projects worth $41.5 million that did not directly support Ontario's strategic priorities. In addition, although we found that the Research Excellence Program selection process was fair and in accordance with program policies, $65 million of program funding was allocated to some very large projects where it was questionable whether they met the program's eligibility criteria, although we were advised that they were very worthwhile projects for Ontario.

- The Ministry relied on federal CFI processes to monitor Research Infrastructure Program grants and did not sufficiently assess or review the CFI's work to ensure that more than $300 million in program funding commitments was being spent for the approved purpose. The Ministry does not perform its own site visits because it is entitled to receive the results of CFI site visits and audits of Ontario co-funded projects. However, we found that

the Ministry had not requested or received any of this information from the CFI.

- Ontario's colleges tend to focus on applied programs and research and helping small- to medium-sized businesses develop new or improved technologies and processes for the marketplace. Such research provides direct opportunities to contribute to Ontario's economic growth. Colleges are eligible for funding through the Fund, but since the inception of the program no funding has been awarded directly to Ontario's colleges. Given that commercialization of research projects is one of the key program objectives, the Ministry should assess the potential benefits of applied research projects that both address the unique needs of Ontario's colleges and offer enhanced commercialization potential.

- As part of the monitoring process for the Research Excellence Program, the Ministry receives various reports from grant recipients. However, we found that the Ministry had not performed any formal monitoring or clarified its expectations for independent audits to verify the information submitted by recipients, to determine whether program funds were being spent for the intended purpose, and to gauge whether the recipients' performance was satisfactory.

Detailed Audit Observations

PROGRAM OBJECTIVES, BENEFITS, AND REPORTING EFFECTIVENESS

Program Objectives

The report entitled *The State of the Nation 2008: Canada's Science, Technology and Innovation System* issued by the Science, Technology and Innovation Council concluded that, despite Canada's significant strengths in many fields of research, it was not translating its strength in basic science into

sustained commercial success as effectively as other nations have done.

The Ontario Research Fund (Fund) program was created under the Ministry of Economic Development and Trade's 2004 science and technology strategy, which is still the guiding document for the program. This strategy was developed to support government priorities and to help Ontario achieve long-term prosperity through innovation that creates high-paying jobs, provides people with the skills they need for those jobs, and brings leading products to market. Specific goals of the strategy are to improve Ontario's performance in commercializing research, sustain research excellence, and leverage funding from private-sector partners.

When the government introduced the new research program in the Legislature, the Minister made the following statement:

> We're creating a new Ontario Research Fund, which will do three things: It'll make us more accountable and transparent, make certain that there is a made-in-Ontario set of policies toward research and commercialization, and place a greater emphasis on commercialization as well. In addition to this, we have a commercialization strategy which will take good ideas out of our labs and ensure that they get to the marketplace with some degree of success.

The Cabinet submission proposing the Fund also emphasized the importance of commercialization of funded research.

In 2005, responsibility for the Fund shifted to the newly created Ministry of Research and Innovation (Ministry). The guiding principles of the new ministry, as stated in the Ontario Innovation Agenda, include extracting value from public research investments through commercialization and investing in research that will create jobs, contribute to a cleaner environment, and result in better health care for Ontario families.

The Fund contributes to Ontario's science and technology strategy and the Ministry's overall mandate by supporting research that can be developed into innovative goods and services to advance Ontario's economy. Specifically, one of the goals of the Research Excellence Program is to focus on commercialization of research, while the Research Infrastructure Program is meant to ensure that institutions have state-of-the-art infrastructure to engage in technology development.

The importance of commercialization of research to Ontario was noted in the original cabinet submission, but we found that most funding was for basic theoretical research as opposed to applied research, which is more focused on commercial potential. With the Research Excellence Program, the Ministry does not formally keep track of, or report on, the percentage of projects that have applied or commercial value. For the Large Infrastructure Program, we found that almost 80% of the funds requested in 2007/08 were for basic research (that is, lacking commercial potential), and, consequently, were not aligned with commercialization, one of the program's goals.

RECOMMENDATION 1

To ensure that the Ontario Research Fund (Fund) program supports the Ministry of Research and Innovation's (Ministry's) overall strategy of job creation and is consistent with the Fund's commercialization objective, the Ministry should place more emphasis on funding projects that have viable commercial potential.

MINISTRY RESPONSE

The Ministry will ensure that commercialization potential continues to be evaluated during the selection process and that commercialization milestones are met as Fund projects progress. Commercialization potential is a key criterion of any funding decision of the Fund, together with research excellence, strategic value, and relevance to Ontario.

Benefits of Research Projects

The benefits of research investments should make an important contribution to Ontario's prosperity. Research produces ideas and knowledge that stimulate economic and social growth with new and improved technologies and products, and the creation of new companies and industries. Research discoveries achieve commercial value when they are put to use by industries and businesses. The Fund program is intended to support research that can be developed into innovative goods and services that will boost Ontario's economy; consequently, ensuring commercialization of research results is important for Ontario to realize the benefits of publicly sponsored research.

Commercialization of research results developed within an institution is typically accomplished through the transfer of intellectual property (IP) to an existing or new company. Intellectual property rights represent the legal ownership resulting from research and academic activities that can result in patents, trademarks, and copyrights. The owner of intellectual property has the right to exclude others from using it, and ownership can be transferred or sold.

The Ministry has cited several concerns regarding intellectual property in Ontario, including:

- Businesses are often unaware of the intellectual property created within public research institutions.
- Industry's access to intellectual property is hindered by a lack of consistent policies across Ontario research institutions.
- The commercialization of intellectual property may require complex and time-consuming negotiations, often with several institutions with different policies.

In an appearance before the Standing Committee on Public Accounts in 2004, the then Deputy Minister stated: "The approach taken in the development of intellectual policy options will be consistent with similar programs in competitor jurisdictions in Canada and North America. The target date for completion is the end of this year."

In a 2006 report to the Premier, the Ontario Research and Innovation Council stated that "Ontario needs an effective intellectual property system that ensures a healthy expedient flow of intellectual property out of universities to market," and recommended that "the Government of Ontario should also ensure that IP access policy is enshrined within public sector funding agreements, in order to promote knowledge and IP transfer of publicly funded research."

We reviewed the Fund program guidelines and other ministry documents to determine what the Ministry does to ensure that potential research discoveries benefit Ontario and its taxpayers. We found that the Ministry "delegates intellectual property management to institutions on the expectation that it will be managed in the best interest of Ontario, and encourages research institutions to use best practices in managing IP and transferring technology to the marketplace." However, the Ministry did not advocate or have general guidelines or best practices in place to assist research institutions in identifying, protecting, and commercializing intellectual property to maximize the benefits of research for Ontario.

Program guidelines indicate that the Ministry does not claim ownership or rights to any intellectual property resulting from research funded through the program, and that these rights are determined by the institutions' intellectual property policy. The Ministry's contracts under the Research Excellence Program allow intellectual property rights to belong to either the researcher or the recipient institution, while contracts under the Research Infrastructure Program contain no clauses regarding intellectual property rights.

The Ministry informed us that, as a condition of funding, program proposals require a description of the institution's policy for intellectual property protection and disposition. However, the institution's intellectual property policy is not formally evaluated during the peer review process or reviewed by the Ministry for adequacy.

In our follow-up report to our 2003 value-for-money audit of the science and technology programs, the Ministry informed us that it had established a Commercial Advisory Council whose key tasks included reviewing intellectual property barriers to commercialization, with the expectation that a consistent policy for science and technology programs would result. However, during our current audit, we were informed that, owing to a realignment of government ministries, the council met only once, and no results ever materialized.

We noted that several other jurisdictions, such as Quebec, Ireland, and Australia, have developed common guidelines for managing intellectual property for publicly funded research. The overall purpose of these guidelines is for the government to promote consistent good practices across research institutions for intellectual property management and commercialization of research results, while maximizing the benefits of publicly funded research to taxpayers and the economy. All of these jurisdictions promote the practice of placing intellectual property ownership with the research institutions, as opposed to the researchers. Generally, this is seen as good practice because institutions have the appropriate resources and experience to manage intellectual property and will do so for the benefit of the local economy, whereas individual researchers who own intellectual property could move to another jurisdiction. In addition, having one party with title to the intellectual property is an important incentive for industry and businesses that are interested in using research discoveries.

RECOMMENDATION 2

To better promote the commercialization of research done at Ontario's publicly funded research institutions and ensure that the social and economic benefits of the research are retained in Ontario, the Ministry of Research and Innovation should continue to review best practices for intellectual property management in other jurisdictions and, on the basis of the best practices identified, implement consistent guidelines for the management of intellectual property across Ontario's publicly funded research institutions.

MINISTRY RESPONSE

The most effective approach to managing intellectual property (IP) remains an ongoing topic of debate within the research community across Ontario and Canada.

The Ministry will continue to actively review best practices pertaining to IP management that are consistent with the Ontario Innovation Agenda.

The Ministry will continue to work with universities, research institutions, industry, and the financial sector to address issues of IP policy and management and encourage the development of IP models and approaches that will maximize the benefits of research programs to Ontario.

The Ministry acknowledges the various approaches used by Ontario's research institutions to manage IP and recognizes noteworthy examples where best practices for IP management have been implemented in institutions across Ontario.

Measuring and Reporting on Program Effectiveness

It is important for the Ministry to demonstrate that its programs are effective and how they provide value to Ontario. Well-defined program objectives are the basis for developing specific performance measures. Measuring and reporting on program performance is meant to guide decision-making and to demonstrate the Ministry's accountability for achieving results.

We reviewed the performance-measurement process for the Fund and found that there were only limited requirements for reporting results. As part of the government's business-planning process,

the Ministry is required to report annually on the aggregate results for all its programs, including the Fund. Specifically, the Ministry reports on how its programs are performing against three stated targets: leveraged investment; the number of individuals with enhanced skills involved in Ministry-funded projects; and active licences that resulted from Ministry-funded projects.

In the February 2004 meeting of the Standing Committee on Public Accounts to review our 2003 audit report on the Science and Technology Division, the Ministry stated that "we are committed to measuring the contribution our programs make in promoting the growth of high-paying jobs." The Ministry also said that the objective of the program was "to create knowledge, add to high-value jobs and create a climate that fosters commercialization of research."

The Ministry recently completed an inter-jurisdictional review of performance measures and is planning to develop a number of indicators for the public reporting of research and commercialization results. Although some performance measures have been developed, the Ministry does not measure or report publicly on the Fund's achievement in supporting its goal of creating high-paying jobs.

The Ministry produces a report on the results of the Research Infrastructure Program from data collected by the federal Canada Foundation for Innovation (CFI). Some key information is captured, such as the number of patents resulting from projects the CFI and Ontario have funded, but this information is not reported publicly.

Although these measures give some indication of the results being obtained for some of the research grants provided, the Ministry has not established any measurable targets or goals against which performance can be benchmarked. We were informed that, as part of a ministry-wide performance-measurement review, the Ministry will be redeveloping performance measures and setting performance targets for each of its programs, including the Fund.

RECOMMENDATION 3

To improve its accountability to the public and its ability to measure the results being obtained for the grants provided by the Ontario Research Fund (Fund), the Ministry of Research and Innovation should:

- develop program-specific measures, targets, and benchmarks to assess the Fund's contributions to its overall goals of supporting job creation and the commercialization of research; and
- periodically report to the Legislature and the public on the achievement of these measures.

MINISTRY RESPONSE

The Ministry is reviewing its existing performance measures with the goal of improving program-specific and impact-focused performance measures. Our objective is to improve the Ministry's ability to measure the impact of the Fund's programs in terms of strategic objectives and government priorities.

This objective is in keeping with the mandate of the Ontario Innovation Agenda, which calls for effective program measures to be in place for all key research and innovation programs.

In the next phase of the development of the Fund, the Ministry is committed to implementing a system of program evaluation to measure the economic and societal impact of all Ontario Research Fund programs.

PROJECT SELECTION

The Ministry is ultimately responsible for ensuring that the selection of potential research projects best achieves the Fund's goals and complies with specified eligibility criteria. To ensure that funds are provided to the most deserving proposals, a fair, effective, and transparent selection process must

be used. We reviewed the selection process for the Research Excellence Program and the Research Infrastructure Program.

Research Excellence Program

The Research Excellence Program focuses on scientific excellence, strong commercialization, and strategic value to Ontario, and targets new, leading-edge research initiatives. The program supports the operating costs of research, including an indirect cost component of up to 40% of a project's direct costs. Total funding for individual projects is derived from equal contributions by the Ministry, the research institution, and the private sector. The Research Excellence Program generally requires one-third of the project costs to be funded through private-sector contributions. The intent of this requirement is to encourage partnerships between research institutions and the private sector, and to encourage commercialization. As of March 2009, the Minister had approved 71 Research Excellence Program projects, for a total ministry commitment of $306 million, with research institutions and private-sector partners committed to contribute additional funding of $309 million and $271 million, respectively.

Peer review panels evaluate all Research Excellence Program proposals to help in the selection of projects that best meet the program-eligibility criteria. On the basis of advice given by the panels, the Ontario Research Fund Advisory Board, made up of senior level executives from the academic, government, research, and business communities, makes funding recommendations to the Minister, who makes the final decision on the proposals that will be funded. We reviewed the Research Excellence Program selection process and found that most projects met program-eligibility criteria and went through a review process that was fair and transparent. However, we noted a few major exceptions.

Program guidelines state that the research funded should remain sustainable after provincial funding is no longer available. We found that the

Ministry did not always ensure compliance with this eligibility criterion. Specifically, the Ministry awarded $40.5 million (Research Excellence Program—$30.5 million; Research Infrastructure Program—$10 million) to three research facilities that provide computing services to researchers throughout Ontario. The research facilities funded include an operational and infrastructure component, and utilize large supercomputers that help provide support to research in a broad range of disciplines from economics to biomedical engineering. Although ministry staff informed us that these facilities are necessary to support research in the province, they are not sustainable without continued government funding. Two of these facilities had received $23.7 million in provincial funding from previous research programs.

The Ministry was not always consistent in applying the program-eligibility criteria to ensure that only eligible projects were selected. Specifically, a laboratory was provided funding of $23.5 million (Research Excellence Program—$17.9 million; Research Infrastructure Program—$5.6 million) on the basis of its strategic value to Ontario. Although it was given an outstanding rating for commercialization by the peer review panel, the Advisory Board noted that the laboratory lacked commercialization potential and it was questionable whether it was a defined project under the guidelines. The project was then referred by the Advisory Board to the Minister for a final funding decision. We noted that, in situations such as these, there may be more appropriate funding sources. For example, the Ministry awarded $15 million through another funding source to a similar proposal that had been rejected for funding through the program because there was no expectation of commercialization in the immediate future.

RECOMMENDATION 4

To ensure that the Research Excellence Program follows a selection process that is not only fair and transparent but promotes the program's

goals, the Ministry of Research and Innovation should ensure that all approved proposals meet program-eligibility requirements.

◾ MINISTRY RESPONSE

To date, all projects that have received funding through the Fund have gone through the adjudication and selection process. The Ministry will continue to ensure that all proposals are reviewed against program-eligibility requirements as part of the approved adjudication and selection process by the Fund's Advisory Board. The Board will continue to refer any exceptions to the Minister for final decision.

Research Infrastructure Program

The Research Infrastructure Program ensures that Ontario's publicly funded research institutions continue to have competitive, state-of-the-art infrastructure to engage in world-leading research and technology development. This program has two components, the Large Infrastructure Program and the Small Infrastructure Program. The Large Infrastructure Program is directed toward large, strategic investments in research facilities that stimulate technology development, while the Small Infrastructure Program is directed toward investments that help attract, retain, and develop researchers by providing funds needed to keep their laboratories and equipment up to date.

The Research Infrastructure Program is based on a co-funding model with the Canada Foundation for Innovation (CFI), a corporation created by the federal government to fund research. The program allows research institutions to leverage federal infrastructure awards toward projects that advance Ontario's innovation goals and priorities. The province typically contributes up to a maximum of 40% of eligible costs, while the CFI contributes 40%, and the research institution and private funding partners fund the remaining 20% of a project's cost.

As of March 2009, the Minister had approved 995 Research Infrastructure Program projects for a total ministry commitment of $317 million, with the CFI and other partners (research institutions and the private sector) contributing additional funding commitments of $457 million and $293 million, respectively.

The peer review process that evaluates the scientific merit of research infrastructure proposals is managed by the CFI. To avoid duplication of efforts, the Ministry generally relies on the CFI's decisions regarding which projects should be funded. For the Large Infrastructure Program, the Ministry informs the CFI of proposals that it believes best meet Ontario's goals and should be funded. On the basis of the CFI's funding decisions, the Advisory Board makes funding recommendations to the Minister, who makes the final decision on the proposals to be funded.

We reviewed this process and found that the Ministry generally approved those projects that the CFI had decided to fund and did not always ensure that the proposals selected supported Ontario's strategic goals, such as the commercialization of research. More specifically, for the Large Infrastructure Program, the Ministry matched the CFI funding decisions for 40% of funded projects worth $41.5 million that the Ministry did not recommend as being highly aligned with Ontario's priorities, and the CFI rejected funding for proposals worth $18 million that the Ministry had identified as highly aligned with Ontario's strategic priorities. We were advised that for the 2009 round of Large Infrastructure Program proposal selections, the Ministry intends to review all applications to assess the strategic benefits to Ontario and does not plan to automatically match funding of CFI-selected projects. The Ministry will continue to match the CFI award decisions for the Small Infrastructure Program.

In addition, to be considered for Research Infrastructure Program funding, the Ministry requires research institutions to apply to both the CFI and Ontario. However, we noted that in two other jurisdictions, British Columbia and Alberta, to ensure

that projects with substantial provincial benefits are funded, research institutions are able to submit applications and receive funding even if they are not associated with a federal CFI application.

RECOMMENDATION 5

To ensure that projects funded by the Research Infrastructure Program are economically beneficial to Ontario, the Ministry of Research and Innovation should:

- only fund projects that are highly aligned with Ontario's priorities; and
- consider funding projects that have not applied to, or received funding from, the Canada Foundation for Innovation, if they offer significant benefits to Ontario.

MINISTRY RESPONSE

In the most recent round of the Ontario Research Fund—Large Infrastructure competition, the Ministry established Strategic Value Peer Review panels to make recommendations to the Fund's Advisory Board on the extent to which proposals were aligned with Ontario's strategic priorities. As a result of this process, the Ministry will fund only those projects that are aligned with Ontario's priorities.

Colleges and Smaller Institutions

There are 24 colleges in Ontario, with operations in over 100 Ontario communities. According to the Ontario Innovation Agenda, Ontario's community colleges are highly responsive to the needs and interests of local communities and industries, making them an important link in responding quickly to changing skill requirements. Many colleges also work closely with small- to medium-sized enterprises (SMEs) in particular, using their capacity for applied research and development to solve a company's problems. This provides colleges with

an important role in contributing to Ontario's economic growth, as over 99% of businesses in Ontario are SMEs.

Traditionally, research funds have been more accessible to large universities than to smaller universities and colleges. Since the inception of the Fund, most of its funding has been allocated to universities, with three universities receiving over 40% of total program funding. Although colleges are eligible to apply, no funding has been directly awarded to an Ontario college through the Fund. We found that colleges have been excluded from Small Infrastructure Program funding because the CFI specifically excludes colleges from receiving program funding (although at the federal level another agency has a program dedicated to funding colleges).

We contacted half the colleges in Ontario to obtain feedback on how the program could be improved to be more accessible to colleges. All agreed that Ontario would benefit from a provincial research program dedicated to colleges and smaller institutions that addressed their unique needs and infrastructures. Also, the majority of respondents said their college has close ties and partnerships with SMEs. For example, one college indicated that over half the research it conducts is based on specific requests from SMEs, while another college informed us that it had over 40 ongoing projects with SMEs.

Colleges do receive some funding from other ministry programs such as the Ontario Research Commercialization Program (ORCP) and the Ontario Centres of Excellence. For example, the government announced funding of $10 million over three years from the ORCP to the Colleges Ontario Network for Industry and Innovation to help SMEs with hands-on applied research, technology transfer, and commercialization. However, the colleges we spoke to indicated that these programs do not provide continuous long-term support to build the colleges' research capacity.

RECOMMENDATION 6

To ensure that the Ontario Research Fund selection process is accessible to all eligible applicants, and to help meet the program's overall goal of commercialization of research, the Ministry of Research and Innovation should work with colleges, smaller institutions, and federal research agencies to ensure that the specific requirements and infrastructure needs of Ontario colleges and smaller institutions that focus on applied research are given appropriate consideration.

MINISTRY RESPONSE

The Ministry recognizes that colleges and smaller institutions have exhibited a lower success rate in Fund competitions than larger institutions. The Ministry will continue to conduct outreach with colleges, smaller institutions, and federal research agencies to ensure that the needs of these stakeholders are understood. In addition, the Ministry will continue to look for opportunities to strengthen research capacity in colleges and smaller institutions through the Fund and other programs, such as the Colleges Ontario Network for Industry and Innovation, as noted in the Auditor General's report.

PROJECT MONITORING

Monitoring is an ongoing process that may include activities such as site visits, phone and written inquiries, the review and analysis of reports, and follow-up of information received. The financial and operational performance of grant recipients should be reviewed and monitored throughout the grant cycle to ensure that program objectives are achieved efficiently and effectively and public funds used responsibly. The Management Board of Cabinet directive, Transfer Payment Accountability, also requires ministries to communicate with grant

recipients on a regular basis, monitor the results for contracted projects, and take corrective action where a grant recipient has failed to meet contractual obligations. Appropriate and timely monitoring is necessary to ensure that public funds are used for the purposes specified in the agreements and unused funds returned to the province.

In our 2003 audit of the Science and Technology Division of the former Ministry of Enterprise, Opportunity and Innovation, we reported some significant concerns over the governance and accountability mechanisms in place for the management of various Ontario research programs. Specifically, the Ministry had provided the Ontario Innovation Trust with $750 million to fund the capital costs of research in Ontario, but the Ministry was receiving virtually no information from the Trust and did not have the required monitoring processes in place to hold the Trust accountable for its expenditures of public funds. Also, the Innovation Institute of Ontario, a not-for-profit corporation responsible for the administration of the operational costs of research, did not retain research proposal assessments to support the decisions it made to fund specific projects.

We believe that consolidation of operating and capital research funding into one comprehensive program that is managed and administered by the Ministry has improved the Ministry's ability to effectively oversee its research grant program. Nevertheless, in our review of the Ministry's monitoring processes for both the Research Excellence Program and the Research Infrastructure Program, we noted areas where improvements could be made.

Research Excellence Program

To assist in monitoring recipients of Research Excellence Program grants, the Ministry receives quarterly requests for payment, annual progress reports (APRs), independent financial audit reports, and reports on performance measures from grant recipients at various stages of their projects.

We reviewed the monitoring process and noted the following:

- The request for payment is an important tool that the Ministry uses to monitor the financial progress of a project; consequently, grant agreements require recipients to report and request payment on a quarterly basis. Specifically, the Ministry uses the quarterly submissions to ensure that the private sector is contributing its share of project costs and to determine if project expenses are in line with the original budget. Monitoring private-sector contributions tells the Ministry if a project has industry support. According to the grant agreement, the Ministry's commitment is contingent upon the private sector's fulfilling its share. From our sample of projects, we found that 65% of recipients had not submitted requests on a timely basis (that is, quarterly); on average, requests were six months late. Although ministry staff generally followed up, this was normally done five months after the recipient should have filed its quarterly report. Also, in half the projects we reviewed, the private sector was under-contributing its share of project costs. The private sector had agreed to contribute $35 million to these projects, but only $21 million had been provided, resulting in a shortfall of $14 million. Program staff informed us that some of the projects had start-up or operational delays, others had lost private-sector funding and were finding replacement funds, and many were delayed in reporting because collaborating institutions had not reported to the lead institution. More timely and thorough follow-up is needed to determine if the program should continue to fund projects that are not meeting their commitments.
- APRs are required from recipients to determine whether a project is meeting its milestones and deliverables as agreed to in the grant agreement, and whether the project is on schedule. APRs also describe the project's broader impacts and scientific achievements. Overall, APRs were being received, although many were submitted late. Ministry staff generally followed up with grant recipients, but the first reminder usually came six months after a report was due. We found the Ministry had not performed formal site-monitoring visits to assess the progress of the funded projects. Because of the technical and scientific nature of the research projects, independent expert verification may be helpful, especially on the larger projects, to assess whether projects are progressing as intended. Many of the most prestigious academic and private research facilities in the United States have recently been accused of serious improprieties. Some of the more common improprieties related to research grants are falsifying progress reports, research data, results, and other documentation, and using grant money for other unrelated research or personal expenses. Routine site visits and independent expert assistance could help prevent and identify such situations. As well, it would send a message to the research community about the Ministry's concern that research funding be used only for the approved purpose.
- The Ministry receives independent financial audit reports at various times during a project, depending on the value of the grant. Generally, projects over $5 million require an audited annual report. For projects under $5 million the requirements vary, but at least one final report is required. However, the Ministry has not developed clear terms of reference on the required contents of the audit reports and what the audits are expected to accomplish. We reviewed several audit reports submitted by recipients and found that most of the audit reports were submitted late and the content of the reports was inconsistent. A few of the reports briefly described the basis of accounting used, but most did not. In one-third of the reports reviewed, revenue

and expenses could not be verified by the accountant, but the Ministry did not follow up. Generally, the usefulness of these reports for monitoring where grant funds were spent was limited.

The Research Excellence Program is intended to fund the operating costs of research; consequently, program guidelines recommend that the costs of facilities and equipment not exceed 10% of a project's total direct costs. Also, to ensure that reasonable rates are charged for salaries and benefits, program guidelines limit the rates that should be charged according to the credentials of the researcher. We noted several instances where the Ministry approved projects that had estimated expenditures in these areas that exceeded guideline amounts, resulting in possible total ineligible program funding of over $4 million.

RECOMMENDATION 7

To ensure that Research Excellence Program grants are used for the purposes intended and that project performance is effectively monitored, the Ministry of Research and Innovation should:

- implement a process to identify and follow up on projects that are not reporting quarterly as required;
- perform routine, formal monitoring visits to verify the information submitted by grant recipients, to ensure that program funds are being used for the approved research and that research milestones have been met; and
- develop clear guidelines for what independent audits are expected to accomplish and report, ensure that audit reports are received when due, and follow up on issues they identify on a timely basis.

MINISTRY RESPONSE

The Ontario Research Fund is a maturing program. The Ministry is committed to continually improving and refining the program's delivery model. The Ministry agrees that projects should be effectively monitored. To assist in this regard, the Ministry has recently completed the development of a contract–monitoring module for the Research Excellence program through the Research Awards Database, which captures key information for monitoring projects.

In addition, as part of the Ministry's 2008/09 Audit Plan, Internal Audit conducted an audit of two large program recipients to assess the effectiveness of the Ministry in monitoring the recipients; to assess whether the recipients have achieved contract deliverables; to verify that the expenses incurred are eligible under the contract; and to confirm that there is adequate supporting documentation in place. The results of this review will be used to help develop enhanced program-monitoring processes.

Research Infrastructure Program

The Research Infrastructure Program is a co-funded program delivered in partnership with the CFI. The program has approximately four staff to oversee and monitor 995 projects worth $317 million. To avoid duplication of effort, the Ministry generally relies on the CFI to monitor research infrastructure grants.

Before making payments on a research infrastructure project, the Ministry reviews the payment request to ensure that the CFI has already made its related payment. The Ministry receives from the institutions a copy of the annual project reports and financial reports that the CFI requires to monitor project performance.

We were advised that the CFI conducts periodic visits to assess the adequacy and effectiveness of policies, processes, and financial controls, and

help to ensure that funds are being spent for their intended purposes. We were informed that the CFI also conducts contribution audits at the project level to ensure that the institutions have used the funds in accordance with the terms and conditions in the grant agreements and CFI guidelines and that private-sector contributions are valued correctly and milestones are being met.

The Ministry could request the results of the CFI's monitoring visits and audits for Research Infrastructure-funded projects. However, we found that it had not requested or received this information for Ontario's projects. Because the Ministry has not performed any of its own site visits, it is important to obtain such information to adequately assess whether further due diligence should be performed by ministry staff, or whether issues have been identified that affect the province. Also, we noted that the Ministry had no formal agreement with the CFI to clarify the roles and expectations of each of the funding parties and ensure the effective co-ordination of the oversight processes.

RECOMMENDATION 8

To more effectively monitor Research Infrastructure Program grants and ensure adequate co-ordination of oversight processes with the Canada Foundation for Innovation (CFI), the Ministry of Research and Innovation should:

- periodically obtain and review the CFI monitoring reports and audits for selected larger Ontario-funded projects to ensure that provincial funds are being used for their intended purpose and funded institutions comply with program policies and guidelines;
- assess the need for ministry staff to conduct site visits, especially on the larger projects; and
- establish a formal agreement with the CFI that clearly defines the roles and expectations of each party in the oversight processes for co-funded projects.

MINISTRY RESPONSE

The Ministry agrees that it would be helpful to work with the Canada Foundation for Innovation (CFI) to define a process for sharing information to facilitate oversight of co-funded projects. In particular, the Ministry will work with the CFI on selected larger Ontario-funded projects to ensure that provincial funds are being used for their intended purpose and funded institutions comply with program policies and guidelines.

PROGRAM ADMINISTRATION

The Ministry has approximately 15 full-time employees and five support staff dedicated to the administration and delivery of the Fund program. Since the inception of the program in 2004, the Ministry has paid out over $300 million in transfer payment grants and committed a total of $623 million to 1,066 projects. Financial and administrative controls are necessary to ensure that all of the program's significant policies have been complied with and public funds are used with due regard for economy. We reviewed the Ministry's financial and administrative controls over the program to determine if they were operating effectively and efficiently. We noted some areas where improvements could be made.

Information Systems

The Ministry uses a combination of spreadsheets, a database, and word-processing documents to manage Fund grants. The Research Award Database that the Ministry currently uses to manage grants has worked well as a repository for basic project information such as project description, funding amounts, and panel review assessments. However, the system is outdated and is not able to produce essential program-level and project-specific information needed to manage the growing volume and complexity of the 1,066

grants awarded to date. We found that, although the Research Infrastructure Program relies on the system to monitor grant payments for individual projects and the program as a whole, the Research Excellence Program does not. Also, the database does not capture key information for monitoring the performance of specific projects against contract terms, such as outstanding request for payments, due dates, and private-sector contributions. A contract-monitoring module is being built into the system to track project-specific information, but it is limited to the Research Excellence Program and, at the completion of our field work, was not yet operational.

The Ministry is developing a new e-grants system with a total estimated cost of $2.9 million to help manage grants for all its research programs. The project is still in the planning phase; the new system is expected to be rolled out in April 2010 for another ministry program, but no date has been set for the Fund. In addition, the contract-monitoring component for the new system has not been designed, and as of March 31, 2009, the Ministry had not estimated the cost of this component.

RECOMMENDATION 9

To ensure that the Ministry of Research and Innovation has the information needed to effectively oversee its Ontario Research Fund program, its information system should provide ministry staff with timely program-level and project-specific information.

MINISTRY RESPONSE

The Ministry agrees that its information system should provide ministry staff with timely program-level and project-specific information. To accomplish this goal, the Ministry is developing an e-grants system. The e-grants system is a user-friendly and time-saving service-delivery and management tool that will automate the grant management processes and

align the Ministry with the Ontario Innovation Agenda. In addition, the e-grants system will offer improved access for applicants and offer ministry staff improved access to information to manage programs, including the Fund, more strategically.

Private-sector Partner Contributions

Meaningful participation in research programs by the private sector is often an indication that the research being carried out has commercial relevance and value to industry. The private sector's interest in the research may be in the form of cash or in-kind contributions. In-kind contributions include such items as equipment, materials, use of facilities, and research personnel. Cash contributions are more readily verifiable by the Ministry and could indicate a higher level of commitment for the commercial potential of research projects. As of March 31, 2009, approximately 60% ($164 million) of the Research Excellence Program and 99% ($156 million) of the Research Infrastructure Program private-sector contributions had been made in kind, as opposed to cash contributions.

Fair valuations of in-kind private-sector contributions are necessary to ensure that the Ministry is not contributing disproportionately to projects by matching contribution values that have been inflated. In its February 2004 meeting with the Standing Committee on Public Accounts, the Ministry stated that it would "develop policies to confirm contributions and ensure that there is independent valuation of in-kind contributions of a designated material value."

We reviewed reported private-sector in-kind contributions of over $65 million to determine whether the Ministry had established policies to ensure that contributions were properly valued. We found little evidence on file of independent evaluations to confirm that the actual value of in-kind contributions was equal to the value being

claimed by the contributor. For the Research Infrastructure Program, the Ministry relies on the CFI to ensure that reliable valuations are performed. For the Research Excellence Program, it follows the CFI's policy, which normally requires some form of independent third-party evaluation, depending on the type and value of the in-kind contributions. For example, the policy requires competitive quotes through a formal bid process or third-party appraisal for in-kind contributions of equipment greater than $500,000. However, we noted several specific examples where there was no independent evidence on file to support the reported values. In one case, the equipment was valued at $4.8 million. In another example, the private sector contributed $18 million for facilities and equipment—but again, we found no independent evaluations on file to support the stated value of this in-kind contribution.

RECOMMENDATION 10

To provide assurance that in-kind private-sector contributions are fairly valued, the Ministry of Research and Innovation should:

- ensure that grant recipients comply with the policies adopted for the program to assess the value of in-kind contributions; and
- periodically verify that independent valuations of substantial in-kind contributions have been performed to support values reported by grant recipients.

MINISTRY RESPONSE

The Ministry, through the Fund, will continue to evaluate in-kind contributions from private-sector contributors in accordance with best practices established by peer-funding agencies. In addition, the Ministry will ensure that periodic verification of in-kind contributions is performed.

Ministry of Community and Social Services

Ontario Works Program

Background

The Ministry of Community and Social Services (Ministry) provides social assistance under two programs to approximately 450,000 individuals as well as their qualifying family members for a total of over 700,000 people. Under the provisions of the *Ontario Disability Support Program Act*, income and employment supports are provided to approximately 250,000 individuals with eligible disabilities, as defined by the act. Under the *Ontario Works Act*, the subject of this audit, the Ontario Works program provides income and employment assistance to approximately 200,000 individuals in temporary financial need, who are unemployed or underemployed. Ontario Works income assistance is intended to help eligible applicants with basic living expenses such as food, clothing, personal needs, and shelter. Employment assistance for eligible applicants includes a variety of activities intended to increase their employability and help them obtain employment and become self-reliant.

Basic income assistance under Ontario Works is generally less than comparable payments under the Ontario Disability Support Program. A comparison of typical monthly benefits, all of which are tax-free, between the time of our last audit in 2002 and the 2008/09 fiscal year appears in Figure 1.

In addition to income assistance, Ontario Works recipients also may be eligible for benefits for a number of other items to assist in specific circumstances on the basis of established need. These include:

Figure 1: Maximum Monthly Ontario Works Benefits (Tax-free)

Source of data: Ministry of Community and Social Services

	Single Person		Single Person With One Child		Couple With One Spouse Disabled and Two Children	
	2001/02	2008/09	2001/02	2008/09*	2001/02	2008/09*
basic needs allowance ($)	195	216	446	360	576	429
maximum shelter allowance ($)	325	356	511	560	602	660
Total ($)	**520**	**572**	**957**	**920**	**1,178**	**1,089**
comparable ODSP benefit ($)	930	1,020	1,424	1,423	1,816	1,680

* reduction due to the introduction of the Ontario Child Benefit

- health-related necessities, including medical supplies, and basic dental and vision care;
- community start-up benefits to assist in the establishment of a permanent residence; and
- employment start-up and participation-related expenses, including transportation, training fees, and clothing.

To be eligible for assistance, applicants must demonstrate financial need by providing evidence that their non-exempt liquid assets and income levels fall below specified amounts. In addition, applicants also are required to sign an agreement to participate in one or more activities designed to gain skills and progress toward sustainable employment, unless granted a deferral for medical or other reasons.

The Ontario Works program is delivered on behalf of the Ministry by 47 Consolidated Municipal Service Managers and District Social Services Administration Boards as well as 100 First Nations, referred to as service managers. A service manager is typically either a large municipality or a grouping of smaller ones, and each one is accountable to one of the Ministry's nine regional offices. Service managers have been designated the regulatory authority to make eligibility determinations.

The Ministry and the service managers share the total financial and employment assistance costs of the Ontario Works program, as shown in Figure 2. The Ministry, which pays 80% of these costs, has committed to start gradually increasing its share in 2010 until it pays 100% in 2018. Administrative costs will continue to be shared on a 50/50 basis up to the approved budget.

In the 2008/09 fiscal year, the Ministry's share of income assistance provided to individuals

Figure 2: Cost-sharing of Ontario Works Expenditures (2008/09) (%)

Source of data: Ministry of Community and Social Services

	Ministry	CMSM
income assistance	80	20
employment assistance	80	20
administration	50	50

through Ontario Works was more than $1.5 billion. The Ministry spent a further $194 million for program administration and $171 million on employment assistance programs. The Ministry's total Ontario Works expenditure for 2008/09 was therefore about $1.9 billion.

Since the time of our last audit in 2002, the program's caseload has increased by 3% and the Ministry's share of program expenditures has increased on average by approximately 2% per year, as shown in Figure 3. The administration of Ontario Works is supported by the Ministry's computerized information system, commonly referred to as the Service Delivery Model Technology (SDMT) system. The system was implemented province-wide in 2002.

Audit Objective and Scope

Our audit objective was to assess whether the Ministry's policies and procedures for the Ontario Works program and its oversight of the Consolidated Municipal Service Managers were adequate to ensure that:

- only eligible individuals received the correct amount of financial assistance as well as appropriate employment assistance to help them find paid employment and become self-reliant; and
- the Ontario Works program was delivered with due regard for economy and efficiency.

The scope of our audit included a review and analysis of relevant ministry files, policies, and procedures, as well as interviews with appropriate staff at the Ministry's head office, at three regional offices (Toronto, Hamilton-Niagara, and Northern), and at three municipal service managers that we visited. Collectively, the three service manager offices we visited represented approximately 40% of the Ministry's total program cost. We also requested summary statistics and other information about the program from the 44 service managers

Figure 3: Ontario Works Caseload and Ministry Share of Expenditure
Source of data: Ministry of Community and Social Services

Year	# of Cases	% Change	# of Dependents	Total Beneficiaries	Total Ministry Expenditure ($ million)	% Change
2001/02	196,596		222,897	419,493	1,669.2	
2002/03	195,137	(0.7)	208,930	404,066	1,726.0	3.4
2003/04	192,096	(1.6)	197,657	389,751	1,639.5	(5.0)
2004/05	191,723	(0.2)	188,946	380,669	1,677.0	2.3
2005/06	198,378	3.5	188,424	385,806	1,753.2	4.5
2006/07	199,242	0.4	183,826	383,068	1,794.5	2.4
2007/08	194,920	(2.2)	176,955	371,873	1,807.4	0.7
2008/09	202,181	3.7	178,261	380,446	1,899.2	5.1

that we did not visit, and over 80% responded to our request.

We retained the services of an IT security specialist to help us assess the security of the SDMT system and follow up on system-security issues identified in previous audits. We also met with senior representatives of a client stakeholder group that advocates on behalf of social assistance recipients to obtain their perspective on the issues facing Ontario Works.

We set objectives for what we wanted to achieve and developed audit criteria that covered the key systems, policies, and procedures that should be in place and operating effectively. We discussed these criteria with senior management of the Ministry, who agreed to them. We then designed and conducted tests and procedures to address our audit objectives and criteria.

Although our audit work, particularly with respect to income and employment assistance, often covered a number of years, our findings emphasized the assessment of, and compliance with, the policies and procedures in place for the Ontario Works program during the 2007/08 and 2008/09 fiscal years.

We also reviewed a number of recent audit reports issued by the Ministry's Internal Audit Services, many of which related to specific aspects of the SDMT system. These reports contained a number of findings that we considered in determining the scope of our own review of the SDMT system. However, none of the reports concentrated on basic needs and shelter allowance, employment assistance, and program administration costs, which together constituted the main focus of our audit. We were, therefore, unable to rely on these reports to reduce the scope of the primary focus of our work.

Summary

Although the Ministry has implemented a number of the changes we recommended in our 2002 audit, there has been limited improvement in the administration of the Ontario Works program since that time. It remains our view that the Ministry still has inadequate assurance that only eligible individuals receive financial assistance and in the correct amount. Although the Ministry considers Ontario Works financial assistance to be a temporary measure, about one-third of the recipients in the three municipal service managers' offices we visited were receiving payments for longer than two years and some 13% for more than five years.

An appropriate level of oversight is necessary if the Ministry is to have confidence that only eligible

individuals receive financial assistance and in the correct amount. We found that further improvements in overseeing service delivery were needed. As well, given the size and scope of Ontario Works, the supporting information technology system must be reliable and provide the information needed to enable the program to be effectively managed. We again had concerns in this area.

With respect to the Ministry's oversight of Ontario Works program delivery by the service managers, our specific concerns included the following:

- During the Ontario Works application process, municipal service managers rely on individuals to provide almost all the information used to determine their initial eligibility for income assistance. The risk of new applicants under-reporting their income and assets is compounded by the fact that the service managers seldom undertook the required third-party verifications—because they felt they were not necessarily required at the initial eligibility stage.

- Many assistance recipients did not submit the required income reports every month—often failing to do so for extended periods of time—and we seldom found any documentation on file to indicate that this reporting stipulation had been waived.

- Benefits for such things as community and employment start-up activities were often paid without any evidence that the activity had occurred and/or documentation to support the amount reimbursed. Such payments also often exceeded established maximums.

- Many applications for special dietary allowances were associated with questionable circumstances. For example, we found several instances where each member of a large family was diagnosed by a health-care practitioner with identical multiple medical conditions. As a result, in one example, a family of 10 people each received the maximum special dietary allowance of $250 per

month, or about $30,000 a year for the entire family (combined with other allowances, such a family would receive approximately $50,000 in a year, tax-free). The total amount spent on dietary allowances has increased from $5 million in the 2002/03 fiscal year, the time of our last audit, to more than $67 million during the 2008/09 fiscal year.

- Unrecovered overpayments to approximately 350,000 current and former Ontario Works recipients increased from $414 million in February 2002 to $600 million as of March 31, 2009—a 45% increase. Efforts by service managers to recover these overpayments had been minimal, possibly owing in part to the lack of financial incentive for them to do so.

- Many tips from the fraud hotline were either inadequately investigated or ignored.

- We found little evidence in recipient files to indicate that the service manager caseworkers were involved in determining the most appropriate employment assistance activity and there is no standard requirement to document this process. Rather, recipients usually selected the activity that they felt was best suited to get them back into the workplace. Our province-wide analysis showed that two-thirds of recipients listed "independent job search" as the most beneficial activity.

- We found that the Ministry's required reviews of a sample of service-manager files were being done on time and that the work was being reasonably well done. However, even though the Ministry was noting many of the same systemic file deficiencies that we identified during our audit, there seemed to be little progress in addressing those deficiencies from one year to the next.

- The Ministry's examinations of a sample of service managers' reimbursement claims did not occur on an annual basis as required, nor did the Ministry ensure that submitted claims were complete, accurate, and based on actual payments made to recipients. These reviews

are critical given the fact that the Ministry's subsidies totalled $1.5 billion in the 2008/09 fiscal year.

- The Ministry continued to reimburse service managers' administrative costs on an historical basis rather than on a formula based on costs per case. At the same time, the Ministry lacked the detailed information necessary to assess the reasonableness of the service managers' expenditures for administration. In addition, some service managers felt that they were absorbing much more than their 50% share of approved administrative costs.

- The Ministry had insufficient information to assess whether employment assistance funds were being used as intended and whether these expenditures were actually helping people obtain employment.

- The Ministry had very little information available to assess the efficiency and effectiveness of program delivery. However, the Ministry introduced outcome measures as a pilot project in 2006, to be reported on by service managers over two-year cycles. The first of those two-year cycles began in 2008 and required service managers to track performance and assess employment strategies based on outcome targets.

Despite improvements to the Ministry's Service Delivery Model Technology information system since its rollout in 2002—many of which were intended to enhance reliability as well as the completeness and accuracy of its information—the system continues to have reliability concerns and known deficiencies. They included:

- SDMT system users did not receive in an easily understandable format the information they needed to effectively manage and oversee the program. In addition, the system lacks a report-writing function that allows users to easily extract the information they need on an ad hoc basis.

- Service managers told us that they compensated for the SDMT system's limitations by developing approximately 150 different work-around systems and processes. The service managers advised us that the development of many of these standalone workarounds incurred considerable costs and time. For instance, most service managers maintain standalone systems to manage the Ontario Works employment assistance function, a critical component of the program that the SDMT does not cover as comprehensively as required.

- Although there is a reasonable level of security control to protect the system from external attacks, it is not adequate to prevent an internal system user with IT knowledge from escalating restricted access to full access, which increases the risk of fraudulent payments being made.

We understand that the government has designated the SDMT system as a priority as part of its project to remediate high-risk applications. The Ministry is reviewing its options for potential system refinements or other opportunities to improve the system's technology. It is to prepare a business case in this regard for late autumn 2009.

OVERALL MINISTRY RESPONSE

The Ministry of Community and Social Services welcomes the findings and recommendations of the Auditor General with respect to the delivery and oversight of the Ontario Works program. This is a vital service for some of the most vulnerable citizens of Ontario, particularly in the current economic times. The Ministry has taken steps over the past several years to improve program oversight and management, and will continue to focus efforts on improving program administration.

Detailed Audit Observations

MINISTRY OVERSIGHT AND CONTROL OF PROGRAM DELIVERY

Program Delivery Overview

In most cases, an individual starts the application process for Ontario Works benefits by visiting or telephoning the local municipal service manager. During this initial contact, service manager staff provide the individual with information regarding the application process, including eligibility criteria and the information and documentation required to complete the application. Service manager staff also obtain basic information about the individual such as name, address, age, number of dependants, and so on, which is entered into the SDMT system.

A decision with respect to eligibility for assistance is made after the application process is completed at an in-depth, intake appointment. The Ministry's goal is to have service managers conduct the appointment and make a decision within four days of the initial contact.

For the application to be complete, applicants must provide all of the previously requested information and supporting documentation. To be financially eligible, a person's total non-exempt assets must be at or below:

- $572 for a single person; and
- $989 if there is a spouse in the benefit unit (family).
  (These amounts are generally increased by $500 for each eligible dependant.)

Certain items, such as a principal residence, a primary vehicle valued at less than $10,000, a locked-in RRSP, and pre-paid funeral expenses, are excluded when determining whether the person's assets are below the prescribed limit. To be eligible for even a partial Ontario Works benefit, 100% of the applicant's total family non-exempt income must be less than the amount of the potential Ontario Works entitlement. After three months of assistance, 50% of earned income and amounts paid under a training program are exempt as income when determining eligibility.

Applicants, their spouses, and any other dependent adults in the benefit unit must sign a participation agreement. This agreement requires that the individual takes part in selected employment assistance activities and makes reasonable efforts toward seeking and obtaining paid employment. If the applicant has provided all of the necessary information and documentation, a final decision is made and communicated in writing.

A request for emergency assistance can be made at any time during the application process, and up to 16 days of emergency income assistance for basic needs and shelter may be provided before a full application is required to be completed.

In cases where the application is denied, applicants can request an internal review within 30 days. The review, conducted by another caseworker or a supervisor, must be completed within 10 days of the request being received. If a review is not completed within 10 days, or the applicant is not satisfied with the internal review decision, he or she can appeal to the Social Benefits Tribunal, an independent body that operates at arm's length from the Ministry and the service managers.

Initial Financial Eligibility Assessment

As noted previously, applicants must provide municipal service managers with the necessary information to establish their eligibility for assistance and to determine the correct amount to be paid. They are required to provide a number of documents that, depending on the document, must be either visually verified and have its relevant details noted in the computer system or copied and placed on file. These documents include a Social Insurance Number card, Ontario Health Insurance card, birth certificate, and any other document considered necessary to verify a person's identity and legal status in Canada.

To determine the correct amount of assistance to be paid, applicants also must provide such things as monthly bank statements, pay stubs, records of employment, vehicle ownership registration forms, and evidence of shelter costs incurred.

Our review of a sample of files for individuals receiving Ontario Works benefits found that, in many cases, critical documents necessary to conclusively establish an applicant's identity and/or legal status were either not visually verified or a copy had not been placed on file as required.

For example, at one municipal service manager we visited, some 8% of all recipient files lacked a Social Insurance Number, an omission that makes it difficult, for example, to detect duplicate payments. Similarly, in a number of instances, there was no evidence on file that the recipient's proof of identity, date of birth, or legal status in Canada had been verified.

There is also an obvious risk that applicants could understate their income or assets when seeking assistance. As well, there is no assurance that an applicant has provided a bank statement for each account in his or her possession or all the pay stubs relevant to determining financial eligibility.

To help overcome this risk and help verify that the income and assets declared by applicants are complete and accurate, the Ministry has entered into a number of third-party, information-sharing agreements. These include arrangements with Human Resources and Skills Development Canada for employment insurance information, with the Canada Revenue Agency for tax return information, with Equifax for credit information, with the Ontario Ministry of Transportation for vehicle ownership information, and with the Family Responsibility Office to ascertain any support payments received.

The Ministry advised us that service managers must verify a recipient's declared income and assets with these organizations at the time of initial eligibility determination and during all subsequent financial eligibility reassessments. However, staff at the three service managers we visited did not interpret the Ministry's directives as requiring third-party verifications at the initial financial eligibility stage and, in practice, seldom undertook third-party verifications at that time.

Although service manager staff acknowledged that third-party verifications were required at the time of a subsequent financial eligibility reassessment, we found that sometimes they were also not completed at that time.

In our *2002 Annual Report*, we highlighted our concerns over ineligible applicants possibly receiving financial assistance. At the time, we said the Ministry "should reinforce with service managers its requirements for obtaining, documenting, and correctly assessing the required recipient information." The Ministry advised us then, as well as in our follow-up in the *2004 Annual Report*, that it would address this concern, yet many of the same issues are still not being adequately addressed.

RECOMMENDATION 1

To ensure that an individual's initial financial eligibility for Ontario Works benefits is adequately determined and that the correct amount of assistance is paid, the Ministry of Community and Social Services should make certain that Consolidated Municipal Service Managers:

- visually verify documents or obtain copies of all documents required to establish an individual's identity and legal status in Canada, especially Social Insurance Number cards; and
- comply in all cases with the requirement to verify an applicant's declared income and assets with the third parties who have entered into information sharing agreements with the Ministry.

MINISTRY RESPONSE

The Ministry recognizes the need to ensure that only eligible persons are provided assistance through Ontario Works and that the assistance provided is in the correct amount.

> The Ministry has program verification standards in place to ensure initial and ongoing eligibility, and will take steps to ensure that service managers understand and comply with the program verification standards and requirements.

Financial Eligibility Reassessments

Ministry policy requires that municipal service managers reassess the continued financial eligibility of all their Ontario Works recipients at least once every 12 months from the time of the last assessment. In doing so, service managers are expected to follow a Ministry-developed Consolidated Verification Process (CVP) checklist that requires completion of most of the same procedures, including third-party verifications, that were to have been undertaken during the initial financial eligibility assessment. In addition, the SDMT information system flags each recipient's priority for an eligibility reassessment as high, medium, or low, on the basis of programmed risk factors. Service managers are expected to prioritize and complete the CVPs accordingly.

However, we found that financial reassessments were not conducted at least once every 12 months in approximately half the files we sampled. In fact, in some instances, a financial eligibility reassessment had not been completed for up to five years. In one such case, undeclared income for a recipient that could have been detected through a third-party verification resulted in a $38,000 overpayment over a four-and-a-half-year period. No CVP review was conducted during that time, so the recipient's income was not checked with the Canada Revenue Agency, as required by ministry policy.

Furthermore, service manager staff did not follow the Ministry-prescribed CVP checklist about one-quarter of the time. Regardless of whether the checklist was used, the necessary documentation was not on file in many cases to demonstrate that staff had adhered to the CVP requirements. Compounding our concerns over the lack of proper reassessment, we found that third-party verifica-

tions were not being conducted about one-third of the time at one service manager we visited.

We also note that none of the three service managers we visited used the SDMT system risk flags or were not using them as intended to identify high-risk recipients so that CVPs could be conducted on them first. However, one of the three service managers had developed its own risk-ranking system that it thought was more effective.

RECOMMENDATION 2

To ensure that recipients continue to be financially eligible for Ontario Works benefits and to avoid overpayments, the Ministry of Community and Social Services should make certain that Consolidated Municipal Service Managers:

- complete financial reassessments on each recipient at least once every 12 months as required;
- use the Ministry-prescribed checklist when conducting a financial reassessment and obtain sufficient documentation, including third-party verifications, to support the outcome of the review; and
- help ensure that the risk flags in the Service Delivery Model Technology system are effective and are used to prioritize high-risk cases for review.

MINISTRY RESPONSE

The Ministry agrees that appropriate action should be taken to verify ongoing eligibility.

The Ministry has program verification standards in place to ensure initial and ongoing eligibility, and will take steps to ensure that service managers understand and comply with program verification standards and requirements.

In addition, the Ministry will be implementing a risk-based approach to Ontario Works financial eligibility reassessments. This risk model will help to ensure that only eligible recipients remain on the program and that they receive the correct payments.

Other Income Reporting

As was the case at the time of our last audit, recipients are required to report income on a monthly basis—including changes in income—to help service managers determine ongoing eligibility for assistance and the correct amount of assistance to be paid. For recipients that have been on assistance for three months, 50% of their earned income or amount paid under a training program is deducted from the amount of their assistance. Non-exempt income from all other sources is deducted at a rate of 100%. However, service managers now have the discretion to waive the monthly income-reporting requirement for recipients who, according to one of the program's directives, "have no income to report or have a static or fixed income."

Our review of a sample of case files found that monthly income reports were frequently not submitted for many months, or not at all. In these cases, there was no evidence that the service manager had waived the monthly income-reporting requirement. One service manager indicated that its practice was to generally waive the income-reporting requirement in all cases—requiring the report on an exception basis only—and that there was therefore no need to document the waiver in each recipient file. However, in the absence of a waiver or any follow-up, it was unclear whether the recipient had income that should have been considered in determining the following month's entitlement. In that regard, we noted that the external auditor of one service manager found that over 60% of overpayments in a sample reviewed had resulted because recipients had failed to report their income.

RECOMMENDATION 3

To ensure that financial assistance provided by Ontario Works is in the correct amount and to minimize overpayments, the Ministry of Community and Social Services should make certain that Consolidated Municipal Service Managers receive a monthly income report from each recipient, unless they waived the requirement for sound reasons that are documented on file. If it is the Ministry's intention that Consolidated Municipal Service Managers require the report on an exception basis only, that should be more clearly communicated.

MINISTRY RESPONSE

The Ministry recognizes the need to ensure that only eligible persons are provided assistance through Ontario Works and that the assistance provided is in the correct amount. The Ministry will reassess the current requirements for income reporting. Following this reassessment, we will clearly communicate requirements and reinforce service managers' compliance.

Other Financial Assistance and Benefits

Ontario Works recipients may be eligible to receive supplemental income assistance or benefits in addition to assistance for basic needs and shelter. The most common supplemental assistance categories are shown in Figure 4.

Figure 4: Examples of Other Financial Assistance and Benefits

Source of data: Ministry of Community and Social Services

Benefit Type and Frequency	Maximum Amount ($)	2008/09 Expenditure ($ million)
community start-up and maintenance (once every 24 months)	799 single 1,500 family	77
special dietary allowance (monthly)	250	67
employment-related expenses (monthly)	250	50
other employment and employment assistance activities (once every 12 months)	253	27
funerals and burials	2,250	5

Examples of mandatory supplemental benefits for all eligible recipients or members of a recipient's benefit unit (family) include community start-up and maintenance benefits, other employment and employment activities benefits, and dental and vision care benefits for dependent children.

Other supplemental benefits can also be provided on a case-by-case basis at the discretion of the service manager. Examples of discretionary benefits include dental and vision care for adults, the cost of funerals and burials, and moving expenses.

Adequate documentation is to be placed in each recipient's file or noted in the computer system to support the decision to pay the supplemental assistance and benefit, and the amount paid.

Our review of the supporting documentation in a sample of recipient files found the following:

- There often was no evidence on file that community or employment start-up events—such as moving or taking a course, for which one-time supplemental assistance was provided—had occurred. For example, one service manager automatically made an annual employment start-up payment of $253 to everyone who was participating in any employment activity. However, the money is intended for recipients starting an activity for the first time that year, as opposed to a recurring annual payment.

- Similarly, the need for the various types of supplemental benefits provided often was not established. For example, several service managers automatically paid $100 a month for employment-related expenses to every participant that signed a participation agreement without establishing eligibility and requiring receipts. We noted that for one service manager, these monthly payments totalled more than $19 million in 2008.

- In most cases, there were no receipts on file, nor were there any notes in the SDMT system, to demonstrate the reasonableness of the amounts paid to the recipients, contrary to the program's requirements.

- Payments for various types of supplemental benefits frequently exceeded the established maximums. For example:
  - Service managers frequently paid training fees in amounts ranging from $7,000 to $13,000 per year under the "employment-related expenses" category, which has an average annual limit of $3,000 and is intended for minor training costs, certification fees, and other costs that support a person's progression to employment. This $3,000 limit can only be exceeded with formal approval by the service managers' administrator, which was not received. Employment-related expenses are paid out of a set envelope for employment assistance.
  - In one instance, an individual received nearly $13,000 in overpayments because an entitlement had been incorrectly inputted. Instead of receiving a one-time, $799 payment for community start-up and maintenance assistance, the person received that amount on a monthly basis for 17 months before the error was discovered.

We had similar observations relating to supplemental payments in our *2002 Annual Report*.

Special Dietary Allowance

A special allowance is to provide for additional assistance to each recipient and their families who require a special diet as a result of an approved medical condition. Before such an allowance can be provided, a health care professional—such as a doctor, nurse or dietitian—must complete an official application. A special-diet payment schedule issued by the Ministry is used to determine the amount of the allowance, depending on the medical condition. The amounts generally vary from $10 to $100 per condition per month. However, the total allowance for any one member of a family may not exceed $250 per month.

Province-wide, the total spent on special dietary allowances has increased substantially since the time of our last audit. In the 2002/03 fiscal year, annual special dietary payments totalled $5 million; in the 2008/09 fiscal year, the amount exceeded $67 million, a more than 12-fold increase. A significant part of this increase may be due to a campaign by advocacy groups critical of Ontario Works allowance amounts. At least one such organization has organized clinics where health-care professionals have immediately completed special diet allowance applications that entitled each attendee to the maximum $250 monthly supplement.

In light of the significant increase in special dietary allowance expenditures, one of the service managers that we visited took the initiative to review more than 1,000 of its clients receiving the allowance. It found that one of the 318 health-care practitioners who approved the 1,000 applications reviewed was responsible for approving almost 20% of them. As well, that same practitioner, a general practitioner, diagnosed, on average, nine medical conditions per applicant, compared to an average of about two per applicant diagnosed by other health-care professionals. Furthermore, this doctor diagnosed Celiac disease in 99% of the applications, which we feel is unreasonably high given that the nationwide incidence of this disease is estimated at 1% of the population. This service manager, and one other that we visited, formally requested in 2008 that the Ministry review the special dietary allowance province-wide. At the time of our audit, a formal province-wide review of the program had not been initiated.

Our review of a sample of case files found the following:

- There were some instances where families consisting of eight to 10 members had all been diagnosed with the same multiple medical conditions, entitling all to the maximum special dietary allowance of $250 per month. As a result, some of these families were receiving up to $30,000 a year from these dietary

allowances alone, or approximately $50,000 in total allowances annually, all tax-free.
- There were a number of instances where an application for a special dietary allowance was completed by a health-care professional outside of the applicant's immediate municipal area, which leads one to suspect that many applicants go to a professional that is known to be predisposed to approve such requests.

RECOMMENDATION 4

To ensure that supplemental financial assistance and benefits provided under the Ontario Works program are reasonable and appropriate, the Ministry of Community and Social Services should make certain that Consolidated Municipal Service Managers:

- comply with the requirement to document the need and eligibility for supplemental financial assistance and benefits, and provide such assistance and benefits within the established maximum amounts; and
- obtain the required documentation to assess and substantiate the reasonableness of costs reimbursed.

In addition, the Ministry should review the special dietary allowance with a view to limiting its possible abuse.

MINISTRY RESPONSE

The Ministry agrees that the supports provided through Ontario Works should be reasonable and appropriate. The Ministry will reinforce with service managers the requirement to have appropriate documentation to support the provision of benefits within the established maximum amounts, where applicable.

The Ministry is continuously looking for ways to improve the Special Diet Allowance. In 2005, the Ministry introduced changes to the policy, the application process, and the application form in an effort to clarify the intent of

the allowance and to reduce the potential for misuse. Since that time, the Ministry has been monitoring the allowance through consultation with municipalities and other stakeholders, and will reassess practices and procedures to identify ways to further protect against misuse.

Overpayments

Overpayments occur when recipients are paid more assistance than they are entitled to receive. There are a variety of reasons for overpayments, ranging from fraudulent misrepresentation to incorrect evaluation of information. As of March 31, 2009, outstanding Ontario Works overpayments totalled $600 million.

Specifically, overpayments to approximately 60,000 active accounts totalled over $140 million, while overpayments to approximately 290,000 inactive or terminated accounts totalled approximately $460 million. Of the total amount, $67 million had been declared as "temporarily uncollectible" and not subject to collection effort. The overpayment amounts do not include outstanding balances that were transferred to another social assistance program as a result of the recipient moving to that program or that were written off.

Collection efforts by municipal service managers from inactive or terminated accounts are extremely limited. In general, they consist of sending three SDMT-generated collection letters over a 60-day period requesting that the debtor make arrangements to repay the outstanding amount. Not surprisingly, the amounts collected by service managers from inactive or terminated accounts in the 2008/09 fiscal year totalled less than $9 million, or 2% of the outstanding $460 million.

Service managers do not review or assess an overpaid individual's ability to repay. As a result, they do not concentrate their collection efforts on former recipients who, for example, have returned

to work or have acquired considerable assets and may now have the ability to repay.

Some service manager staff advised us that collection from inactive accounts is not seen as a priority because service managers pay 50% of the collection cost but retain only 20% of any collected amounts. In response to this issue, the Ministry initiated a pilot project with one service manager in 2006 whereby approximately $6.8 million from inactive, delinquent overpayment accounts was transferred to the Ministry's Overpayment Recovery Unit for referral to the Canada Revenue Agency's Refund Set-off Program.

However, collections on these transferred accounts were also disappointing, and the pilot project has not been rolled out across the province. We note that one of the service managers we visited wanted to retain the services of an outside collection agency but put that initiative on hold pending the outcome of the Ministry's pilot project.

With respect to collecting the $140 million in overpayments from active accounts, service managers can offset up to 10% of a recipient's current monthly benefits against any outstanding overpayments. However, in practice, service managers generally limit the offset to 5%. In addition, service managers have designated about 10% of these active overpayment accounts as temporarily uncollectible for a variety of reasons, such as hardship to the individual.

We found that, contrary to requirements, the reason for deferring collection of temporarily uncollectible accounts often was not documented in the system. In addition, caseworkers without supervisory approval can designate any overpayment as temporarily uncollectible and defer collection efforts indefinitely.

RECOMMENDATION 5

To better utilize its limited resources and maximize the recovery of previous overpayments, the Ministry of Community and Social Services should:

- ensure that Consolidated Municipal Service Managers assess the collectibility of all outstanding overpayments—particularly those designated as temporarily uncollectible—and, where warranted, recommend that the overpayments be written off so that more focus can be placed on those accounts where collection efforts are more apt to yield results; and

- evaluate the merits of the 2006 pilot project that transferred some overpayments to the Ministry's Overpayment Recovery Unit and, if necessary, consider implementing other alternatives for bringing a more intensive and focused collection effort to bear on those inactive accounts that have a greater likelihood of collection.

MINISTRY RESPONSE

The Ministry agrees that overpayment recovery must be maximized and has implemented business and technology changes to facilitate the recovery of overpayments.

The Ministry is looking at the results of its 2006 pilot project on overpayment recovery, and will continue with its efforts on mitigating overpayments, including the implementation of a risk-based approach to Ontario Works financial eligibility reassessments. This risk model will help to ensure that only eligible recipients remain on the program, and that the payments they receive are in the correct amount.

Finally, the Ministry is assessing the feasibility of accelerating the write-off of aged overpayments and prioritizing overpayment collection on the basis of past and present recipients' ability to repay.

Potentially Fraudulent Claims

Since the time our last audit, the Ministry revoked the lifetime ban for receiving Ontario Works

benefits on applicants found to have made previous fraudulent claims. The Ministry continues to operate a Welfare Fraud Hotline where people can report cases of suspected fraud.

Currently, all fraud tips are to be assessed by service managers and, where appropriate, referred to a service manager's eligibility review officer. If an investigation confirms that a recipient has received funds that the individual was not entitled to, income assistance is reduced or terminated, as appropriate. Where sufficient evidence exists to suspect intent to commit fraud, the case is to be referred to the police for investigation and possible criminal prosecution.

We reviewed a number of tips received from the Welfare Fraud Hotline and had the following concerns:

- Two of the service managers we visited had no policies in place regarding timelines for investigations. As a result, many investigations into fraud tips were not considered in a timely manner. In fact, numerous tips had not been acted upon for up to three years.

- In many cases, action taken was weak and inadequate. For example, at two service managers, many recipients named in hotline tips were merely asked to sign a statement denying the fraud allegation.

- The number of cases that go forward to the police for fraud investigation is extremely low—approximately 1% of all tips at the service managers we visited. The service managers we visited indicated reluctance on their part, as well as on the police's, to proceed with criminal action in most cases.

RECOMMENDATION 6

To ensure that only eligible individuals receive financial assistance and that adequate action is taken when suspected fraud is reported, the Ministry of Community and Social Services should ensure that Consolidated Municipal Service Managers:

- in a timely manner, follow up on all fraud tips and investigate those that appear to be legitimate; and
- where the investigation indicates that a potential fraud has occurred, provide sufficient evidence to justice authorities to enable them to pursue prosecution of the perpetrators.

MINISTRY RESPONSE

The Ministry recognizes the need to ensure that only those who are eligible for social assistance receive it. Where sufficient evidence exists, social assistance staff are directed to refer all cases of suspected welfare fraud to the police. The Ministry will improve fraud investigation practices through the development of additional tools that support effective program management and oversight.

Participation Agreements

All Ontario Works assistance recipients must sign a participation agreement. The agreements oblige these individuals to take part in at least one of a number of activities designed to help transition them to paid employment and help them become self-reliant. Typical examples of employment activities include:

- basic education, literacy, and job-specific skill training;
- independent or assisted job-search activities, such as attendance at Employment Resource Centres; and
- volunteer or paid job placements designed to provide job experience and to help the recipient find and maintain meaningful employment.

A service manager caseworker is to assess the individual's skills and experience and determine with the recipient the most appropriate employment activities. Every three months, participation

agreements are to be reviewed, updated, and signed again by the participant.

However, we found little evidence in recipient files to indicate that caseworkers were actually assessing what training or other employment-directed activities would be most beneficial and there is no standard requirement to document this process. In fact, our understanding was that these activities were usually selected by the applicant. Our province-wide analysis indicated that two-thirds of all recipients had designated independent job-search activities as the most beneficial employment assistance activity to help them become gainfully employed.

The requirement for an individual to enter into a participation agreement can be temporarily deferred in specific circumstances, such as a sole-support parent caring for one or more preschool children, provided the reasons for doing so are documented on file.

Our review of a sample of files found that:

- In some cases there were no participation agreements on file for extended periods of time. In many cases where participation agreements were on file, they were not updated every three months as required, and in some cases had not been updated for extended periods of time—up to five years.
- Where an individual's obligation to enter into a participation agreement was temporarily deferred, the reasons for doing so were often not documented in the file.
- Every three months, caseworkers are required to monitor progress of the activities agreed to in the participation agreement with the recipient. However, evidence was not required, nor was it provided, to demonstrate that the activity to which the recipient had committed had ever been done.

As well, we noted instances where individuals were in activities that seemed inappropriate. For example, individuals were in independent job search activities for several years, only to be sent later to English-as-a-second-language classes,

which in our view appears to be an ineffective sequence of activities.

We also found many instances where it did not appear that recipients were getting an adequate assessment of what skills and experience they would need to secure employment. In one such case, the only training or assistance a recipient received was two short-term courses during a seven-year period. For the rest of the time, this individual was in an independent job search without any success. In addition, there was no evidence that this recipient had ever received a skills assessment. In another case, a 10-year recipient spent seven-and-a-half years without a participation agreement in place or any evidence that employment activities had taken place. For the rest of the time, the individual was in an independent job search or basic education program.

In addition, although the Ministry does not define "temporary financial assistance," which is the goal of the Ontario Works program, many individuals were in the program for long periods of time without progressing to financial independence. In this regard, we noted that approximately 10% of all active recipients at the three service managers we visited had been on continuous assistance for between five and 10 years, and an additional 3% had been on for more than 10 years, with the oldest cases having received financial assistance since 1984, or for 25 years.

RECOMMENDATION 7

To ensure that the Ontario Works program is effective in transitioning recipients to paid employment and self-reliance, the Ministry of Community and Social Services should monitor Consolidated Municipal Service Managers to make certain:

- that participation agreements are on file for all Ontario Works recipients and that each agreement is reviewed and updated every three months as required;

- that the reasons for deferring participation agreement requirements are adequately supported and documented on file;
- that caseworkers assess recipients' skills and experience, and document caseworker input in determining the most appropriate activities to help recipients transition to financial independence; and
- that the Ministry review the reasonableness of service managers' allowing—often for prolonged periods of time—independent job-search activities as the primary employment assistance activity to nearly two-thirds of all recipients.

MINISTRY RESPONSE

The Ministry agrees that all Ontario Works recipients should have a participation agreement on file, which will be reviewed and updated at least every three months, and that any deferrals of participation agreements are supported and documented on file.

Recognizing the diverse challenges that many Ontario Works recipients face, the Ministry is committed to providing tools and training support to help front-line staff work collaboratively with clients to address their employment-related needs and barriers. The Ministry will review the policy guidelines related to the job-search requirement to ensure that participation agreements are developed or updated appropriately.

Tasks

The Ministry's SDMT system is able to assign tasks and corresponding due dates to individual case files as well as track outstanding tasks. Tasks are system-generated for such things as notification that a recipient's supplemental assistance or benefit is about to expire, or the need to review and update participation agreements. Many of the remaining

tasks are entered manually and are triggered by, for example, a complaint about a person's eligibility or information obtained from third parties through information-sharing agreements.

It is essential that caseworkers be aware of all tasks as they become due so that any necessary changes can be made promptly and overpayments or underpayments can be avoided. However, at the time of our audit, there were 195,000 overdue Ontario Works tasks in the SDMT system. Many of these tasks had been overdue for a long time, some for more than 10 years.

We understand that the high number of overdue tasks is due largely to service manager staff not using the system as intended to identify information needs, by staff not obtaining the required information on a timely basis, or by failing to delete tasks when they are completed. This large number of overdue tasks is of particular concern because they are the key means of consistently tracking outstanding information needed to establish the continuing eligibility of recipients and determining the correct amount of assistance to be paid.

RECOMMENDATION 8

To ensure that Ontario Works benefits continue to be paid only to eligible individuals and in the correct amount, the Ministry of Community and Social Services should monitor whether Consolidated Municipal Service Managers are making reasonable efforts to address all system-identified tasks that require action or follow up.

MINISTRY RESPONSE

The Ministry recognizes the need to ensure that only eligible individuals receive assistance through Ontario Works and that the assistance provided is in the correct amount. To this end, the Ministry has simplified the technology related to system-generated tasks.

The Ministry is also reviewing its current business processes for potential refinements and opportunities for improvement from the perspective of technology modernization.

Ministry Monitoring of Consolidated Municipal Service Managers

The Ministry's nine regional offices are to regularly conduct two types of reviews—compliance reviews and subsidy claims examinations—of the service managers within their jurisdiction. Compliance reviews consist primarily of examining a sample of case files to assess whether they adhere to selected program requirements. These reviews are currently to be conducted on a three-year cycle.

Subsidy claims examinations inspect a single month's reimbursement claim by the service manager for the Ministry's 80% share of financial assistance provided to recipients. These examinations, to be conducted annually, are to ensure that the amounts reimbursed to service managers accurately reflect payments to recipients.

When it came to compliance reviews, we found that they were being conducted at the required frequency. That is, annually in 2003, once every two years between 2004 and 2006, and once every three years starting in 2007. Our review of a sample of compliance reviews since our last audit found that the work undertaken was generally of a good quality and identified many of the same issues and concerns we have drawn attention to earlier in this report. However, there was little evidence that corrective action to address the deficiencies identified in the compliance reviews was undertaken, as similar issues kept recurring from year to year.

In response, the Ministry implemented a new, three-year cycle for compliance reviews starting in 2007. The second year is to allow the service manager time to take the necessary corrective actions identified during the year-one review. In the third year, the Ministry is to re-examine a sample of case files and assess whether or not corrective actions have been taken. Financial adjustments may be levied for issues of non-compliance.

With respect to subsidy claims examinations, we noted the following:

- The Ministry's regional offices were not completing subsidy claims examinations annually or on a timely basis as required. In one of the three visited regions, for example, reviews for 2003 were conducted in 2006 and reviews for 2004 and 2005 were conducted in 2008. In the other two regions, reviews for 2003, 2004, and 2005 were not completed at all. No reviews had been done at any of the regions for 2007 and 2008. On a province-wide basis, as of December 2008, the 2007 subsidy claims examinations had been completed for only four of the 47 service managers.
- Our review also found that, generally, the reviews were inadequately conducted. Files were disorganized, difficult to follow and incomplete. In addition, it is our view that many of the individuals conducting the subsidy claims examinations did not have adequate training and experience to do so effectively. As a result, we felt that the subsidy claims reviews did not adequately determine whether the claims submitted to, and paid by, the Ministry were complete, accurate, and based on actual benefits provided to recipients.

These reviews are critical given the fact that the Ministry's subsidies totalled $1.5 billion in the 2008/09 fiscal year. Yet none of the required supporting documentation that is required to accompany the monthly claims was being submitted to the Ministry. As well, the Ministry did not verify any of the information on the claims prior to making payment. The risk is that if a service manager inadvertently overstated a claim, the error likely would not be detected.

RECOMMENDATION 9

To ensure that subsidy claims are reimbursed in the correct amount based on reliable information provided by the Consolidated Municipal

Service Managers, the Ministry of Community and Social Services should:

- conduct at least one subsidy claims examination per service manager annually as required and do so on a timely basis;
- make certain that work conducted during subsidy claims examinations is adequately completed and demonstrates whether the claim is based on complete and accurate information about payments to assistance recipients; and
- make certain that adequate supporting documentation is submitted by the service managers and reviewed by the Ministry prior to payment.

MINISTRY RESPONSE

The Ministry recognizes the importance of exercising appropriate program management oversight, and has reinforced the requirement to complete annual subsidy claims examinations. In addition, the Ministry will develop additional tools and provide training to support ministry staff in completing accurate examinations based on appropriate documentation.

Program Administration Costs

At the time of our last audit in 2002, we found that the Ministry reimbursed the 47 service managers for their 50% share of administrative costs based on a historical pattern that ignores, among other things, caseload volumes. We determined that the Ministry's administration cost reimbursement on a per-case basis in the 2001/02 fiscal year varied significantly, ranging from $273 to $1,596. We therefore recommended in our *2002 Annual Report* that the Ministry consider caseload information in its annual funding decisions to ensure that administration costs are allocated equitably across the province. The Ministry agreed and indicated at the

time that future funding for its share of administration costs would be linked to caseloads.

Notwithstanding that commitment, we found that the Ministry continues to reimburse service managers on the same historical basis established prior to our last audit in 2002. The Ministry's funding of service manager administration costs on a per-case basis continued to vary significantly between $718 and $1,250 in the 2008/09 fiscal year.

We also noted the following:

- The Ministry does not receive sufficiently detailed information about the administration costs incurred by individual service managers and therefore cannot assess their reasonableness. In addition, due to the absence of a provincial requirement of caseloads per caseworker, it is impossible to assess the appropriateness of caseworker staffing levels. This is particularly important since staffing accounts for approximately 80% of all administration costs.

- Some service managers are absorbing all the incremental costs, such as salary increases, for administration of the program, which results in cost sharing that differs from the intended 50/50 basis. For example, one of the service managers that we visited estimated that it currently pays 70% of the total administration costs. As a result, service managers unable to absorb the incremental costs of program administration could, for example, decrease caseworker staffing levels, which would adversely affect program delivery.

RECOMMENDATION 10

To ensure that Ontario Works administration is funded equitably across the province, the Ministry of Community and Social Services should:

- establish more needs-based funding of administrative costs that reflects variations in caseloads; and
- obtain better information about actual administrative costs being incurred.

MINISTRY RESPONSE

The Ministry recognizes the concerns with program administration funding and is currently undertaking a review to develop principles for revising the funding model.

Employment Assistance Costs

As noted previously, the Ministry's 80% share of employment assistance costs totalled $171 million in the 2008/09 fiscal year. Much of this assistance is provided directly by service manager staff, although some services are obtained through contractual arrangements with third parties such as providers of training programs and employment placement services. Employment assistance funding provided to individual service managers is still generally based on historically funded amounts rather than an assessment of recipient caseloads and the need for the different types of employment assistance services. However, the Ministry advised us that it started to implement an outcome-based funding model in January 2008 that will begin to affect funding allocations in 2010.

Our comments and concerns with respect to employment assistance funding provided to individual service managers over the past few years include the following:

- There is no evidence that the Ministry assessed the type and mix of employment activities provided by a service manager to ensure that they are effective in helping transition assistance recipients from Ontario Works to paid employment and ultimately represent value for money spent. In that regard, we note that two-thirds of all assistance recipients are receiving no specific employment assistance and are assigned to independent job search activities, often for many years.

- The Ministry did not receive sufficiently detailed information on how the employment

assistance funds were to be spent and were actually spent. In fact, we found that in some cases service managers used employment assistance funds for other Ontario Works purposes or for unrelated municipal programs.

- There was often no evidence that municipal service managers acquired employment assistance services from third-party providers competitively.

RECOMMENDATION 11

To ensure that employment services are effective in helping recipients find employment and represent value for money spent, the Ministry of Community and Social Services should:

- assess the effectiveness of the various types of employment assistance being offered by each Consolidated Municipal Service Manager, particularly the independent job search when recipients are assigned to it for long periods of time; and
- make certain that all employment assistance funding is spent prudently and for the intended purpose.

MINISTRY RESPONSE

The Ministry introduced an outcomes-based funding model for Ontario Works employment assistance that requires service managers to establish performance targets and measure client outcomes.

The Ministry recognizes the importance of exercising appropriate program management oversight and will ensure that ministry staff receive training to support effective oversight of employment assistance funding. In addition, the Ministry is currently looking at the employment assistance funding model as part of its review of administration funding.

Measuring the Performance of the Ontario Works Program and Consolidated Municipal Service Managers

Historically, the Ministry has lacked any measures to monitor and evaluate the efficiency and effectiveness of the administration of income assistance under Ontario Works. For example, targets have not been established with respect to the reduction and/or elimination of income assistance overpayments to recipients, even though income assistance is by far the largest (81%) cost component of the $1.9-billion program.

In addition, there is no question that it is challenging to evaluate effectiveness in achieving the primary objective of the program—to move Ontario Works recipients to paid employment and self-reliance—because many factors not related to the program can influence the number of people leaving it. These include, but are not limited to:

- conditions in the general economy that greatly influence the creation or loss of the types of jobs Ontario Works recipients are most likely to qualify for;
- local conditions and seasonal factors that influence the availability of jobs in a given area; and
- the commitment and personal initiative of Ontario Works recipients to find paid employment.

With respect to the employment assistance component of Ontario Works, the Ministry in 2008 started to implement a new outcomes-based model that will measure performance over a two-year period. This model includes seven outcome measures in two categories: earnings outcome and employment outcome. Under earnings outcome, there are two measures: average employment earnings for Ontario Works recipients and average employment earnings at exit from the program.

Under employment outcome, there are five measures:

- average length of time in the program until exit to employment;

- percentage of caseload terminations as a result of exiting to employment;
- percentage of caseloads with some employment income;
- job retention rate—average length of time those people who had been in Ontario Works held a job before returning to the program; and
- re-entry rate—percentage of people returning to Ontario Works who had left the program for employment within the past 24 months.

Each year, the Ministry negotiates improvement targets with each municipal service manager for the above outcome measures based on historical patterns and local economic conditions. Evaluation is to take place over a two-year period. Over-achievement in year one of the two-year evaluation cycle (that is, initially, 2008) can be used to offset underachievement in the second year or vice versa. Underachievement over the initial two-year evaluation period, which ends in December 2009, may result in the Ministry clawing back up to 20% of a service manager's employment assistance funding that it received during that two-year period.

This is a promising initiative if the Ministry can obtain complete and accurate information regarding the seven outcome measures.

RECOMMENDATION 12

The Ministry of Community and Social Services should build on its planned results-assessment for employment assistance funding by developing performance measures that will enable it to evaluate the effectiveness of the administration of the much larger income assistance aspect of Ontario Works over time.

MINISTRY RESPONSE

The Ministry recognizes the importance of exercising appropriate program management oversight with respect to income assistance.

The Ministry will continue with its efforts to maximize overpayment recovery and mitigate overpayments, including the implementation of a risk-based approach to Ontario Works financial eligibility reassessments. This risk model will help to ensure that only eligible recipients remain on the program and that they receive the correct payments.

The Ministry will also implement a series of changes to reinforce its monitoring and controllership framework for social assistance. This framework will include performance-monitoring and risk-management strategies that will strengthen program oversight and support the improvements being made to service delivery.

SERVICE DELIVERY MODEL TECHNOLOGY SYSTEM

The Ministry's Service Delivery Model Technology (SDMT) information system is the IT network that supports social assistance delivery for both Ontario Works and the Ontario Disability Support Program. Implemented province-wide in 2002, the SDMT system was developed to provide a common database with real-time access to case information and to reduce administrative costs while freeing up caseworker time to allow for better customer service to social assistance applicants and recipients.

The SDMT system was developed at an initial cost of approximately $246 million, which far exceeded the original cost estimate of $180 million. The Ministry now estimates the total cost to date for system development and maintenance paid to outside contractors at approximately $377 million. The Ministry took control of this system in January 2002. Since then, the SDMT system has been maintained by in-house ministry staff, supported by outside consultants. The cost for these outside consultants was approximately $5.5 million between the 2005/06 and 2008/09 fiscal years.

Our review of the SDMT system included a survey of users and administrators to determine satisfaction and areas of concern. We also engaged an IT security specialist to conduct a security review.

Although the Ministry has made many changes to the SDMT system over the years to improve the consistency and accuracy of the system's operations, much remains to be done. We understand that the government has designated the SDMT system as a priority as part of its project to remediate high-risk applications. The Ministry is reviewing its current business processes for potential refinements or opportunities to improve the system's technology. It is to prepare a business case for autumn 2009.

Our specific comments and observations about the SDMT system are detailed in the following section.

Unexplained System Errors and Omissions

We again found—as we did in our 2002, 2004, and 2006 annual reports—that unexplained errors and omissions continue to occur, even after many system enhancements. For instance:

- Some changes made to a recipient's information in the SDMT system were not immediately processed and were dormant for months and even years. Then, at a much later date, they were triggered for unexplained reasons. Such a situation may result in significant arrears or overpayments. For example, in one case a recipient incurred decreased shelter costs in 2002 that were entered into the SDMT system, but not used in determining the correct amount of financial assistance. The recipient continued to receive the previous, larger shelter allowance for seven years until the system detected the overpayment. The service manager could not explain why this error occurred.
- Information regarding the same payments made to recipients during a particular month showed different amounts that were contained in two monthly SDMT system reports—the expenditure report and the cheque register, which is a list of cheques generated by the system during that month. Neither the

service managers nor the Ministry were able to explain the discrepancies.

- The SDMT system lacks controls to detect input errors and omissions. For example, the system does not have the capacity to block payments to recipients in cases where a unique personal identifier—social insurance or health card number—has not been inputted. We found many cases where these unique identifiers were missing, sometimes for more than a year, while recipients continued to receive assistance. This system failure increases the risk of fraud through multiple payments to the same recipient or payments to false recipients.

Access and Security Controls

We are pleased to report that attempts to gain unauthorized access to the SDMT system met with failure during a security test, which suggests that there is a reasonable level of security control to protect the system from possible outside attacks. However, we are concerned about internal access and overall system controls to prevent the SDMT system from being compromised. In this regard, we found the following:

- According to our security specialist, the possibility exists for an internal user with IT knowledge to escalate their read-only access to full access to SDMT data without proper authorization. This would allow an individual to create a bogus recipient and issue fraudulent payments. The Ministry had been aware of these issues and thought that it had corrected them, but our specialist was able to circumvent the new controls.
- With regard to access rights, we found that although only two staff members per service manager office were supposed to be provided administration rights, which includes the ability to make changes and generate new users, some offices had up to 17 individuals, or one-third of their total staff, assigned these rights.

Administrators were also provided access to live data that should be the purview only of caseworkers. As a result, administrators potentially can establish false accounts and new users, generating unauthorized payments.

- Although the SDMT system has the capacity to assign limited access levels, we found that most caseworkers, as we noted in our 2002 audit, received full access to the system, allowing them also to set up new recipients, make changes to information, and potentially authorize fraudulent payments, all without supervisory review. Such broad access runs counter to the desired segregation of duties and supervisory oversight that is a critical component of a formal payment system designed to prevent fraudulent payments.
- Although the Ministry had a process in place to verify active users by sending a SDMT system report containing all active users to service managers for their review and reconciliation, this feature had not been used since 2005. In fact, our review found that some former Ontario Works staff still had active SDMT system accounts.
- Passwords are not required to be changed on a regular basis and multiple concurrent log-ins are permitted.

User Satisfaction

During our previous audits, service manager staff expressed considerable dissatisfaction with the SDMT system and told us that instead of it freeing up time to spend with clients as intended, it had the opposite effect. Other concerns noted were that training was insufficient, and that system limitations required many workaround systems to be developed or purchased in order to get the job done.

As mentioned above, despite some SDMT system improvements since our last audit, service manager staff still generally express dissatisfaction with the system. They had the following specific concerns:

- Workaround systems are still required. Results from the survey of system administrators indicated that approximately 150 workaround systems had been developed at a cost of more than $5 million, with future system development costs estimated at $7 million. Many of these workarounds were similar systems developed by different service managers, resulting in a duplication of efforts.
- The SDMT system lacks a report-writing function that would allow service managers to extract customized information required to assist with program delivery and/or management. Instead, the Ministry provides daily and monthly information for use in local report systems as well as producing standard reports that are available to the service managers. However, these reports do not address many of their information needs. Although special reports can be requested from the Ministry, service manager staff told us that it sometimes takes several months to receive these reports. In addition, service manager staff were reluctant to rely on the reports because of concerns over reliability, completeness, and accuracy.
- Although a process had been set up to flag system problems by filing a system investigation report, most service manager staff felt that this process was ineffective and did not result in improvements. The Ministry has since eliminated this process and no longer tracks SDMT system user complaints.
- The Ministry now uses the government-wide IT service desk to deal with SDMT system problems. Staff told us that they have concerns about the quality of assistance they receive from this help desk as those staffing it don't seem to have specific knowledge about the SDMT system and are not responsive in addressing problems.
- Although tools are provided to assist with reviewing overpayments, the system's users noted the system was unable to determine

why an overpayment was created, an issue previously noted in our 2002 audit. They indicated that it sometimes took a long time to try to resolve and reconcile overpayments. In addition, the SDMT system lacks the capability to manage overpayments and their collections.

- The system lacks the capacity to manage the employment assistance function, a key objective of Ontario Works. As a result, most service managers maintain standalone systems to support the management of employment assistance activities.

- Concerns were noted again, as at the time of our last audit, with regard to system-generated letters. Service manager staff said that these letters cannot be altered, that the information contained in them is difficult for the client to understand, and is sometimes inaccurate. As a result, many service managers have purchased or developed other software programs to create their own letters and do not use this aspect of the SDMT system.

Information to Support Reimbursement by the Ministry

In our previous report in 2002, we noted that the SDMT system did not provide municipal service managers with accurate and reliable expenditure information for billing the Ministry for its share of the financial assistance provided to Ontario Works recipients. We are pleased to note that now, in general, service managers are able to rely on the information from the SDMT system with regard to the income assistance amounts provided to Ontario Works recipients.

However, benefits that are paid on behalf of the recipients to third parties are not included in the SDMT system and have to be manually added onto the monthly claim to the Ministry for reimbursement.

As previously noted, small variances still exist between the totals recorded by the monthly expenditure report and the cheque register, both produced by the SDMT system.

RECOMMENDATION 13

To ensure that Consolidated Municipal Service Managers can rely on systems and reports to produce proper payments, and accurately record and manage information regarding those payments, the Ministry of Community and Social Services should address the Service Delivery Model Technology system deficiencies noted in this report, including those that prevent service manager staff from having the information they need to effectively manage program expenditures.

MINISTRY RESPONSE

The Ministry recognizes the need to continually improve the technology that supports the delivery of the Ontario Works program within available resources. The Ministry is also reviewing its current business processes for potential refinements and opportunities for improvement from the perspective of technology modernization.

Background

Affordable and secure housing is a significant factor in a community's stability and in the social and economic well-being of its residents. Social housing is rental accommodation developed with government assistance for a range of low- and moderate-income households, including families with children, couples, singles, and seniors. It can be owned by governments, as in the case of public housing, or by non-profit or co-operative organizations. In Ontario, households in social housing that receive a rent-geared-to-income subsidy typically pay a maximum rent equal to 30% of their total pre-tax income.

Most social housing in Ontario was built between the mid-1960s and the mid-1990s through a combination of federal, provincial- and joint federal–provincial cost-shared programs. Community groups also built non-profit and co-operative housing during the 1980s and 1990s, with more emphasis on smaller projects that included units with rents at market rates alongside those with rent geared to income.

Until the late 1990s, properties built by governments (that is, public housing properties) were subsidized and administered by Canada Mortgage and Housing Corporation (CMHC) at the federal level and Ontario Housing Corporation at the provincial

level. The non-profit and co-operative housing built by community groups was administered by those groups but funded by both levels of government.

In January 1998, the province transferred to municipalities a series of funding responsibilities, including social housing, under the Local Services Realignment program. In return, the province assumed half the education costs that had previously been paid by municipalities. The Ministry of Municipal Affairs and Housing retained responsibility for administering social housing programs during a transition period.

In November 1999, the federal government and Ontario signed the Canada–Ontario Social Housing Agreement (Agreement) to transfer federal administration of most Ontario social housing to the province (although CMHC continued to administer certain housing programs). The Agreement provides the province with the flexibility to devolve administration of social housing programs to municipalities, set policies for client assistance, and allocate federal funding to the various housing programs. The province continues to receive federal funds ($518 million in the 2008 calendar year), most of which it allocates to municipalities.

In December 2000, the province passed the *Social Housing Reform Act, 2000* (Act), which required municipalities to assume responsibility for social housing programs previously administered by both CMHC and the province. The province

designated 47 regional Consolidated Municipal Service Managers (Service Managers), who also deliver such other services as social assistance and child care, to administer social housing programs at the local level. In bigger cities, the municipal government itself is the Service Manager; in smaller centres, a single Service Manager administers services for a combined group of municipalities and counties. Ontario is the only province to have passed on to municipalities the responsibility for funding and administering social housing.

As of the end of 2008, there were about 260,000 units of social housing in Ontario, consisting of 100,000 public-housing units and 160,000 non-profit and co-operative units. Although no formal figures were available, the asset value of the province's social housing stock was estimated to be approximately $40 billion.

Audit Objective and Scope

The objective of our audit was to assess whether the Ministry of Municipal Affairs and Housing (Ministry) had adequate systems and procedures in place to:

- measure and report on its effectiveness in helping to provide, in partnership with the federal and municipal governments, sufficient numbers of well-maintained social housing units; and
- ensure that funds provided for selected housing programs are managed with due regard for economy and efficiency, and in compliance with legislative and program requirements.

Our audit included research into the practices of other jurisdictions, a review of documentation, and interviews with ministry staff and some of the 47 Consolidated Municipal Service Managers (Service Managers) to obtain their views on the delivery of social housing programs. We also sent surveys to all 47 Service Managers and received responses from about half of them. We also interviewed

external stakeholders, including the Association of Municipalities of Ontario, Social Housing Services Corporation, the Ontario Non-Profit Housing Association, Toronto Community Housing Corporation, and Canada Mortgage and Housing Corporation for their input on how housing programs could be improved.

Our work also included a review of relevant audit reports issued by the Ministry's internal auditors. Since they had not conducted any recent work in the areas covered by our audit, their reports did not result in a reduction of the scope of our audit or extent of our procedures.

Summary

From both a value-for-money perspective and from the perspective of those who live in it, it is critical that social housing be maintained in good condition. As well, sufficient and affordable social housing can have a significant impact on the health and safety of those Ontarians who depend on subsidized housing for a place to call home. While responsibility for this has been largely delegated by legislation to municipalities since 2000, it is in the province's long-term interests to monitor how well the province's social housing stock is being managed by Consolidated Municipal Service Managers (Service Managers).

However, despite the change in responsibilities, there has been no provincial strategy to help ensure long-term sustainability of sufficient numbers of well-maintained social housing units. Accordingly, other than ensuring that any federal or provincial housing agreements and other requirements are being adhered to, the Ministry collects little information on how well the $40 billion in social housing stock is being maintained or whether there is an adequate supply to meet the local needs. We identified a number of issues about which we believe the province should be better informed to enable it to monitor how well social housing is being managed,

especially given the province's recent commitment to provide municipalities with more than $600 million (its half of the $1.2 billion federal–provincial economic stimulus package provided to it) for new and existing housing programs. Some of these issues include:

- As of December 2008, the number of households on waiting lists for social housing across the province totalled about 137,000. In many urban centres, the average wait time to secure accommodation was more than five years— and one municipality had reported a wait time of 21 years for all categories except seniors.
- Some large municipalities reported that as units became available, 25% to 40% were usually allocated to special-priority tenants, such as victims of abuse, who require complex social-support services. However, housing providers often do not have the capacity to provide security and complex support to such special needs tenants, nor were security and services for such tenants well co-ordinated with other programs.
- The deteriorating condition of the social housing stock, particularly the public-housing portfolio, whose units are an average of 40 years old, has been a significant and growing concern for municipalities. In 2006, for instance, the Toronto Community Housing Corporation conducted a building-condition assessment, which identified immediate capital-repair needs of $300 million for its 60,000 social housing units. However, the Ministry had no up-to-date and reliable information on a province-wide basis of the overall condition of the social housing stock or of the asset-management practices of Service Managers.
- A large number of the federal government's funding agreements with housing providers will start to expire in 2015, with no guarantee they will be renewed. Without continued funding, some existing social housing projects will not be financially viable. However, Service Managers will still be required by law to maintain the prescribed minimum number of housing units. The Ministry had no firm plans to address Service Managers' concerns regarding the possible ending of federal funding.
- In partnership with the federal government, Ontario has in recent years provided Service Managers with some additional funding for new housing programs. Although the Ministry monitors whether Service Managers comply with program requirements, there was a general lack of reporting on the success of these programs. We determined, for example, that although one such program did increase the supply of housing, the stipulated rent to be charged meant that more than half the units would not be considered affordable for households on waiting lists, or those eligible to be on the lists.
- As part of a federal–provincial economic stimulus package, both levels of government announced in March 2009 they would share equally in funding $1.2 billion in new investments in social and affordable housing over the next two years. Improvements to the Ministry's system for monitoring these expenditures will be needed to ensure these funds are spent cost-effectively and achieve the desired impact.

OVERALL MINISTRY RESPONSE

The Ministry of Municipal Affairs and Housing welcomes the observations and recommendations of the Auditor General and is committed to making continuous improvement in meeting its mandate. The Ministry recognizes the integral role of safe and affordable housing in the health and safety of Ontarians and is focused on supporting our municipal partners as they administer social housing in Ontario.

Since devolution in 2001, all housing partners, including the province, have been maturing in their new roles in administering

social housing in Ontario. The recent Provincial Municipal Fiscal and Service Delivery Review confirmed that the province would not upload responsibility for social housing from the Service Managers. The review recommendations supported continued municipal funding and administration, while the province will provide the opportunities to free up additional funds for social housing. The role of the province to oversee the success of the program has also evolved and the Ministry is committed to effectively meeting this role.

Detailed Observations

COMPLIANCE WITH AGREEMENT AND LEGISLATION

The Canada–Ontario Social Housing Agreement (Agreement) with the federal government establishes certain reporting requirements that the Ministry of Municipal Affairs and Housing (Ministry) is required to follow. Specifically, the Ministry must submit an annual performance report to the federal government and undertake annual audits and periodic program evaluations. The annual performance report must include information on the amount of funding for each program, the number of households assisted, and the average income of those receiving assistance.

In addition, under the provincial *Social Housing Reform Act* (Act), Consolidated Municipal Service Managers (Service Managers) are required to fulfill a number of key responsibilities that include:

- maintaining the prescribed minimum number of housing units;
- establishing and administering waiting lists;
- providing rules about eligibility and priority rules, creating occupancy standards, and ensuring adherence to these rules and standards;

- reporting on projects in difficulty;
- providing subsidies to, and oversight of, housing providers; and
- reporting on compliance with social housing obligations to the province.

To help ensure compliance with the federal and provincial requirements, the Ministry requires Service Managers to submit a Service Manager Annual Information Return (Return). Service Managers must state in the Return the expenditures incurred for each housing program, provide certain supplemental information, and confirm their compliance in key areas such as maintaining the prescribed number of housing units and a centralized waiting list. An external auditor hired by the Ministry must verify Returns and issue an audit opinion to CMHC on the federal money spent.

We found that the Returns were being verified and, based on the opinion of the ministry-appointed auditor, the province and municipalities were in compliance overall with the Agreement and legislation.

PROVINCIAL STRATEGY ON SOCIAL HOUSING

Service Managers currently have primary responsibilities for funding and administering social housing programs. Even so, social housing is a shared responsibility and the Ministry, in partnership with the federal and municipal governments, is accountable to Ontarians for providing sufficient and well-maintained social housing across the province.

Despite the significant change in the responsibilities for delivery of social housing, however, there had been no provincial strategy to address potential issues that could affect the provision of sufficient and well-maintained housing in the province. Beyond the annual compliance-reporting process, the Ministry had not adequately overseen the success of municipal service delivery.

A provincial strategy is needed to define the Ministry's roles, set measurable goals and program priorities, assess risks and options to manage

the risks, determine the resources required, and measure the impact of the Ministry's contribution to social housing. In the Ministry's recent Results-based Plan (Plan), a document that all Ontario government ministries are required to submit to help ensure their programs achieve the desired outcomes, the Ministry had identified several goals and the various activities on which it intended to report. However, we found these goals and activities as reported to be overly broad, with no measurable outcomes. For example, one of the activities identified was the maintenance and upgrading of aging social housing units—but the Plan established no targets or benchmarks for success.

The need for a provincial strategy was underscored in May 2006, when a consultant engaged by the Ministry to conduct an evaluation of its social housing programs noted a number of issues similar to the ones we observed. The consultant's evaluation, required under the Canada–Ontario Social Housing Agreement, noted, among others, the following issues:

- a lack of strategic performance measurement across Ontario's social housing programs;
- the absence of province-wide benchmarks, metrics, and objectives for social housing; and
- a lack of strategic-planning initiatives to address issues, including emerging capital requirements, increasing operating costs, and demographic and economic changes that may affect long-term sustainability.

It has been three years since these issues were identified but little action has been taken to date to address them.

In this regard, a number of municipalities had developed a local strategic plan to address the issues within their communities. Our review indicated some of these plans were comprehensive and could be useful to the Ministry in developing a strategic plan. Other municipalities could also find them helpful as a guide to best practices.

RECOMMENDATION 1

To better define and fulfill the province's roles for ensuring sustainable, well-maintained social housing, the Ministry of Municipal Affairs and Housing should:

- establish a comprehensive strategic plan that includes measurable goals and performance outcomes;
- work with municipalities to ensure a co-ordinated and integrated housing strategy within the province, and gather the information necessary to monitor progress on the strategy and on the goals and outcomes established; and
- consider requiring all Consolidated Municipal Service Managers to develop local strategic plans, and encourage the sharing of best practices in developing such plans.

MINISTRY RESPONSE

The Ministry agrees and has already completed over 13 public consultations with key stakeholders across the province to initiate the development of a Long-term Affordable Housing Strategy. As part of the exercise in developing the Strategy, the Ministry has been working with its municipal partners to develop social-housing performance measures. The Ministry expects to release the Strategy in 2010. The Ministry will collect the information necessary to monitor progress on the Strategy and on the goals and outcomes established. As part of the Strategy, the Ministry will consider requiring municipal service managers to develop local strategic plans.

The Ministry currently requires municipalities to report annually financial and statistical information on various municipal services they provide. In addition, social housing performance measures will be established and all municipalities will be required to report on the measures annually.

SUFFICIENT AND WELL-MAINTAINED SOCIAL HOUSING

Effective provincial oversight is needed so that the Ministry can make informed funding decisions and take appropriate, timely action on systemic issues affecting the provision of social housing. Further, good management information is needed to support the Ministry's oversight activities. As indicated in the previous section, the level of provincial oversight had been minimal since devolution. Consequently, there was little management information available at the Ministry. We identified a number of significant issues that had not been adequately addressed since devolution.

The following sections contain a discussion of some of these issues.

Waiting Lists for Social Housing

Much of the information available to the Ministry came from the annual Returns submitted by Service Managers. In addition to financial information, Service Managers are asked to confirm that they complied with the provincial requirement for maintaining the prescribed number of housing units and to provide supplemental information.

One piece of supplemental information provided by Service Managers related to prospective tenants on waiting lists, which, according to the latest Returns, stood at about 137,000 province-wide as of December 2008.

However, there was only limited additional information at the Ministry about the waiting lists. During our audit, we gathered additional information on the breakdown and length of the waiting list, as shown in Figure 1.

Overall, the size of the province-wide waiting list has remained fairly stable over the past five years. However, the list could include households that have given up because of the lengthy wait times and others that could have been placed on more than one list. Many urban centres have wait times of five or more years for new applicants—and

one reported wait times of up to 21 years for all applicants except seniors.

Conversely, we noted that some Service Managers reported vacancy rates ranging from 0% to more than 5%, with a few smaller jurisdictions as high as 12%. Several also had a high vacancy rate despite a lengthy waiting list. Although some vacancies are temporary and unavoidable, a persistently high vacancy rate could be attributable to such reasons as lack of demand, a mismatch between size of units and demand, or, in extreme cases, units that were unusable because of poor safety and sanitary conditions. The Ministry did not monitor or assess the wait times and vacancy rates being reported by the individual Service Managers.

Some Service Managers and jurisdictions have developed extensive information processes to assess the demand and supply for social housing. For example, information on the number and types of housing units, condition of housing stock, vacancies, and availability of special-needs housing would be useful to the Ministry in assessing social housing supply from a province-wide perspective. Data on population, by segment, number and composition of households, and income factors would also be useful in analyzing housing demand. Such information is critical for improving future housing-program design to ensure that limited funds are directed to the areas of greatest housing needs.

Co-ordination of Social Housing with Other Support Services

The order in which people on a waiting list get housing is chronological—first-come, first-served. The one exception to this rule under the *Social Housing Reform Act* is for special-priority applicants, who are primarily victims of abuse. Service Managers at some of the larger municipalities indicated that as units became available, between 25% and 40% of them were currently being occupied by these special-priority tenants, who require support services. Due to the urgent nature of their situations, the applicants on this list justifiably

Figure 1: Selected Wait-list Information, at December 2008

Source of data: Selected Consolidated Municipal Service Managers

Service Manager	Total # on Waiting List	Expected Wait Time for New Applicants (Years)			
		Overall	Seniors	Non-seniors	Families
A	66,600	4.5–6	4.5	4.5	6
B	13,328	7–21	7	21	21
C	9,691	2.5–4.5	2.5	4.5	4
D	5,833	7–10	7	10	9
E	1,564	0.5–8	0.5	8	2
F	1,447	4–13	6	13	4

receive priority for housing placement. Nevertheless, Service Managers indicated that many of these households also require complex social-support services and additional security arrangements, the provision of which most housing providers do not have the capacity to ensure.

In addition to special-priority housing, there were three provincial ministries that administer more than 20 other housing and related programs, including emergency shelters, housing for people with special health needs, and accommodations for the homeless. Service Managers indicated it had been difficult to co-ordinate their work and ensure special-needs tenants received the appropriate support services. Their view was reflected in a recent Provincial–Municipal Fiscal and Service-Delivery Review, which reported that the current system is a fragmented and inefficient approach to meeting client needs.

RECOMMENDATION 2

To help provide sufficient social housing efficiently and make the most of available funding, the Ministry of Municipal Affairs and Housing should work with Consolidated Municipal Service Managers to:
- establish more comprehensive reporting of information on social-housing portfolios and wait times so this can be taken into consideration in addressing the housing needs of individual municipalities;

- identify ways to better and more equitably address the issue of lengthy wait times in many municipalities; and
- better co-ordinate housing and other support services with other provincial and municipal stakeholders.

MINISTRY RESPONSE

The Ministry agrees and will consider the Auditor General's recommendation in the development of its Long-term Affordable Housing Strategy. While the Ministry currently collects information required to meet the terms of the *Social Housing Reform Act, 2000*, and its regulations, it will work with municipalities to identify and address other areas where additional and consistent information can benefit.

Support services are provided at the local level. In keeping with the direction given under the recent Provincial–Municipal Fiscal and Service-Delivery Review, the Ministry will work together with municipalities to develop a consolidated housing service to better co-ordinate housing and other support services with other provincial/municipal stakeholders. Provincial-municipal discussions are under way on this topic.

Social Housing Portfolio

Like any other properties, buildings in the social housing portfolio require regular maintenance and periodic replacement of major capital items, such as roofs, underground garages, elevators, and mechanical systems to maintain and prolong their service life because it costs far more to build new units than to properly maintain existing ones.

Prior to downloading, all public-housing units were owned by the Ontario Housing Corporation and capital requirements were funded through the Corporation's annual budgeting process. In the case of privately owned non-profit and co-operative housing, each housing provider was required under its operating agreement with the province to contribute a portion of the operating subsidy to a separate capital-reserve fund to address capital repairs and replacements.

After the decision was made to transfer social housing to the municipalities in the late 1990s, the Ministry commissioned studies to determine the condition of the housing stock and the related capital-funding requirements for the public, non-profit, and co-operative portfolios. These studies concluded that the social housing stock was in good condition overall. The required annual capital funding for the publicly owned portfolio was determined to be in the $100-million range. About $52 million of this would be funded through the federal annual contribution and the remainder by Service Managers.

With respect to the non-profit and co-operative housing providers, their previous operating agreements with the province were terminated at devolution. The *Social Housing Reform Act* requires these housing providers to continue contributing to a capital-reserve fund. Except for a few large municipalities, their contributions were being managed by the Social Housing Service Corporation, created under the *Social Housing Reform Act* in 2002. Examples of the services that the Corporation provides include the pooling of capital reserves, group insurance, and bulk purchasing.

Condition of Social Housing Stock

Notwithstanding the reasonably good condition of the social housing stock at the time of devolution a decade ago, social housing stock has deteriorated since that time, particularly those properties within the public-housing portfolio. This has been a significant and growing concern to municipalities because the average property in the public-housing portfolio is close to 40 years old and capital maintenance costs are rising more quickly.

While this concern has been identified by various stakeholders, there was a lack of up-to-date and reliable information on the province-wide condition of housing stock. Currently, such information would only be available if housing providers carried out their own building-condition assessments, which provide estimates of the cost and time frames for repairing or replacing various building elements. The results could then be used, for instance, to create a capital-reserve fund to cover replacement costs. For example, the Toronto Community Housing Corporation, which owns 60,000 social housing units accounting for two-thirds of Toronto's social housing stock, carried out such an assessment in 2006 and estimated that $300 million was needed for immediate capital repairs. However, the Ministry did not have any information on how this estimate was determined or the magnitude of this issue on a province-wide basis.

The average age of the non-profit housing portfolio was lower than that of public housing. Many non-profit projects were built in the late 1980s to early 1990s, resulting in an average age of about 18 years. In addition, the non-profit housing providers' agreements with Service Managers were structured to require reserve funds for future capital repairs. As of 2007, the Social Housing Services Corporation invested and administered approximately $400 million in capital reserves on behalf of non-profit housing providers. Nevertheless, the Corporation indicated that some non-profit providers were in crisis and most of the properties were just reaching the stage in their life cycle where major repairs would be necessary. However, on an overall basis,

the non-profit housing portfolio was in better condition and should be better able to address its capital requirements than should public housing.

Service Managers indicated that, as the housing stock continues to age, access to suitable financing to help pay for maintenance and repairs was emerging as a major issue. One potential source of financing, for example, would be to re-mortgage properties. However, the province had generally not agreed to housing providers' proposals to refinance, citing the province's potential liability under the Social Housing Agreement that requires Ontario to compensate CMHC for any costs arising from the default of housing providers. In the opinion of some Service Managers it is they, and not the province, who are responsible for the costs of such defaults. The Ministry should re-assess the implications of the Service Managers' refinancing proposal to determine if it may be a viable solution.

Asset Management

Good asset-management practices, including regular preventive maintenance, are essential to prolong the life of housing assets and avoid costly repairs in future. In addition to lacking information on the condition of the social housing stock, the Ministry had no information about whether Service Managers have established good asset-management practices and whether housing providers were following them. The poor condition of some properties could be due to delays in carrying out the regular maintenance required to prolong the life of the assets. Due to increasing operating costs, we understand that some housing providers may be redirecting funds away from regular maintenance to fund more urgent day-to-day operations.

Energy-efficiency upgrades could also help free up some funds for maintenance. Older public-housing projects, for example, were built using less modern technology. Upgrading these buildings to contemporary energy-efficiency standards would generate operating-cost savings that could be used for other required capital-maintenance projects.

The Ministry has recently initiated the development of an asset-management strategy with the Social Housing Services Corporation to help housing providers improve their practices in this area. Although it was in the early stages of development, this is a much-needed initiative.

RECOMMENDATION 3

To ensure that the housing stock is safe and of acceptable quality and that it will achieve its expected service life, the Ministry of Municipal Affairs and Housing should work with Consolidated Municipal Service Managers to:

- carry out periodic building-condition assessments and ensure that such information is summarized on a province-wide basis; and
- develop an effective funding and financing strategy for raising the capital investment required to reduce the capital maintenance backlog and sustain proper maintenance of housing stock, including consideration of requirements that a capital reserve be established for public-housing stock.

The Ministry should also continue to work with the Social Housing Services Corporation to assess the cost/benefit of implementing modern energy-efficient measures, and facilitate adoption of such measures by housing providers.

MINISTRY RESPONSE

In 2008, the Ministry helped fund the establishment of an Asset Management Centre for Excellence by the Social Housing Service Corporation to provide the support and expertise that social-housing providers can draw upon in maintaining their buildings. The Centre promotes and recommends best practices for building condition audits and other capital planning activities. Service Managers may choose to use some of the funding under the new Social Housing Renovation and Retrofit program, established in 2009 to upgrade social-housing projects, for building condition audits.

With respect to raising the capital investment required to reduce the capital maintenance backlog, under the government's Poverty Reduction Strategy announced in 2008, most social-housing providers are now able to apply to Infrastructure Ontario for low-cost capital loans. In addition, an Asset Leveraging Working Group co-chaired by the Ministry with the Social Housing Services Corporation is developing proposals for refinancing and renewing the social housing portfolio.

With respect to energy-efficient measures, there are minimum energy-efficiency requirements under the new $704-million Social Housing Renovation and Retrofit Program. Specifically, $70 million of this new federal–provincial funding is targeted for renewable energy initiatives. The Ministry will continue to consider other options for energy efficiency in the sector.

FEDERAL FUNDING OF SOCIAL HOUSING

As part of the Social Housing Agreement, the federal government began providing annual block funding to the province in 1999. The funding has several components, including capital costs, ongoing operating costs, and debt-servicing costs. The first annual payment amounted to $525 million and total subsequent payments decreased each year as the federal government's operating agreements with housing providers began to expire. Starting in 2015, a large number of agreements will begin to expire, which means Service Managers will have to maintain the same number of units with declining federal funding, as shown in Figure 2.

The province's *Social Housing Reform Act* requires Service Managers to maintain a prescribed minimum number of rent-geared-to-income units despite the eventual end of federal funding. No agreement has been reached with the federal government for continued funding and all agreements will have expired by 2032. This issue is critical for some municipalities, who derive the bulk of their social housing budgets from federal funding.

Under these circumstances, some housing projects would no longer be financially viable because rental revenues are insufficient to cover operating costs, even when the property is mortgage-free. Properties housing a high proportion of households that pay low rent would be affected the most because they depend largely on government subsidies to meet operating costs. The expiry of these funding agreements without commitments to establish new ones could force non-profit and co-operative housing providers to stop providing a large number of social housing units. The majority of Service Managers who responded to our survey noted that they have yet to find a solution to deal effectively with this issue. The Ministry indicated the province has had ongoing discussions with the federal government regarding the pending decline in federal funding. However, there has not been any commitment from the federal government to renew the funding and the Ministry had not developed a contingency plan to address this situation.

With respect to the provincial requirement for maintaining the prescribed minimum number of housing units, Service Managers indicated that the numbers were imposed by the province at the time responsibility for social housing was handed over to municipalities to protect the level of existing housing stock. Some Service Managers said that both the number and composition of housing units has never reflected the demographics and housing demand of municipalities, particularly as it has been nine years since the province downloaded this responsibility.

Service Managers also noted a difference between what the federal government transferred to the province under the Agreement and what the Service Managers received from the province, even though the Agreement stipulates federal funding must be used for eligible housing programs.

Our analysis of data supplied by the Ministry for the years 2000 to 2008 indicated that the federal government forwarded about $4.8 billion

Figure 2: Expiry of Funding Agreements with Federal Government for Social Housing, 2000/01–2033/34 (Units)

Source of data: Ministry of Municipal Affairs and Housing
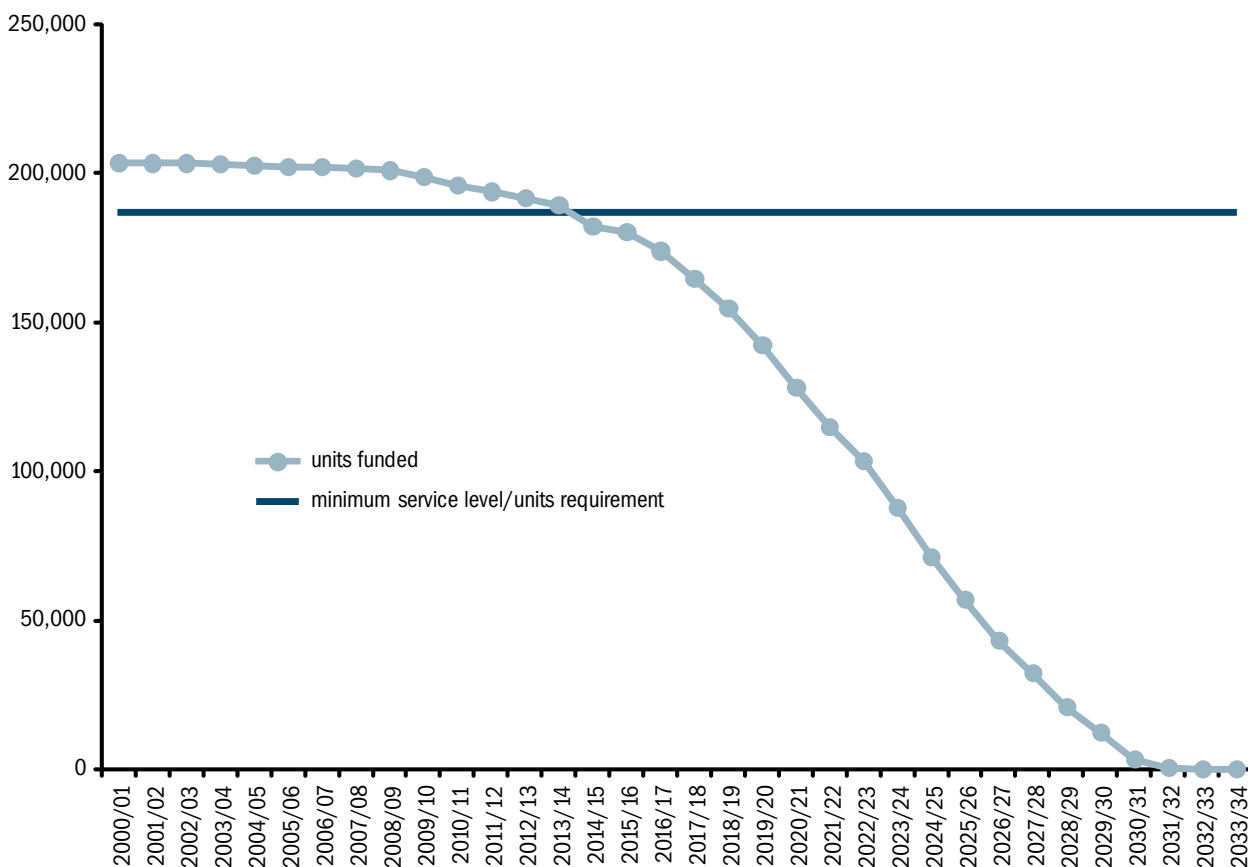
to Ontario for social housing during that period. Of that, approximately $3.8 billion was allocated to Service Managers and their predecessors in the period before devolution took full effect in 2001 for eligible programs under the Agreement. Another $414 million was allocated to other provincial and municipal social housing programs under the Agreement. For the remaining federal transfer of about $620 million, ministry figures show:

- Approximately $290 million was allocated to another provincial social housing program; and

- The province withheld $330 million, of which it designated $198 million—$22 million a year for nine years—as what it called a "provincial constraint." The Ministry was unable to provide support that this and the remaining $132 million were spent on housing.

The Ministry explained that Service Managers' social housing expenditures and not just those of the province were counted towards fulfilling the Agreement's term that federal funds be spent only on eligible social housing programs. As long as the combined annual social housing expenditures of the Ministry and Service Managers exceeded the total federal transfer, the Ministry considered itself to be in compliance with the Agreement. The Ministry indicated that its legal counsel had confirmed that there were no legal concerns about this arrangement.

Nevertheless, we noted that although the $3.8 billion transfer to Service Managers was published in the Ontario Gazette, the Ministry had not disclosed the use of the remaining federal funds. Therefore, Service Managers generally were not aware of the portion of federal funds spent on other housing programs. Consequently, they questioned

the difference between what the federal government transferred to the province and what they actually received.

RECOMMENDATION 4

To mitigate the possible impact of continuing decreases in federal funding on the supply of social housing, the Ministry of Municipal Affairs and Housing should:

- develop a plan for options, should negotiations with the federal government for continued funding for the social-housing portfolio be unsuccessful;
- work with Consolidated Municipal Service Managers on alternatives to the current system of maintaining the required number of housing units with an aim to better match the supply of social housing to the demand in each municipality;
- review its current methodology to ensure funding allocations are fair and federal funds are spent on eligible housing programs; and
- provide a full and public accounting of how all federal funding provided for social housing was spent.

MINISTRY RESPONSE

The Ministry, in co-operation with other provinces and territories, continues to raise this issue with the federal government.

The consensus recommendations of the Provincial–Municipal Fiscal and Service-Delivery Review have supported the local responsibilities for social housing. Once expenditures identified to be transferred to the province have been implemented, municipalities will have $1.2 billion a year in net benefits so that they can respond to social housing and other local priorities.

The Ministry will work with service managers to support them in understanding the levels of discretion they currently have to change the composition of social housing units

with their existing funding, and still meet their service standards requirement under the *Social Housing Reform Act, 2000*.

The Ministry will review its current methodology for federal funding allocations, including principles of fairness. We are consulting on a long-term affordable housing strategy that could include future funding relationships.

The Ministry currently provides accounting of its revenues and expenditures according to the Printed Estimates and Public Accounts process, and reports annually to the CMHC on how the federal funding received by the province under the Social Housing Agreement is spent. The Ministry will consider how best to provide further information on how federal funding received under the Agreement is spent.

RECENT FUNDING INITIATIVES

In partnership with the federal government, the province recently began to provide Service Managers with funding for new housing programs. We noted that the Ministry had sufficient controls in place to ensure Service Managers complied with the requirements of these new programs, but we found there was little information or front-end analysis in place to assess these new funding initiatives and ensure they would have the desired impact on social housing. There were, for example, no business cases that detailed all the costs and benefits of the new programs. In addition, there were virtually no accountability or reporting requirements for measuring the impact of funding provided. The following are some examples from our review of some of the new programs.

Delivering Opportunities for Ontario Renters [DOOR]

DOOR was a one-time, $127-million capital grant program to Service Managers in the 2006/07 fiscal

year to support the delivery of housing for low-income households. Grants were made without condition or reporting requirements, leaving the Ministry unable to determine whether funds were being spent fulfilling the most critical social housing needs.

Social Housing Capital Repairs

In its 2008 budget, Ontario announced investments in municipal infrastructure that included $100 million to address urgent capital-repair needs of the social housing stock. However, as the Ministry had no information on the condition of the social housing portfolio, allocations were made in the 2007/08 fiscal year based on each Service Manager's proportion of units in the social housing portfolio rather than on actual need for capital repairs as determined by ongoing condition assessment and sound asset-management practices.

Affordable Housing Programs

The CMHC defines households as being in core housing need if their dwelling falls below certain standards of adequacy, suitability, or affordability, which is defined as rent not exceeding 30% of gross total household income. In 2002, the Ontario government introduced the Canada–Ontario Affordable Housing Program (Program) in partnership with the federal and municipal governments. The Program, intended to create more than 18,000 units of affordable housing for households on social housing lists, or those eligible to be on such lists, included several components and had a total funding commitment of $624 million as of March 31, 2009. The federal government contributed $348 million of the total while the province contributed the remaining $276 million. New affordable housing would be created primarily through construction of new rental units, home ownership, and through rent supplements to landlords. In Northern Ontario, funds would also be available to assist with home repairs. Our audit focused on two

components of the Program, as described in the following sections.

Rental and Supportive Program

The Rental and Supportive Program (Program) was intended to promote construction of new rental units for low- to moderate-income households by providing up to $70,000 per unit. Currently, a federal contribution of up to $26,600 per unit was to cover capital costs primarily, while the provincial contribution of up to $43,400 per unit would pay mortgage and operational costs so as to keep rents affordable for 20 years. As of March 2009, commitments to the Program were about 10,000 units costing $498 million.

Under the Program, housing providers would for 20 years charge affordable rent, defined as 80% of the average market rent as determined each year by the CMHC. Service Managers were required to establish maximum income levels under which households qualify for these units, along with a process for verification of tenant incomes.

According to Program guidelines, rental-housing-unit allocations were determined using a formula that took into account core housing needs and population growth. In addition, Service Managers were required to submit for the Ministry's approval a Housing Delivery Plan that addressed areas such as the housing groups to be targeted, eligibility criteria, and the strategy for take-up and delivery of the units. This was a good basis for making such allocation decisions and we found that the proposed Housing Delivery Plans contained comprehensive information on the municipalities' housing projects and their strategy. However, other than a checklist, there was no evidence that the Ministry had evaluated the Housing Delivery Plans and used the excellent information contained within to make their allocation decisions.

In addition, Service Managers had to report on their projects annually—but the only information required of them was the number of units occupied, and assurances that they were charging 80% of

average market rent for the units. They were not required to report on their success in meeting Program objectives or their Housing Delivery Plan. As well, the Ministry had not ensured that Service Managers submitted reports on a timely basis as required.

We noted that the Program objective of achieving 80% of the CMHC's average market rent for new units would be met, and that the overall supply of affordable housing did increase. However, many people on the waiting list could not afford the rent. The CMHC definition of affordable housing stipulates that households should not have to pay more than 30% of their pre-tax income on rent. We determined that more than half of the units in this Program would still be unaffordable for households on waiting lists, or eligible to be on the lists. For example, the average income of households on the waiting list in 2008 was $15,000, putting their maximum affordable rent at $375 a month. Our analysis showed that average rent for the new units was $715 per month, meaning that households would need incomes of at least $29,000 annually (on average) to consider these units affordable. The program may therefore assist moderate-income households but will do little for low-income households.

Housing Allowance/Rent Supplement Program

The Housing Allowance/Rent Supplement Program (Program) was established in 2005 to help bridge the gap between the rent that a household can afford and the actual market rent. This program was intended for lower-income households on, or eligible to be on, the waiting list. All funding for the program was provided by the federal government, which originally committed $80 million for 5,000 units to be paid out in five-year agreements spanning the years 2005 to 2013. However, by March 2008, the deadline for committing to new agreements, the take-up had been just $57 million and 3,721 units.

Service Managers attributed the relatively low participation level to concerns with the Program's

design. For example, they cited the fact that under the Program, the agreements could last just five years and apply only to vacant units. That left prospective tenants facing the expense of having to move again in five years when the subsidy ran out. Service Managers said they would have preferred the supplements be provided to households for existing units rather than require them to move to vacant units.

FUTURE FUNDING INITIATIVES

In addition to the above recent funding initiatives, in March 2009, as part of the federal–provincial economic stimulus package, both levels of government announced an increase in their investment in social and affordable housing of more than $1.2 billion over the next two years, to be funded equally by the two levels of government. As indicated earlier, the Ministry's efforts had focused on ensuring Service Managers complied with program requirements. It had not established and dedicated staff resources toward monitoring the success of its funding programs in achieving their desired impact. Improvements to the Ministry's system of monitoring funding programs are needed to ensure these funds are spent cost-effectively.

RECOMMENDATION 5

To ensure that funding provided achieves the desired social housing impact, the Ministry of Municipal Affairs and Housing should require that:

- each new funding program is supported by a detailed business case; and
- adequate accountability mechanisms for reporting on the results achieved by Service Managers for the funds provided be put in place for all funding programs.

In addition, the Ministry should make any necessary changes to ensure it has the resources and organizational capacity to properly monitor

the effectiveness of funding it provides to Service Managers.

MINISTRY RESPONSE

The Ministry is required to submit a business plan to Treasury Board as part of its requests for program funding. It will review its current practice in developing business cases, to identify and implement any improvements as may be required to ensure a detailed business case is developed for each funding program.

The Ministry will review the existing accountability mechanisms established for reporting on results by municipalities. Where adequate accountability mechanisms are lacking, the Ministry will work with them to ensure they are in place.

The Ministry recognizes the need to review its resources and organizational capacity in light of the recent funding initiatives and directions provided under the Provincial–Municipal Fiscal and Service-Delivery Review. The Ministry will assess its current resource requirements to undertake its obligations and monitor the effectiveness of funding provided to Service Managers.

Teletriage Health Services

Background

Ontario's teletriage services provide callers with free, confidential telephone access to a registered nurse for health-care advice and information. The services comprise Telehealth Ontario, which was launched province-wide in 2001, and the Telephone Health Advisory Service (THAS), which was launched in 2003.

The objectives of Telehealth Ontario and THAS include:

- facilitate the use of the most appropriate health services;
- improve access to appropriate health information and advice;
- increase health education and improve decision-making by consumers; and
- improve satisfaction with access to quality health information.

Telehealth Ontario is available to all callers 24 hours a day, seven days a week. THAS is available Monday to Friday, 5 p.m. to 9 a.m., as well as all day on weekends and holidays, to the 8.4 million patients enrolled, as of March 2009, with physicians participating in various primary health-care arrangements, such as family health teams. With either program, the nurses use their clinical judgment in conjunction with medical decision support software to assist callers (for example, by providing details on self-care, or by advising them to see their physician or go to the emergency department at their local hospital). Nurses can also provide callers with general health information or forward calls to poison control. As well, Telehealth Ontario callers can be linked to pharmacists at the Medication Information Service for drug-related inquiries. For THAS callers, nurses can access the on-call physician from the caller's physician's practice, and, if needed, the physician may speak directly with the caller.

The Ministry of Health and Long-Term Care (Ministry) contracts with a private service provider to deliver both Telehealth Ontario and THAS. The service provider employs almost 300 registered nurses at its five call centres located throughout Ontario. During the 2008/09 fiscal year, 905,000 calls were responded to by nurses, and payments to the service provider totalled $35.1 million.

Audit Objective and Scope

Our audit objective was to assess whether teletriage services were providing confidential access to timely advice in an economical manner that met the health-care needs of Ontarians. Our audit focused on Telehealth Ontario and THAS, and excluded

other telemedicine services, such as physicians using telecommunications to provide health-care services.

Our audit work was conducted primarily at two of the service provider's call centres, because all calls are handled in one virtual queue, with the first available nurse at any of the call centres answering the call. In conducting our audit, we reviewed relevant files and administrative policies and procedures, and met with appropriate staff from the service provider and the Ministry. In addition, using 2008 data from the service provider, we reviewed call volume and caller wait times. We also reviewed relevant research and obtained information from comparable teletriage services programs in other Canadian jurisdictions. As well, with the assistance of an independent survey firm, we surveyed 1,100 people across Ontario to obtain information on their awareness of and satisfaction with Telehealth Ontario's services.

We did not rely on the Ministry's internal audit service team to reduce the extent of our audit work because it had not recently conducted any audit work on teletriage services. The service provider did not have an internal audit function.

Summary

The Ministry appropriately contracted for the delivery of teletriage services based on a competitive process. The contract included a number of key performance requirements, focusing primarily on the timeliness of access to services, which the service provider reported that it met in the 2008/09 fiscal year. As well, our independent survey indicated that those who used Telehealth Ontario were generally satisfied. However, only a small portion of Ontario's population uses the services. In addition, based on our analysis of information at the service provider, as well as practices in other jurisdictions, there are improvements that could be made to enhance the services for Ontarians—for example,

adopting an easily remembered telephone number such as "811"; ensuring that newly hired nurses have the required clinical experience; conducting independent reviews of the quality of the advice provided by nurses; and establishing performance requirements for the quality of that advice. Some of our more significant observations included the following:

- Not only has the number of calls to teletriage services been declining over the last few years, but the number of calls as a proportion of the population is significantly less in Ontario than is the case in Alberta and Quebec. Ontario had 905,000 calls to teletriage services in the 2008/09 fiscal year, out of Ontario's population of 12.2 million, while Quebec's Info-Santé received 2 million calls out of a population of 7.4 million and Health Link Alberta received 1 million calls out of a population of 3.3 million. One reason may be that the Ministry did minimal advertising of the services during 2007 and 2008. We also noted that the number of calls concerning seniors as a proportion of Ontario's senior population was low—only 4% (72,000 calls out of a population of 1.6 million).
- Although over 60% of Ontario's population was enrolled with physicians participating in various primary health care arrangements, and therefore eligible to use the Telephone Health Advisory Service (THAS), only 1% of eligible individuals used the service in 2008/09.
- British Columbia and Quebec use the easily remembered "811" phone number for their teletriage services, and certain other provinces are planning to adopt this phone number. Quebec reported a 15% increase in call volume following its implementation. At the time of our audit, Ontario had no plans to adopt the "811" phone number.
- The service provider does not track how long callers wait in the live queue before speaking to a nurse but indicated that about 25%

of callers waiting in the live queue hung up before their call was answered by a nurse. Of the callers in the live queue who continued to wait, we calculated that 85% spoke to a nurse within 23 minutes. Eighty-five percent of callers who left a call-back number spoke to a nurse within 34 minutes.

- Physicians who were on call to THAS had to be paged more than once in over 70% of calls requiring a page during 2008, and 9% of pages were never returned. Further, 10% of physician practices did not return at least one-third of the pages they received. Generally, the on-call physician is paged if the nurse would advise the caller to see their doctor within four hours or go to the emergency department.

- Although advice to callers deviated from the clinical guidelines and protocols only 5% of the time in the 2008/09 fiscal year, almost 30% of the deviations did not indicate the reason for not following the guidelines.

- Although the service provider had indicated in its proposal submitted to the Ministry in 2007 that its nurses would have at least three years of any type of nursing experience, its policies require nurses to have one to three years of clinical experience. We noted from our sample of nurses hired in 2008 that 23% had less than one year of acute-care experience, and 20% had less than three years of total nursing experience.

- Because callers are not asked to provide their Ontario health card number to the service provider, it is difficult to confirm whether callers actually followed the nurses' advice. If the health card number was requested, it would be possible in many instances to check Ontario Health Insurance Plan records to determine whether the caller followed the advice given, and therefore whether the teletriage services were influencing callers to use the most appropriate health service, as intended.

- Although there was no independent review of the quality of the advice provided to callers,

the service provider estimated that the advice provided to about 95% of callers annually was appropriate. We noted that another Canadian jurisdiction uses mystery callers, with predetermined questions, to independently evaluate the quality of advice provided.

- Because calls are generally not taped, the service provider's quality assurance reviewers audited calls only as they were taking place. We found that 84% of the call audits sampled were completed during off-peak periods, rather than during peak periods (when nurses are under pressure to respond to waiting callers within established time frames). Most of the other provinces we spoke with indicated that they tape all calls, so that they can be reviewed at a later date to assess the appropriateness of the medical advice given, among other things.

- Our independent satisfaction survey indicated that 82% of callers were satisfied or very satisfied, which was slightly lower than the service provider's reported 98% satisfaction, based on callers it sampled. However, neither the Ministry nor the service provider had surveyed other stakeholders, such as family physicians and emergency departments, regarding their satisfaction. Other jurisdictions we spoke with indicated that health-care professionals' support and acceptance of teletriage services was critical to the success of their programs.

- In 2008/09, the Ministry paid the service provider about $39 for each of the first 900,000 registered calls to teletriage services, and about $27 per call after that. The three other provinces that shared cost information with us indicated that their teletriage services costs were about $20 per call. The Ministry had not conducted any work aimed at determining the reason for the significant difference between Ontario's costs and the costs in other provinces.

- Although the Ministry had established several good performance measures, which the

service provider must meet in order to avoid financial penalties, the measures focused primarily on access to services. There were no performance standards relating to the quality of nurses' advice or to the length of time callers wait in the live queue.

OVERALL MINISTRY RESPONSE

The Ministry recognizes the importance of providing confidential, timely access to teletriage services in an economical manner that meets the health needs of Ontarians, and welcomes the recommendations made by the Auditor General. As indicated in the responses to each recommendation, the Ministry will follow up on the Auditor General's recommendations to enhance the existing safeguards and processes already in place.

Detailed Audit Observations

OVERVIEW

All calls to the toll-free numbers for Telehealth Ontario and for THAS are answered by an automated attendant that asks the caller to select a language (English or French). Callers are then placed into either the English or French centralized queue, which are answered directly by a nurse, if one is available, at any of the service provider's five Ontario call centres. If all of the nurses are busy, the call is routed to a receptionist, known as a patient assistance representative. The receptionist obtains information from the caller (for example, name, phone number, and nature of problem), although callers can choose to remain anonymous. The service provider's phone system is supposed to reject calls from outside Ontario and callers are not required to provide their Ontario health card number. The receptionist then gives the caller the option of remaining in the live queue to speak to a

nurse, or going into the call-back queue to have a nurse phone the caller back. If all the nurses and all the receptionists are busy, the caller reaches a voice message system that gives the caller the choice of remaining on the line or leaving contact information so a nurse can return the call. Receptionists pick up messages left in the voice-mail system and add them to the call-back queue. If a call is urgent, it may be placed in a priority call-back queue to be answered faster. Figure 1 illustrates the standard call-handling process.

A summary of monthly statistics reported to the Ministry by the service provider indicated that, in 2008/09, 34% of calls were answered directly by a nurse, 65% were answered by a receptionist, and 1% were answered by the voice message system. About 60% of callers reaching the receptionist requested a call back, rather than waiting in the live queue.

Once the caller reaches a nurse, the nurse uses decision support software, with medical algorithms that provide the nurse with guidelines and protocols for handling symptom-based calls. The nurses use the recommendations from this software in conjunction with their professional judgment to provide advice and information to the caller. In 2008, a little more than half the callers were calling about themselves; the remaining callers were calling about someone else (usually a child or spouse).

Where applicable, nurses obtain the caller's consent to forward call information (for example, to a hospital emergency department, or in the case of THAS callers, to their physician). For THAS callers with more urgent needs, the nurse pages the physician who is on call from the caller's physician's practice. If needed, the physician may decide to speak directly with the caller. All calls are logged in the service provider's system.

ACCESS TO TELETRIAGE SERVICES

Public Awareness

In 2001, when Telehealth Ontario was launched, the Ministry conducted a promotional campaign that

included media advertisements and distributing fridge magnets with the service's phone number to each household in the province. Subsequent specific promotional activities were conducted, with the most recent being in 2006 when the Ministry distributed door hangers highlighting the availability of translators for non-English-speaking and non-French-speaking residents. As well, Telehealth Ontario is a component of the Ministry's "Your Health Care Options" campaign. Starting in 2009, it was included in some advertisements for this

campaign. With respect to THAS, the Ministry's contracts with the various physician practices state that promoting THAS is a joint responsibility and that physicians are to advise their patients about the service, for example, by prominently posting a notice in their office.

Between 2003 and 2006, the Ministry commissioned a number of public surveys to assess the public's awareness of Telehealth Ontario. The surveys found that about two-thirds of respondents were aware of the service. No further public

Figure 1: Teletriage Services Standard Call-handling Process
Prepared by the Office of the Auditor General of Ontario based on information provided by the service provider
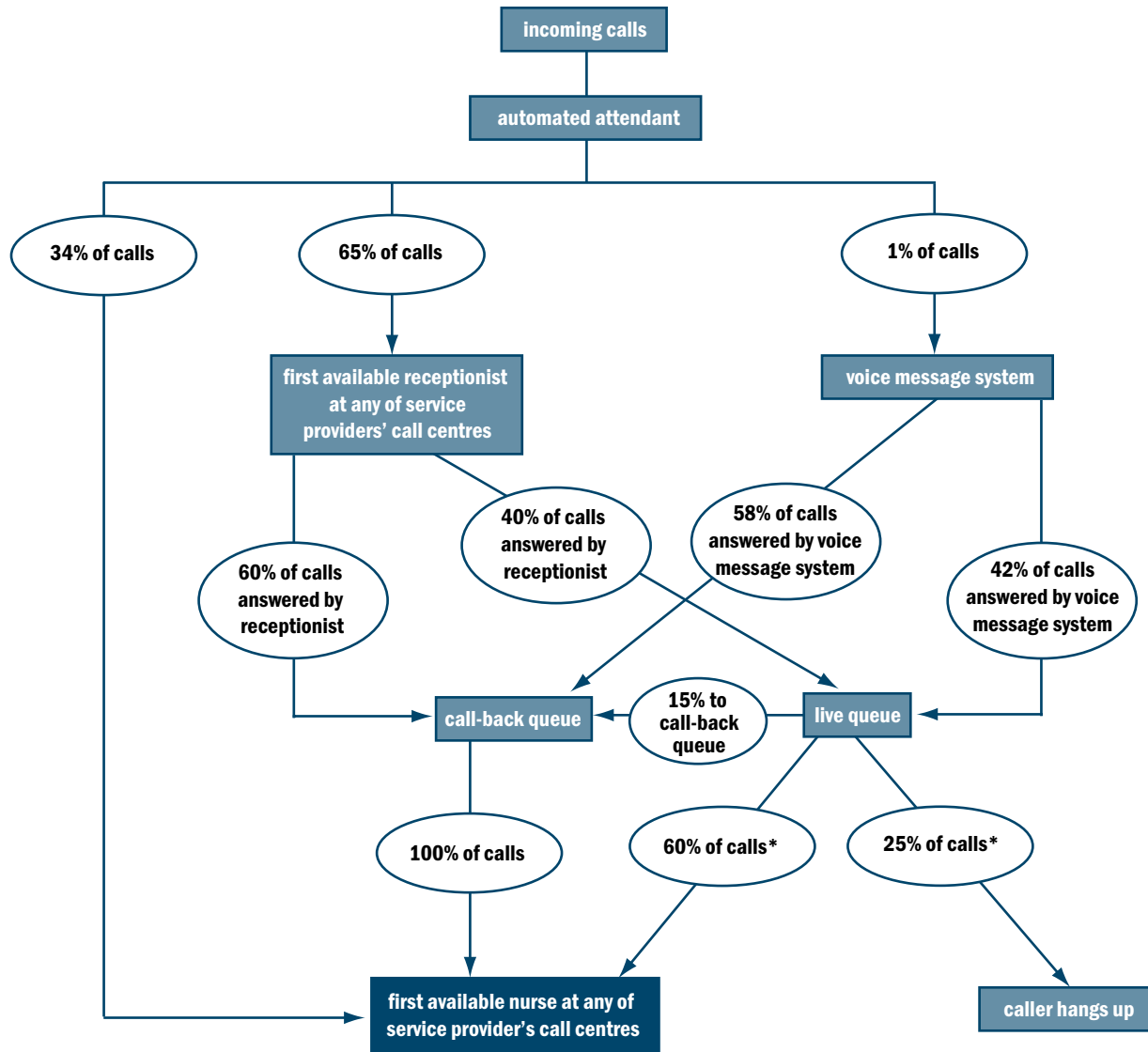
* Information to verify these numbers was not readily available from the service provider.

surveys have been commissioned by the Ministry since 2006.

As shown in Figure 2, in the 2008/09 fiscal year the teletriage services received more than 1.1 million calls, and nurses responded to 905,000 of those calls. Our analysis indicated that a maximum of 650,000 unique callers, or about 5% of Ontario's 12.2 million population, made those calls: that is, the total included about 250,000 calls made by individuals who had already called at least once before during that fiscal year. The service provider indicated that since the service's inception about 70% of callers have phoned more than once.

We noted that similar programs in other provinces were called more frequently. For example, Quebec's Info-Santé received 2 million calls in the 2008 calendar year from a population of 7.4 million, and Health Link Alberta received 1 million calls in 2008 from a population of 3.3 million.

We also noted that the number of Ontarians enrolled with physicians participating in various primary health-care arrangements, and therefore eligible to use THAS, tripled from 2.8 million in the 2004/05 fiscal year to 8.4 million in the 2008/09 fiscal year. As of March 31, 2009, THAS-eligible callers represented about 65% of Ontario's population. However, as shown in Figure 3, virtually none of these eligible callers used THAS, but they may have called Telehealth Ontario instead. In 2008, THAS received calls concerning only about 1% of eligible individuals.

As well, patients seem to use THAS more when their physicians support and promote the service. For example, we identified 18 primary health groups with more than 1,000 patients calling THAS, and almost 140 groups with fewer than 10 patients calling THAS. Practices sampled with more than

1,000 calls generally had an after-hours voice message system that referred patients to THAS. Practices with fewer than 10 calls generally did not refer patients on their after-hours voice message system.

The service provider indicated that the decline in calls to the teletriage services shown in Figure 2 was due to mild flu seasons and minimal promotion of the services. However, the service provider advised us that it would require additional nursing resources, which can be challenging to recruit, to answer the increased call volume that would result from additional promotion.

Telephone Number

To contact either Telehealth Ontario or THAS, callers dial each service's respective toll-free telephone number. The number for Telehealth Ontario is typically listed in local phone books, but not necessarily at the front with other important phone numbers. Eligible individuals receive the phone number for THAS from their physician's office.

In July 2005, the Canadian Radio-television and Telecommunications Commission set aside the phone number "811" for provinces to use for non-urgent health teletriage/telehealth services. At the time of our audit, British Columbia and Quebec had adopted "811" as the phone number for their telehealth services. Representatives from Quebec told us that their teletriage services experienced a 15% increase in call volume following the implementation of the "811" phone number. As well, we were informed that certain other provinces are moving toward using "811."

At the time of our audit, the Ministry indicated that there were no plans for Ontario to adopt the "811" phone number for its teletriage services.

Figure 2: Calls to Teletriage Services by Type, 2006/07–2008/09

Source of data: Service provider

Type of Call	Description	# of Calls		
		2006/07	2007/08	2008/09
incoming	automated attendant completed message	1,305,000	1,207,000	1,145,000
registered	nurse provided advice or information	1,094,000	986,000	905,000

Figure 3: Eligible Callers and Actual Calls to the Telephone Health Advisory Service, 2004/05–2008/09

Source of data: Service provider and Ministry of Health and Long-Term Care

	2004/05	2005/06	2006/07	2007/08	2008/09
# of registered calls to THAS	79,000	134,000	134,000	123,000	112,000
# of eligible THAS callers	2,875,000	5,722,000	7,005,000	7,731,000	8,386,000
registered calls to THAS as a % of eligible calls	2.7	2.3	1.9	1.6	1.3

Demographics

Based on our analysis of caller data for 2008, 37% of calls to the teletriage services concerned children, 51% concerned adults between 18 and 64 years old, and 8% concerned seniors aged 65 and older. The remaining 4% were anonymous. Although there are more than 1.6 million seniors in Ontario (about 14% of the province's population), fewer than 72,000 (about 4% of Ontario's seniors) of the calls to teletriage services concerned seniors. Of the seniors who responded to our independent survey and were aware of Telehealth Ontario, 44% indicated that they did not call it because they would rather contact a doctor directly.

We also noted that calls to the teletriage services in 2008 were relatively evenly distributed across the province in proportion to the population in each region, with the largest number of calls coming from the more populated areas of central and southwestern Ontario, as shown in Figure 4.

The service provider indicated that the telephone system is designed to block calls from outside Ontario. However, using 2008 data extracted from the service provider's information systems, we noted that almost 2,000 registered calls came from outside Ontario. These included calls from eight other provinces, as well as 19 U.S. states. The service provider told us that these calls are often either from persons using an Ontario cellphone from outside Ontario or visitors calling while vacationing in Ontario, who provide an out-of-province phone number. In addition, for about 10% of the calls, certain caller information (such as their address) was blank or incomplete. Because callers are not required to provide such information, we were unable to determine whether these callers were from Ontario.

Figure 4: Source of Calls to Teletriage Services by Region, 2008

Prepared by the Office of the Auditor General of Ontario

Region	Total Registered Calls	Registered Calls as a % of the Area's Population	Proportion of Registered Calls (%)
Central Ontario	287,000	6.4	32
Southwestern Ontario	169,000	6.9	19
Metropolitan Toronto	155,000	6.2	17
Eastern Ontario	136,000	7.3	15
Northern Ontario	63,000	7.5	7
outside Ontario	2,000	n/a	0
not specified or incomplete	93,000	n/a	10
Total	**905,000**	**7.4**	**100**

RECOMMENDATION 1

In order to provide more accessible teletriage health advice and information, the Ministry should:

- consider the continued need for a separate THAS service or options for increasing the level of awareness and acceptance of teletriage services, especially among individuals eligible to use the Telephone Health Advisory Service (THAS) and among those demographic groups, such as seniors, that underutilize the services; and
- explore the use of an easily remembered phone number, such as "811" (which is used or being

planned for in several other large provinces), for both Telehealth Ontario and THAS.

MINISTRY RESPONSE

The service contracts for Telehealth Ontario and the Telephone Health Advisory Service were combined into one contract in 2008. This facilitates combining the services, and the Ministry will explore this possibility.

In August 2009, refrigerator magnets advertising Telehealth Ontario were distributed in over 200 community newspapers province-wide. As well, in September 2009, the Ministry planned to distribute to each household in the province a pamphlet regarding flu prevention, which will advertise Telehealth Ontario as a resource for callers seeking health information and advice. Further, Telehealth Ontario continues to be part of the Ministry's Healthcare Options campaign, which includes television, online, and print advertisements. The longer-term impact on the public's awareness of teletriage services and usage will be measured to determine any additional investments necessary.

Past research by the Ministry has shown that low-use groups, such as seniors and youths, were not interested in using Telehealth Ontario. However, the Ministry will further investigate the feasibility of additional initiatives targeted towards these groups, as necessary. Ontario's possible use of 811 for teletriage services will also be explored.

CALL MANAGEMENT

Wait Times

According to the contract with the Ministry, the service provider is required to meet certain performance standards for responding to calls. To ensure that these standards are met, the service provider has individuals who monitor, among other things,

the time that individuals wait in the call-back queue. As shown in Figure 5, the service provider reported that it met all the performance standards for the 2008/09 fiscal year.

If the receptionist determines a call to be a high priority, that call is responded to more quickly. In 2008, about 14% of calls placed in the call-back queue were deemed high priority; in our sample, nurses phoned 90% of these callers within three minutes.

Other calls are generally handled in the order received, with a nurse answering the caller who has been waiting the longest, whether that caller is in the live queue or the call-back queue. However, once the wait time in the call-back queue reaches about 15 minutes, certain nurses—for example, all nurses at one call centre—are told to answer only calls in that queue. If necessary, certain call centres are directed to take specific calls to minimize the number of calls that will not meet the performance standards. For example, calls waiting 20 to 29 minutes would be taken before those waiting over 30 minutes. Such situations are more likely to happen when call volumes are highest. As shown in Figure 6, call volumes are generally highest on statutory holidays and weekends, as well as in the evenings. In addition, as shown in Figure 7, more

Figure 5: Teletriage Performance Standards Effective April 1, 2008, and Results for 2008/09
Source of data: Ministry of Health and Long-Term Care

Performance Standard	Result
80% of all calls in each month should be transferred from the automated attendant to a person (as opposed to a voice message system) within 20 seconds.	met
85% of callers who leave contact information for a call-back must receive the call-back from a teletriage nurse within 30 minutes	met
98% of callers who leave contact information for a call-back must receive the call-back from a teletriage nurse within 2 hours.	met
Abandoned calls (that is, caller hangs up after recorded greeting, but before speaking to a person or leaving a message) should not exceed 6% of all incoming calls per month.	met

Figure 6: Average Number of Registered Calls by Hour of Day, 2008

Prepared by the Office of the Auditor General of Ontario

Figure 7: Number of Calls by Month, 2008

Source of data: Service provider
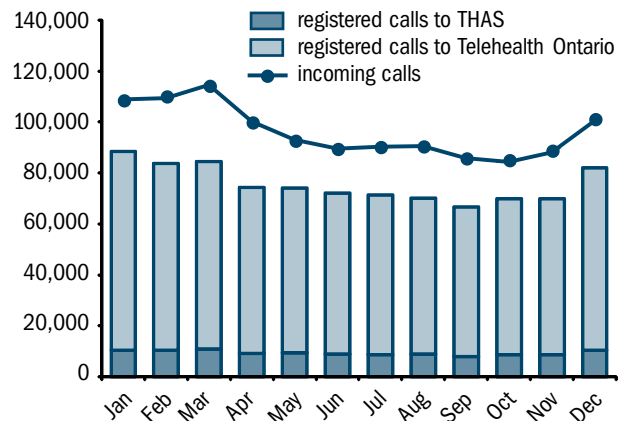
waiting in the live queue. The service provider did not track the time callers waited in the live queue.

calls are received during the winter months than at other times of the year.

Using data from the service provider, we calculated wait times for callers waiting in the live queue and the call-back queue from the time the call was received for the period October through December 2008. We found:

- 85% of callers in the live queue spoke to a nurse in 23 minutes, and 90% spoke to a nurse in 36 minutes; and
- 85% of callers in the call-back queue spoke to a nurse within 34 minutes, and 90% of callers in the call-back queue spoke to a nurse within 49 minutes.

The time we calculated for the call-back queue is longer than that being reported by the service provider because we determined that the wait time for a call-back started when the incoming call was initially answered by the automated attendant. For its part, the service provider began measuring wait time from the time the caller was put into the queue. This approximates the time the caller's information was left, which, according to the service provider's contract with the Ministry, is the beginning of the caller's wait-time. As well, if a caller started to wait in the live queue and then decided to transfer to the call-back queue, the service provider would not capture the time spent

Paging On-call Physicians

For individuals eligible to call THAS, the nurse may page the on-call physician from the caller's physician's practice. Physicians' practices are paid up to $2,000 a month for being on-call, which is one of the services that physicians participating in various primary health-care arrangements agree to provide in their contract with the Ministry. The on-call physician is usually paged if the nurse, based on the caller's symptoms, would otherwise advise the caller to see their doctor within four hours or go to the emergency department. However, we noted that about 12% of pages to the on-call physician in 2008 were for less serious situations, such as the caller asking to speak with the physician. In cases where a physician is being paged, the nurse advises callers that either a nurse or the on-call physician will call them back with further instructions within 30 minutes, but that they should go to the emergency department if they do not hear back.

In 2008, over 20,000 calls (that is, roughly one in five calls) to THAS resulted in pages to on-call physicians. In over 70% of these cases, the on-call physician had to be paged more than once, and in 9% of cases, the pages were not returned. For returned pages, 81% were received within 30 minutes. We

noticed that about 10% of family practices did not return at least one-third of the pages they received in 2008. There is no financial penalty to the family practice if a page is not returned within a reasonable time frame or is not returned at all. As well, many of the pages were returned after the 30 minutes originally indicated to the caller, but no information was available on the total number of callers who received a return call or went to emergency because they had not received a call.

Information Requests

The service provider maintains an audiotape library of various health-related topics that callers may access if they are calling for health information rather than health advice, as well as a list of community services available around the province. According to the service provider, its medical advisers do not review the taped health topics because the tapes are not used to provide care advice. However, the service provider uses its medical advisers when new health topics need to be created (for example, in response to the listeriosis outbreak in Ontario). The service provider also had a process for updating its database on community resources.

We noted that 11% of registered calls related to health information requests, and 4% related to information about community services. Although the service provider's contract with the Ministry requires that a nurse speaks to all callers, we noted that over 99% of information requests were handled entirely by a nurse, rather than the nurse connecting the caller to the audiotape library. As well, all requests for information on community services were handled by nurses. Another jurisdiction we spoke with indicated that it does not require that nurses speak with callers who are just requesting information, in order to free up nurses to take symptom-based calls, which may reduce the wait times for other callers.

Confidentiality

The Ministry's contract with the service provider requires it to ensure the security and integrity of caller information and to keep that information in a physically secure location. In addition, the contract states that the service provider should restrict access to personal information to those who need to know in order to provide the service.

We noted that the service provider had policies and practices in place that focused on maintaining caller confidentiality and privacy. For example, employees required passwords to access computer records. As well, the service provider had a policy to conduct semi-annual reviews of access privileges to ensure that staff have access to necessary information only. Further, commencing December 2008, the service provider developed a policy to conduct quarterly password assessments to help ensure that passwords were appropriately strong (that is, not based on the user's biographical information) in accordance with policy, and to conduct semi-annual audits of computer devices to ensure that anti-virus software is operating as intended on all computers. The service provider indicated that it was in the process of implementing these policies.

The service provider indicated that it does not perform any vulnerability or penetration testing on its teletriage services' servers and network equipment. However, in May 2008, the Ministry conducted a Threat Risk Assessment on teletriage services. The assessment reviewed the risks associated with extracting and transmitting patient and physician data from the Ministry's data centre to the service provider for the THAS program. Issues noted included:

- a lack of separation of call information for Ontario's teletriage programs from similar programs run by the service provider for other provinces; and
- a lack of encryption of caller information.

The Ministry indicated that most of the issues had been remedied, and the remaining ones were expected to be resolved soon.

At the time of our audit, we noted that there was no agreement with the vendor providing off-site storage of call records and the agreement with the vendor providing translation services had not been updated since it was signed in 2001. In neither case had the service provider signed an agreement with these vendors to ensure that they comply with the confidentiality and privacy requirements set out in the service provider's 2008 contract with the Ministry. These requirements include restricting access to caller information and keeping it secure, in accordance with the *Personal Health Information Protection Act.*

RECOMMENDATION 2

To help ensure that all callers' questions are answered within a reasonable time frame, the Ministry should:

- ask the service provider to instruct its nurses to redirect information requests for phone numbers and addresses of community services to non-nursing staff;
- review alternative ways to promote timely physician responses to pages for Telephone Health Advisory Service callers, such as financial penalties when on-call physicians do not respond when paged or financial incentives for those physicians who consistently exceed standards; and
- require the service provider to measure the wait time for callers from the time the call was initially received for both the live and call-back queues.

As well, to ensure that caller information remains confidential:

- the service provider should sign agreements with its vendors that handle confidential caller information, such as those providing its translation and off-site storage services, to maintain appropriate physical and electronic security, in accordance with its contract with the Ministry; and

- the Ministry should ensure that periodic vulnerability and penetration testing is completed at the service provider to identify and correct any security weaknesses.

MINISTRY RESPONSE

The Ministry will review and analyze the feasibility of the recommended changes to how teletriage calls are handled. The review will explore options to minimize the number of "information only" calls that are directed to a nurse at the service provider.

The necessity of the current number of physicians supporting the Telephone Health Advisory Service is now being reviewed by the Ministry to ensure that this component of the service is cost-effective. This review will include ways to ensure that calls to physicians are responded to on a timely basis. The Ministry will also review the recommendation to measure the wait times for callers, as well as how calls in the call-back queue are managed, to ensure that the service provider is handling calls in a sequential and fair manner.

The service provider has now signed a service agreement with the off-site storage vendor. As well, the Ministry has required the service provider to execute with its subcontractors the *Personal Health Information Protection Act* sub-agent agreement, which addresses the confidentiality of caller information. Further, the Ministry will perform periodic vulnerability and penetration testing at the service provider to identify and correct any emerging weaknesses.

SERVICE PROVIDER RESPONSE

The Ministry and the service provider reached a consensus in September 2009 about the content for the sub-agent agreement that meets the requirements of the *Personal Health Information Protection Act* (PHIPA). The service provider indicated that it is in the process of engaging the

applicable vendors to sign the PHIPA sub-agent agreements. However, the service provider noted that it may be necessary to find a translation vendor located within Ontario, because the current vendor operates in another province and may not be able to meet certain provisions of the sub-agent agreement, such as maintaining personal health information from the service provider in a physically secure location in Ontario.

ADVICE TO CALLERS

Staffing

The quality of the advice provided to callers depends on the qualifications, experience, and training of the nurses providing the advice. As of December 31, 2008, the call centres were staffed with almost 300 nurses, including supervisors and site managers. Nurses had an average of four years of work experience with the service provider.

Although the service provider indicated in the proposal that it submitted to the Ministry in 2007 to secure the contract that its nurses have at least three years of any type of nursing experience, its policies require nurses to have only one to three years of clinical experience. From our sample of nurses hired in 2008, we noted that 23% had less than one year of acute-care experience, and 20% had less than three years of total nursing experience. Four other provinces with teletriage services indicated that their nurses were required to have at least three years of acute-care experience.

We noted that new nurses participate in initial classroom orientation training and one-on-one training. As well, every nurse is required to participate in ongoing training activities, including one case study based on common call scenarios and four coaching sessions per month. Although documents at the service provider indicated that nurses completed the required initial training and most of the ongoing training in 2008, some team managers often did not complete their monthly case studies.

In particular, we noted that over 25% of the team managers had completed less than half the required case studies in 2008.

Compliance With Clinical Guidelines

Nurses use decision support software, with medical algorithms, which provides them with guidelines and protocols for handling symptom-based calls. The clinical guidelines and protocols are updated annually by two U.S.-based medical doctors, and are reviewed by the service provider's medical advisers to ensure that they are consistent with medical practices in Ontario. The service provider also has a process in place for updating the clinical guidelines between the annual reviews, if the need arises.

In the 2008/09 fiscal year, 85% of callers to teletriage services were seeking advice for specific medical symptoms. Teletriage nurses obtain information from each caller on the nature and severity of the health symptoms he or she is calling about. This information is entered into a medical algorithm, which indicates the advice to give the caller. The nurses advise callers based on both the medical algorithm's clinical guidelines and their clinical judgment. Figure 8 shows the most common advice given to callers in the 2008/09 fiscal year.

The clinical guidelines used by the teletriage nurses are intended to provide quality patient care advice and to result in the most appropriate use of

Figure 8: Nurses' Advice To Callers, by Percentage of Calls Answered, 2008/09
Source of data: Service provider

Advice	Telehealth Ontario	Telephone Health Advisory Service
self-care	41	28
physician referral	37	53
emergency department	14	15
community service	4	1
911/ambulance dispatch	2	2
other	2	1

health-care services. According to the service provider, in the 2008/09 fiscal year, nurses' judgement led them to deviate from the clinical guidelines for 5% of callers requesting advice for their symptoms. However, for almost 30% of the deviations, the reason for the nurses' judgement was not included in the call documentation. As well, the service provider's call audit process noted that, based on both the clinical guidelines and the nurses' clinical judgement, the advice provided to about 95% of callers was appropriate. Similar results had been noted in previous years.

Callers' Compliance

One of the objectives of both Telehealth Ontario and THAS is to facilitate the use of the most appropriate health services by consumers. Although there are cost savings to the health system from directing callers away from an unnecessary visit to the emergency department, there are also health benefits for persons requiring emergency care who had not originally planned to go to the emergency department. Therefore, the service provider asks callers what they would have done if they had not called for advice (for example, self-treat, see a physician, go to the emergency department).

A 2004 study by the Institute for Clinical Evaluative Sciences examined changes in the utilization rates at emergency departments following the implementation of Telehealth Ontario, and found no significant impact on emergency department utilization rates in five of the six regions it examined. In the sixth region, the study noted slightly higher emergency department utilization rates following Telehealth Ontario's implementation. The study did not look at, amongst other things, the quality of care or clinical outcomes resulting from Telehealth Ontario. It also indicated that further research would be needed to assess these. At the time of our audit, no additional analysis had been done.

We analyzed the data documented by the service provider on callers' initially planned actions compared to the advice they were given by the nurse.

For our analysis, we considered the levels of care, from lowest to highest, to be self-treat, see a doctor, or go to the emergency department. We noted that 38% of callers were advised to use the same level of care as they originally planned, 33% were advised to use a lower level of care, and 29% were advised to use a higher level of care. Overall, about the same percentage of callers were advised to go to the emergency department as had originally intended to go there, but many of the callers who were referred to the emergency department were not the ones who had originally planned to go.

The service provider also asks callers whether they plan to follow the nurse's advice. In the 2008/09 fiscal year, 94% of callers indicated that they intended to comply. Since callers are not asked to provide their Ontario health card number to the service provider, it is difficult to confirm whether callers actually follow the nurses' advice. If the health card number were requested, it would be possible to check Ontario Health Insurance Plan records to determine whether the caller followed the advice given. A study (released in 2002) of one region in Ontario indicated that actual compliance was lower than callers' self-reported compliance. As well, a 2006 Alberta study indicated that only 75% of callers went to emergency when advised to go, and only 47% saw a physician within 24 hours when advised to do so.

RECOMMENDATION 3

To better ensure that callers to teletriage services receive and follow the most appropriate advice to address their health concerns, the service provider should:

- hire nurses who have at least three years of nursing experience, including at least one year of acute-care or clinical experience, in accordance with its proposal to secure the contract to provide teletriage services and its internal policies;
- ensure that nurses complete their ongoing training in accordance with policies; and

- require nurses to document the reason for providing advice that does not follow a clinical guideline or protocol.

As well, to better determine the impact of the advice provided to callers, the Ministry, in conjunction with the service provider, should develop a process (such as obtaining Ontario health card numbers and following up on a sample of the callers' subsequent actions) for periodically assessing the extent to which callers follow the nurses' advice.

SERVICE PROVIDER RESPONSE

Due to the nursing shortage in Ontario, the service provider has reviewed and redesigned its nurse recruitment and retention strategy. The service provider is now testing candidates to ensure that they possess critical thinking and clinical skills, which it noted were a better indicator of clinical competence than years of service. Further, in order to be hired by the service provider, the candidate must exceed an established score, which the service provider determined by testing its existing high performers who had at least three years of experience when hired. The service provider indicated that, although these changes have made a positive impact on its recruitment and retention efforts and have also increased quality outcomes, the availability and retention of nurses, regardless of years of experience, continue to be a challenge.

The service provider also noted that it employs nurses who work from home in order to minimize nurse turnover and mitigate the risks of call centre closures associated with a potential pandemic crisis. However, the service provider commented that a more aggressive work-from-home model would help ensure the uninterrupted supply of teletriage services. In the future, the service provider envisions a virtual telehealth call-centre environment throughout the province, which will increase the provider's ability to recruit high-quality nurse applicants

province-wide (because nurses do not have to live close to a call centre), reduce the level of nurse turnover, and provide a stronger business-continuity plan for disaster preparedness.

With respect to nurses completing their ongoing training, the service provider has reviewed its current policies requiring monthly case studies for team managers and determined that an alternative approach would be more appropriate. The new training requirements are expected to be implemented by January 1, 2010.

The service provider indicated that software changes, scheduled for completion by September 30, 2009, will make it mandatory for nurses to indicate the reason for not following the clinical guidelines before they can proceed further in the call. This ensures improved compliance with call-handling processes and improved accuracy in documenting the reason supporting the nurse's clinical decision to deviate from a clinical guideline that did not accurately reflect the circumstances.

The service provider noted that having to obtain Ontario health card numbers from every caller would increase its time handling each call because of the additional time needed for callers to locate their health cards. As well, the service provider indicated that obtaining the health card number must be optional to accommodate callers who wish to remain anonymous or cannot access an Ontario health card.

MINISTRY RESPONSE

The Ministry will ensure that the requirements established in the agreement with the service provider regarding the experience and ongoing training of teletriage nurses are adhered to. As well, the Ministry will ensure that requirements regarding the documentation of reasons for providing advice that does not follow a clinical guideline are adhered to.

The Ministry will work with the service provider to research and review ways to determine

the impact of the advice provided to callers. The possible collection of Ontario health card numbers will be reviewed to determine the impact on call time. In addition, because health card numbers are personal health information, their collection and use by the Ministry for the purpose of determining the impact of the advice provided to callers will require in-depth analysis, including an assessment of the protection of an individual's right to privacy.

QUALITY ASSURANCE

The service provider has developed a quality assurance program to monitor and revise the delivery of teletriage services. Components of the program include periodic review of the nurses' handling of calls, conducting caller satisfaction surveys, following up on complaints, and monitoring by a Quality Service Committee at each call centre location. The committees meet several times a year, and their members include, among others, a medical adviser, the manager responsible for clinical activities, the site educator, and a nurse.

Call Audits

The service provider has a call audit process that involves having reviewers listen to at least 15 calls per month for each call centre. The reviewers are generally selected by the Quality Service Committee at each call centre and often are either a clinical team manager or a senior nurse. The reviewers select which calls to audit and evaluate the advice provided by the nurse, as well as the nurses' clinical judgment and communication skills. They also ensure that the call information documented reflects what transpired. If improvements are required, the clinical team manager performs the appropriate follow-up with the nurse.

Results of the audits are summarized monthly and discussed by each call centre's Quality Service

Committee. The Quality Service Committees are responsible for making recommendations to address issues noted and for ensuring implementation of those recommendations.

We reviewed the call audit process and noted the following:

- As noted earlier, unlike calls to 911, calls to Ontario's teletriage services are generally not recorded. Therefore, reviewers can only monitor calls as they take place and when call volumes permit. As a result, most of the call audits (including 84% of the call audits we sampled) are performed during off-peak periods. Consequently, call audit results may not be indicative of performance during peak periods, when nurses are under pressure to respond to waiting callers within established time frames.

- Reviewers audit the calls of nurses who work at the same call centre that they do. As well, the nurse is sometimes the reviewer's subordinate, which means that poor performance by that nurse could reflect negatively on the reviewer. To determine whether reviewers were objective, in 2005 the service provider performed a one-time inter-site audit in which reviewers audited calls at another call centre as well as at their own. These audits indicated that reviewers generally rated nurses in their own call centre better than nurses in other call centres. For example, one call centre received a score of 87% from its own reviewer, but scored only 74% when evaluated by a reviewer from a different call centre. The service provider has not had reviewers audit calls at other call centres since 2005.

- Reviewers may not evaluate calls in a consistent manner. On a semi-annual basis, the reviewers at each call centre are all expected to review the same series of calls to help ensure that they will evaluate all calls in a consistent manner. We noted that these semi-annual evaluations were not done in 2008 at the two call centres that handle the most calls.

- During 2008, at one call centre, no call audits were conducted for three months and only five audits a month were conducted for another three months. We were informed that this situation had since been corrected.
- The service provider does not periodically analyze the results to determine whether there are any trends or systemic deficiencies in the call audit process or the quality of the advice provided.

If calls were taped, as is the practice of several other provinces we contacted, calls made during peak periods could be audited during less busy times of the day, and could be more easily audited by reviewers from other call centres to ensure a more objective evaluation.

One Canadian jurisdiction that runs a similar teletriage service informed us that it uses mystery callers on a regular basis to monitor the timeliness and quality of the teletriage services provided. Mystery callers place calls to the teletriage services with predetermined questions, and assess the appropriateness of the information and advice provided. The Ministry indicated that it does not use mystery callers. Most of the provinces we spoke with indicated that they tape all calls, so that they can be reviewed at a later date to ensure appropriateness, among other things. The Ministry's 2003 internal privacy impact assessment noted that calls should generally not be taped. In the absence of calls to Ontario's service provider being taped for periodic review, mystery callers could provide some assurance on the quality of the teletriage services. Alternatively, the Ministry could consult with the Information and Privacy Commissioner's Office regarding whether calls can be randomly taped for quality assurance purposes.

Caller Satisfaction Surveys

Receptionists at the service provider telephone selected callers to determine, among other things, their satisfaction with the advice they received from a teletriage service's nurse within the last 48 hours.

Most days, the computer generates a list of 150 eligible callers province-wide, and the receptionists survey as many callers as time permits that day. To be eligible for the survey, callers must have given consent during their original call and must not have been surveyed in the previous six months. Callers who respond negatively to certain questions may be contacted again by a clinical team manager at the service provider, to ensure that their concerns are addressed. In 2008, about 9,000 callers were surveyed.

A monthly summary of satisfaction survey results is reviewed by each call centre's Quality Service Committee, which recommends remedial action if warranted. In addition, every month the service provider reports to the Ministry the number of callers surveyed and the overall satisfaction rate.

We reviewed the results of caller satisfaction surveys completed by the service provider from 2006 through 2008 and noted a high satisfaction rate with the overall service. On average, 98% of callers surveyed reported that they were satisfied with the service and would use the service again if the need arose.

Because the satisfaction surveys are conducted by the service provider, our independent survey asked people who had previously called Telehealth Ontario about their satisfaction with the service. The results of our survey indicated that overall, 82% were either somewhat satisfied or very satisfied with the support and advice they received. However, almost 30% of Northern Ontario residents were either somewhat dissatisfied or very dissatisfied. This result should not be interpreted to mean that this issue is necessarily related to the northern call centre, because calls get routed to the call centre that can answer the fastest. Our survey did not inquire about the reason for callers' dissatisfaction.

We noted that the service provider does not survey other stakeholders, such as family physicians and emergency departments. In 2005, the Ministry commissioned a survey of family physicians and emergency department staff regarding THAS. About 50% of responding physicians indicated that

THAS resulted in more appropriate emergency department use by patients, although 15% believed that THAS referred too many patients to the emergency department. No similar survey has been completed for Telehealth Ontario.

We noted that other provinces periodically survey health-care providers to determine their awareness of the province's teletriage services as well as their opinion about the value of the services. The jurisdictions we spoke to indicated that health-care professionals' support and acceptance of the teletriage services was crucial to the success of their programs.

Complaints Process

Complaints concerning teletriage services may be made to either the Ministry or the service provider. Complaints received by the Ministry may be followed up directly or, with the complainant's permission, forwarded to the service provider for follow-up. During 2008, the Ministry logged only 12 complaints and the service provider logged 658 complaints.

Both the Ministry and the service provider have processes in place for handling complaints. We reviewed the complaints handling process at the Ministry and noted that the appropriate action was generally taken.

We also reviewed the complaints handling process at the service provider. We noted that complaints were generally about the attitude of nurses (26%), the length of the wait for a call-back (20%), and the quality of care advice (19%). According to the service provider, resolving a complaint took an average of 15 days in 2008, with 90% of the complaints being resolved within 30 days. Most complaints we sampled were investigated by senior staff, in accordance with the service provider's policies. However, because calls were not taped, it was not possible to know exactly what transpired during the calls: a call's documentation may reflect only the nurse's perception of events. Understandably, nurses may have difficulty recalling a specific call, because they handle about 30 calls per eight-hour shift.

Therefore, it was not possible to determine whether complaints were appropriately followed up on.

Quality Service Committees

As noted earlier, the service provider has a Quality Service Committee at each call centre to monitor and evaluate certain quality indicators, and recommend remedial action if needed.

The quality indicators evaluated by the committees include the following:

- call volume statistics;
- call duration and call-back time statistics;
- disposition of calls by type of advice;
- risk management outcomes, such as number and overall result of call audits, number of complaints, unusual incidents, and results of caller satisfaction surveys; and
- staff development, such as the number of coaching and training sessions.

We reviewed the Quality Service Committee's minutes for each site for the three years ending December 2008 and noted that they did identify certain issues. We were informed that follow-up action was taken, but due to a lack of documentation, we could not always tell whether the issues were resolved. As well, we noted that although call audits and complaints were being accumulated province-wide, there was no documented trend analysis by call centre or by nurse.

RECOMMENDATION 4

To better ensure the quality of teletriage services and identify areas for improvement:

- the service provider should have independent reviewers conduct an established number of random audits on calls received at different times of the day and on different days of the month, including weekends and holidays;
- the service provider should periodically analyze the overall issues noted in call audits and complaints by call centre and by nurse

to determine whether there are any systemic issues or trends that warrant follow-up; and

- the Ministry should conduct periodic independent satisfaction surveys of individuals impacted by teletriage services, including callers, physicians, and emergency department staff.

The Ministry should request the Information and Privacy Commissioner's input on whether calls to the service provider can be taped for periodic review to determine the appropriateness of advice provided by teletriage nurses. If calls are not taped for periodic review, the Ministry should seek another way to obtain independent assurance on the appropriateness of advice provided by teletriage nurses (for example, through the use of mystery callers).

SERVICE PROVIDER RESPONSE

The service provider commented that peak periods or periods of unusually high call volume require "all hands on deck," meaning every employee capable of getting on the phones at each site does so to manage the incoming call volumes. Therefore, calls during these periods are not monitored because reviewers are handling calls, and the service provider is not permitted to record these calls for review at a later time. The service provider indicated that it would be beneficial to record calls because they could be reviewed at a later time by an independent person. This would improve quality assurance and customer service when responding to complaints from any source, including the public and doctors. Further, the service provider recognizes the limitations of the current system for the selection of calls to be audited and is considering using computer-generated reports to randomly select these calls; however, this hinges on implementation of an automated system to record calls.

The service provider noted that issues arising from call audits and complaints are being reviewed for any issues or trends at each call centre, as well as province-wide monthly, with action taken when appropriate. However, these reviews are currently not documented. The service provider intends to perform monthly trend analyses on the issues arising from call audits and complaints, identify the contributing factors, develop an action plan, and communicate this to the appropriate individuals. Trend analysis will be completed on an individual, team, site, and province-wide basis and on parts of the call process where there are opportunities for improvement in call quality that would facilitate positive patient outcomes. The service provider would also like to implement an improved quality-services program that utilizes quality-services associates who would be independent of operations and sites to randomly audit the quality of calls 24 hours a day, seven days a week. This would increase the ability to identify and analyze trends without bias. This type of program would require an automated call-recording system.

MINISTRY RESPONSE

The Ministry will review and amend the agreement with the service provider, as necessary, to improve the quality-assurance process to identify any evolving systemic issues and trends related to teletriage services. The Ministry will also plan for and conduct, at appropriate intervals to ensure meaningful feedback, independent satisfaction surveys of individuals affected by teletriage services.

The Ministry was previously informed that taping calls was inadvisable. However, the Ministry will revisit this issue and consider the use of mystery callers to ensure that all aspects of the teletriage services can be monitored and managed as necessary.

PAYMENTS FOR TELETRIAGE SERVICES

The service provider was awarded the most recent teletriage services contract based on its response to a public procurement process, which resulted in its being evaluated as having the best bid of the three bids submitted. Under the contract, which was effective April 1, 2008, the service provider is paid based on the number of registered calls. Registered calls are those calls where a nurse provided advice or information to a caller, or tried unsuccessfully three times to reach a caller who had requested a call-back. For the 2008/09 fiscal year, the service provider was paid $35.1 million for the teletriage services: a flat fee of $35 million for the first 900,000 registered calls (or about $39 per registered call) and about $27 per registered call after that.

We noted that, as expected, the average cost per call handled by a nurse at the service provider, and paid to the service provider, was less than the approximately $56 that physicians earn if the patient visits them in their office, or the approximately $98 physicians earn if they see a patient in the emergency department. However, three of the other provinces that shared cost information with us indicated that their cost per call was about $20. The Ministry had not investigated the reasons underlying the significant difference in costs per call between Ontario and other jurisdictions, but possible explanations could include different costing methodologies, such as not including all capital costs, and variances in nurses' salaries.

To help ensure that the service provider is billing the Ministry for the correct number of calls, the Ministry reviews reports on call volumes provided by the service provider. During the 2008/09 fiscal year, the service provider noted that it had incorrectly billed the Ministry for a number of months. The errors were brought to the Ministry's attention and corrected. To prevent similar problems in the future, in December 2008 the Ministry entered discussions with the service provider to obtain data on all calls. With this information, the Ministry can verify the number of calls submitted for payment. At the time of our audit, discussions for the secure transfer of this information were ongoing, although a date to commence the transfer of information had yet to be finalized.

During the 2008/09 fiscal year, the Ministry also paid $900,000 to the Ontario Pharmacists' Association (OPA) for calls to its Medication Information Service. The payments are made according to a predetermined budget that is based primarily on call volume and is approved by the Ministry. We noted that in 2008 the OPA reported receiving about double the number of calls that the service provider said it made to them. We asked the Ministry about this during our audit, and it advised us at that time that it would investigate this difference.

RECOMMENDATION 5

To ensure that the amount paid for teletriage services is reasonable in comparison to other jurisdictions and in accordance with the Ministry's contract with the service provider, the Ministry should:

- obtain information on the delivery of teletriage services in other provinces to determine whether there are areas where Ontario's teletriage services could be delivered more economically; and
- confirm that payments made to the Ontario Pharmacists' Association's Medication Information Service are reasonable, based on the actual number of calls that the Telehealth Ontario service provider reports having referred to the Medication Information Service.

MINISTRY RESPONSE

The 2007 procurement process for teletriage services provided assurance that the amount being paid for the services is competitive within the Ontario market.

The Ministry is aware that there are differences in the way teletriage services are provided across the country and, therefore, possible variations in the way the services are costed. Ministry staff will consult with their provincial counterparts to determine what their cost per call represents and whether there are opportunities to deliver Ontario's services more economically.

The Ministry is satisfied that the payments made to the Ontario Pharmacists' Association (OPA) are correct based on the calls reported by the OPA. The Ministry confirmed that the actual number of calls the service provider reported as having referred to the OPA's Medication Information Service was incorrect. Actions are being taken by the service provider to ensure that the number of calls reported being referred to the Medication Information Service is correct and the Ministry will ensure that ongoing reporting from the service provider and the OPA are consistent.

EFFECTIVENESS OF TELETRIAGE SERVICES

The Ministry obtains information on a regular basis from the service provider. Monthly, the Ministry receives information on various items, such as achievement of the key performance standards, number of callers, caller demographics, caller satisfaction, and the most common symptoms for which advice was sought. On a quarterly basis, the Ministry receives information on other items, including caller acceptance of advice and any deviation of a nurse's advice from the clinical guidelines. Other provinces with teletriage services that we spoke to indicated that they generally collect similar information, although there were some variances (for example, one province obtained monthly information on all call audits).

Key Performance Standards

The Ministry's contract with the service provider requires that specified key performance standards be met for the teletriage services. If these standards are not met, the service provider incurs financial penalties. As shown earlier in Figure 5, the service provider met the standards for the 2008/09 fiscal year. Although the standards focus primarily on access to services, there are no performance standards relating to callers waiting in the live queue. As well, similar to other Canadian jurisdictions we spoke with, there are no standards with respect to the quality of nurses' advice.

With respect to abandoned calls, the service provider indicated that callers who hang up during the recorded greeting usually have called the wrong number or have changed their mind about using the service. Callers who end the call or hang up later in the call process (that is, after a call was answered by the receptionist or the voice message system) include those who do not wish to wait for a call back from a nurse and those who tire of waiting in the live queue to speak to a nurse. We noted that the contractual definition of abandoned calls excludes these callers. However, we noted that if callers who did not wish to wait for a call back or tired of waiting in the live queue were also included, the total rate of abandoned calls to the teletriage services during the 2008/09 fiscal year would increase from about 2% to almost 17%. Furthermore, according to the service provider, about 25% of callers waiting in the live queue hung up before the call was answered by a nurse. Information was not readily available to enable us to confirm this number.

Ministry Performance Measures

In order to measure achievement against the stated program objectives, the Ministry implemented performance measures for Telehealth Ontario in the 2005/06 fiscal year. Since then, the Ministry has reviewed and updated the performance measures

annually, and introduced similar measures for THAS. These are good initiatives, although we did note that this information is generally not reported publicly.

As shown in Figure 9, results for three of the 12 performance measures were not available in the 2008/09 fiscal year. According to the Ministry, a survey of the general public would be required to collect this information. As previously mentioned, the last such survey conducted by the Ministry, in 2006, indicated that about two-thirds of Ontario residents were aware of Telehealth Ontario. However, no questions were asked regarding whether callers believed that the advice received improved their health education or ability to take the most appropriate health-care action.

Although performance measures exist for all program objectives, there are no indicators to address the quality of the advice provided. Such measures could include the percentage of call audits where the nurse's advice was found to be inappropriate, and the percentage of callers who make repeat calls for the same symptoms. Other provinces indicated that they used some similar performance measures,

but the measures varied. For example, some other provinces had performance measures for average call length and for the percentages of callers who are given various categories of advice (i.e., go to emergency, see their doctor at the next possible opportunity, or conduct self-care).

Program Evaluations

Telehealth Ontario

Between 2001 and 2006, various reviews of Ontario's teletriage services were conducted. In particular, the Ministry commissioned an external consultant to conduct an evaluation of Telehealth Ontario, from April 2003 to June 2005, at a total cost of $912,000. This evaluation was intended to assess the program's performance relative to its objectives; identify opportunities to increase its effectiveness; and assess its overall impact on the health-care system in Ontario. The evaluation, which involved a series of studies that were based on caller surveys, concluded that the program had been effective at directing callers to the most

Figure 9: Performance Measures and Targets (Where Established) for Teletriage Services, 2008/09

Source of data: Ministry of Health and Long-Term Care

Objective	Performance Measures and Associated Targets	Achievement
facilitate the use of the most appropriate health services	% of callers who were re-directed to a higher level of care than their original intent	29%
	% of callers who were re-directed to a lower level of care than their original intent	33%
	% of callers who intend to comply with nurse's advice	94%
improve access to appropriate health information and advice	% of Ontarians who are aware of the service	not reported
	% of population of each Local Health Integration Network (LHIN) utilizing the service	not reported
	80% of incoming calls to be answered by a live voice	97%
	85% of callbacks to be made within 30 minutes	88%
	98% of callbacks to be made within two hours	99%
	Rate of abandoned calls to be less than 6%	2%
increase health education and improve decision-making	% of callers who report increased confidence in health-care decision-making and administering self-care	not reported
improve satisfaction with access to quality health information and access to appropriate health services	% of callers who are satisfied with the service	98%
	% of negative feedback received	0.1%

appropriate level of care. As well, the evaluation indicated that, among other things, the percentage of repeat calls regarding the same symptoms had declined, indicating that nurse advice had become more appropriate.

Telephone Health Advisory Services

Although the Ministry has not recently reviewed the operations of THAS, in the 2004/05 fiscal year the Ministry commissioned an external consultant, at a total cost of $127,000, to conduct a series of studies on THAS. These studies included an assessment of the program's performance; an assessment of the program's impact on patients, health-care providers, and the health system; and a comparison of the estimated cost of caller intentions before calling THAS and their intended actions after calling THAS.

The studies reached favourable conclusions on the program, showing a high level of satisfaction among callers and participating physicians. As well, the cost analysis of THAS indicated that almost $90,000 was saved per 100,000 calls. The studies also noted that the proportion of callers who were advised to go to the emergency department was similar to the percentage of callers who had had that intention before calling, but many of the callers who were referred were not the ones who had originally planned to go.

RECOMMENDATION 6

To better ensure that teletriage services are meeting their objectives, the Ministry, in conjunction with the service provider, should expand the performance standards to include indicators on callers who wait in the live queue (including how long they wait and how many hang up before speaking to a nurse) and on the quality of the nurses' advice.

As well, because it has been almost five years since the effectiveness of the teletriage services in meeting their established objectives has been assessed, the Ministry should consider conducting a formal evaluation. One area to consider including in the evaluation is an assessment of whether using a teletriage service improves callers' health-related decision-making.

MINISTRY RESPONSE

The Ministry will work with the service provider to develop effective performance measures regarding callers who wait in the live queue. In addition, the ability to measure—and possible methods of measuring—the quality of nurses' advice will be investigated.

Further, the Ministry will conduct a formal, external evaluation of teletriage services to measure the effectiveness of the program against its identified objectives.

Unfunded Liability of the Workplace Safety and Insurance Board

Background

The Workplace Safety and Insurance Board (WSIB) is a statutory corporation created by the *Workplace Safety and Insurance Act, 1997* (Act). Its primary purposes are to provide income support and fund medical assistance to workers injured on the job. The WSIB also funds programs to help prevent workplace injuries, illnesses, and fatalities. The WSIB endeavours to apply an integrated approach to workplace health and safety that promotes co-operation and collaboration among its stakeholders, including the government.

The workplace safety and insurance system is financed through premiums charged on the insurable payrolls of employers; the WSIB receives no funding from the government. Under the Act, the government has the sole responsibility for setting benefits and coverage through legislation, while the WSIB has direct responsibility for setting premium rates, within the following guideline:

> The Board has a duty to maintain the insurance fund so as not to burden unduly or unfairly any class of Schedule 1 employers [generally all private-sector employers] in future years with payments under the insurance plan in respect of accidents in previous years.

Notwithstanding this legislative guideline, the assets in the WSIB insurance fund are substantially less than what is needed to satisfy the estimated lifetime costs of all claims currently in the system—thus producing what is known as an "unfunded liability."

In our *2005 Annual Report*, we noted that the WSIB's unfunded liability had reached $6.4 billion at that time, and commented on the importance of the WSIB having a credible plan to reduce it. We noted that failure to effectively control and eliminate the unfunded liability could result in the WSIB being unable to meet its existing and future financial commitments to provide worker benefits.

We decided to revisit our previous comments on the unfunded liability with a view to providing a more detailed commentary on the issue given the recent turmoil in the global financial markets and the impact this has had on the viability of pension plans and other worker benefit plans, such as workers' compensation insurance.

Workplace safety and insurance systems operate in a complex business environment because they serve a number of stakeholders with competing interests and views pertaining to the key areas of insurance benefits, coverage, and premium rates. For instance, employers want low premium levels while workers want high benefit-payment levels. These competing interests influence benefits, coverage, and premium rates, which can have a negative

impact on the size and growth of the unfunded liability. It is incumbent on the WSIB and the government to try to balance such views against the need to maintain financial stability.

Review Objective and Scope

Our work focused on providing information on the changes in the unfunded liability, the factors contributing to these changes, and the initiatives being undertaken by the WSIB to control the growth of the unfunded liability. We did not audit the WSIB's finances or controls because these aspects are examined annually by other auditors.

We caution the reader that references are made throughout our report to future unfunded liability estimates, which are based on assumptions regarding future events. Actual results may of course vary significantly from these estimates. As well, the degree of uncertainty will generally increase the further into the future the estimates extend. We have not audited the data the WSIB provided to us and do not express an opinion on the actuarial assumptions it has made or the methods used.

As well as conducting work at the WSIB, we approached four of the larger workers' compensation boards in other provinces to discuss the practices and actions that these jurisdictions have put in place to allow them to achieve and/or maintain over the last 10 years their fully funded position (that is, their assets are sufficient to cover their liabilities). Two boards responded to our requests; we visited these boards to discuss with their officials some of the common issues and their approaches to managing them. Our observations on some of the practices implemented by the other provincial boards to support the financial sustainability of their systems are also presented in this report.

We also met with the WSIB's Chair, its President and CEO, members of its senior management team, and current and former members of its Board of Directors to discuss their perspectives on the

unfunded liability. We would like to acknowledge their assistance during our review.

Summary

The WSIB's funding ratio represents the percentage of assets it has available to meet its financial obligations. As of December 31, 2008, its funding ratio was 53.5%—significantly lower than any of the four large provincial boards with which we compared Ontario (British Columbia, Alberta, Manitoba, and Quebec), which averaged 102%. In each of these four provinces, legislative and policy differences are key factors that contribute to their higher funding ratios. A Board's funding ratio is largely determined by the size of its unfunded liability, which is the amount by which the Board's financial obligations exceed its assets. As of December 31, 2008, the WSIB's unfunded liability was $11.5 billion—an increase of $3.4 billion from December 31, 2007. One factor that had a significant negative impact on the unfunded liability in 2008 was the global economic downturn. However, there are also a number of other systemic issues that have affected the size of the unfunded liability.

The main observations arising from our review are as follows:

- Eliminating or reducing the unfunded liability requires the interaction of four key levers—legislated benefits, coverage, premium rates, and investments—to work effectively in tandem. The inability to eliminate the WSIB's unfunded liability over the last two decades has been owing in part to the desire to satisfy all the stakeholders. Both the WSIB and the government may have to commit to a different strategy with respect to the setting of premium rates and benefits if the WSIB is to be able to eliminate the unfunded liability within a reasonable period.
- The WSIB advised us that its 2008–12 strategic plan, *The Road to Zero*, contains a number

of initiatives that target and support the financial sustainability of the system. Key initiatives include the prevention strategy, which provides for a collaborative prevention partnership model; social marketing, which supports the organization's prevention mandate; development of a new case-management approach to service delivery; and other initiatives in the areas of return-to-work programs, health-care solutions, and occupational-disease services. However, despite these initiatives, the WSIB advised us that, because of the significant financial losses resulting from the global financial market downturn, its target of full funding by 2014, which was originally established in 1984, will not be achieved. The WSIB has not set a new target date. On the basis of February 2009 projected estimates, the unfunded liability may not be eliminated until 2022—eight years past the 2014 date targeted by the WSIB and successive governments since 1984.

- The WSIB's actions to eliminate the unfunded liability have been limited by recent economic circumstances and by the four key levers that are to some degree beyond the control of the WSIB. These include the government's responsibility and authority over legislation, including benefit changes and the extent of business sectors and industries that are covered by the system. As of 2007, the percentage of the workforce covered by the system in Ontario was 72.6%, as compared to Alberta at 89.7%, B.C. at 93.1%, and Quebec at 93.4%. The WSIB has the direct responsibility for setting premium rates. The WSIB and the government face the least resistance from stakeholders when they keep premiums low (which satisfies employers) and benefits high (which satisfies workers). Over time, this can result in a large unfunded liability. To mitigate against this risk, the provincial boards we visited cited examples of legislated requirements or formalized funding models that

required their systems to be fully funded. We recognize, however, that this is a policy issue specific to each jurisdiction and that neither the WSIB's legislation nor its Memorandum of Understanding with the Ministry of Labour requires that the plan be fully funded.

- Premiums have a significant impact on the size of the unfunded liability. However, annual premium revenues in recent years have not been sufficient to cover benefit costs. The WSIB has not reported an annual surplus since 2001, and since that date the annual deficits have ranged from a low of $142 million in 2006 to a high of $2.4 billion in 2008. Although investment losses in 2007 and 2008 have increased the unfunded liability, we believe that even if these losses had been netted against previous unrealized investment gains, the unfunded liability would still have been in excess of $7 billion. In the seven years since 2001, while the WSIB has experienced annual deficits averaging over $900 million, premium rates were only increased in 2003 and 2006, resulting in an overall 7.5% increase or 1% per year on average. Since 2006, premium rates have not changed to reflect the impact of higher benefit costs—such as the $750-million benefit enhancements the government enacted in 2007, which did not have matching premium or investment revenues to offset the increased costs.

- Benefit and health-care costs have been rising over the last 10 years. These cost increases—in particular, benefit cost increases arising from increases in the amount of time that workers are staying on benefits and increases in benefits arising from legislative changes—have contributed to the unfunded liability. Key factors identified by the WSIB for the increasing duration of claims include some unintended consequences of Bill 99, *The Workers' Compensation Reform Act (*which was the last major legislative reform to the system), along with an ineffective employer-incentive program. As

well, an increased use of prescription pain killers has added to the costs of the system.

In the current economic climate, the WSIB and the government face significant challenges in eliminating the unfunded liability. Increasing premium rates would be challenging because Ontario already has one of the highest average premium rates of any province. The WSIB's 15-year average rate of return on its investments from 1994 to 2008 was 6.6%, slightly less than the WSIB's 7% target. Given that future benefit costs are expected to rise at 7% annually, investments must earn more than 7% before any reduction of the unfunded liability can be realized solely from investment returns. On the benefit cost side, the WSIB has undertaken a number of internal initiatives to reduce claims duration, including the implementation of a new service delivery model and the introduction of new technology initiatives to reduce health-care costs. However, in addition to improved investment returns and further cost-reduction measures, more significant structural changes, including legislative reforms, may be needed to ensure that the Board continues to have the ability to meet its future financial obligations.

The WSIB acknowledges that significant actions will need to be taken to get its financial affairs in order. In spring 2009, the WSIB's Chair initiated province-wide stakeholder consultations on solutions to the financial challenges facing the WSIB. According to the WSIB's March 2009 newsletter, this process was to be "aimed at achieving a broad consensus among stakeholders on how best to deliver a sustainable future for Ontario's Workplace and Safety Insurance Board" and was to "include open and frank communication about the financial and legislative framework in which the WSIB operates."

OVERALL WSIB RESPONSE

As the Auditor General's review notes, the growth in the unfunded liability to $11.5 billion as of December 31, 2008, is of concern to the WSIB. The WSIB faced a key challenge in 2008 because financial results were significantly affected by the global economic downturn. This major decline in equity markets led to a significant decrease in investment returns in 2008, which in turn resulted in a $3.4 billion increase in the unfunded liability in 2008. The ongoing market volatility and uncertainty in 2009 continues to have an impact, but, to address this issue, an enhanced investment strategy was implemented in late 2008 to reduce the impact of potential market volatility and to better align investment assets to long-term funding obligations.

The WSIB's vision is the elimination of all workplace fatalities, injuries, and illness. In 2007, the WSIB implemented *The Road to Zero*, which is the five-year corporate strategy for 2008–12. Financial sustainability is one of four key fundamentals of *The Road to Zero*, and, in that regard, the WSIB has implemented a funding framework and regularly reviews funding scenarios and financial results through a process of funding outlooks. The WSIB's prevention efforts are already showing positive results: as the lost-time injury rate (the lost-time injury count per 100 covered workers) has decreased from 2.37 in 2000 to 1.51 in 2008, which represents an annual rate of change of -4.9% over 2000–08.

The WSIB is taking a measured, fiscally prudent approach in setting premium rates to avoid placing undue financial burdens on employers. For 2010, premium rates will closely reflect the performance of rate groups with poorer health and safety performance and other factors, while addressing the financial pressure facing the WSIB. Only those rate groups with poorer performance will experience rate increases; otherwise, premium rates will remain at 2009 levels. Unlike previous years, there will be no premium rate reductions for any rate groups, including those with improving safety records.

The WSIB is committed to the goal of long-term financial sustainability and expects to

establish the new target date to eliminate the unfunded liability shortly. The WSIB agrees with the Auditor General's observation that a comprehensive, balanced approach is required to ensure that the four key levers of legislated benefits, coverage, premium rates, and investments work in tandem to effectively support the elimination of the unfunded liability.

Detailed Review Observations

ONTARIO'S WORKPLACE SAFETY AND INSURANCE SYSTEM

Workers' compensation boards exist in each of Canada's provinces and territories. These organizations provide assistance to workers who have been injured on the job or have job-related illnesses, and also to promote safety awareness with a view to preventing workplace injuries. Each organization was created under provincial or territorial law. The workers' compensation systems are generally similar in structure and mandate, but they are not identical in all respects. The provincial organizations may differ from each other in size, policies concerning the employers, injuries, and illnesses they cover, and the benefits they offer.

One of the key principles adopted when Ontario's workers' compensation system was established—a principle that still guides the system—is that in exchange for guaranteed protection, injured workers give up the right to sue employers over work-related injuries or illnesses, regardless of fault. The legislation created a compulsory no-fault insurance and collective liability system administered by a workplace safety/workers' compensation organization—an independent public agency that adjudicates the claims of injured workers or their survivors and provides compensation where the agency considers it appropriate. To help fund the benefits and the administration costs, premiums are

levied on most employers and paid into a fund held by the agency.

The Workplace Safety and Insurance Board (WSIB) is a statutory corporation under the *Workplace Safety and Insurance Act, 1997.* Its mandate is to promote the prevention of injuries, illnesses, and fatalities in Ontario workplaces. The Board also provides insurance benefits to the survivors of workers who die from a workplace injury or from an occupational illness and provides loss-of-earnings assistance to injured workers receiving benefits.

The WSIB is the largest workplace safety and insurance/workers' compensation organization in Canada. According to the Association of Workers' Compensation Boards of Canada's *2007 Annual Report*, the WSIB is ranked first in Canada in 2007 by number of claims (about 329,000 compared to second-place Alberta with about 175,000 claims), and by premium revenue ($3.5 billion compared to second-place Quebec with $2.3 billion).

The WSIB administers the Act for two groups of employers:

- Schedule 1 employers, which, under a "collective liability" system, are required to contribute to the WSIB's insurance plan. They include, among others, any firms involved in the automotive, construction, manufacturing, and transportation sectors.
- Schedule 2 employers, which are self-insured, are individually liable for the full costs of any claims made by workers. They include, among others, the provincial government, Crown agencies, and some municipalities and school boards. The WSIB pays the benefits of Schedule 2 workers but is reimbursed by the employers for the cost of the claims, for administrative costs, and for a portion of the cost of the WSIB's prevention activities.

The Act requires that the WSIB maintain an insurance fund to "pay for the benefits under the insurance plan to workers…and to survivors of deceased workers" and to pay the WSIB's operating expenses (that is, the cost of administering the Act). Under the Act, funding of the system is

the responsibility of employers, including government and government agencies as employers in Ontario. As in other provinces, Ontario's system is financed through insurance premiums charged on the insurable payrolls of employers. The insurance premiums paid by the employers vary depending on the degree of safety risk of the employer's type of business. The WSIB receives no direct funding from the provincial government.

The WSIB has two sources of revenue: employer premiums and investment income. Similar to pension plans and other insurance companies, investment returns on the fund's assets are a key revenue source for the fund to make future benefit payments.

On the expense side, the WSIB provides benefits for loss of earnings, benefits for permanent impairment, payments for health-care expenses, assistance to facilitate an injured or ill worker's return to work, and survivor benefits in the case of work-related fatalities. Annual benefit costs for accounting purposes consist of two components: benefit costs paid (the amount paid to injured and ill workers during the year) and changes in benefit liabilities (the adjustment to the actuarially determined estimates for future claim payments for current and prior-year claims). The benefit liabilities are calculated based on actuarial assumptions. Changes in some assumptions can cause significant changes in the benefit liabilities. Key actuarial assumptions include the discount rate (that is, the interest rate used in "discounting"—or determining the present value of—future cash flows), mortality rates, lost-time injury rates, and inflation factors.

If premiums collected from employers and returns on the WSIB's investments are insufficient to cover the total expected future benefit costs, the shortfall will result in an unfunded liability. Put simply, the unfunded liability is merely a measure of the difference between the value of the WSIB's assets and its estimated financial obligations at a point in time.

The Act does not require the insurance plan to be fully funded. The legislative provisions that relate to the plan's funding status stipulate only that funds must be "sufficient to make the required payments under the insurance plan as they become due". However, the Act does state that employers in future years are not to be burdened with "payments…in respect of accidents [that occurred] in previous years."

GROWTH OF THE UNFUNDED LIABILITY

The WSIB's unfunded liability was $9.1 billion in 1990 and stood at $11.5 billion as of December 31, 2008. As Figure 1 shows, there was a significant decline in 1997, resulting from legislative reforms to the system that arose from the passage of Bill 99, *The Workers' Compensation Reform Act*, which revised inflation protection to partially disabled workers. During the last three years, from 2006 to 2008, the unfunded liability almost doubled in size, growing from $5.9 billion on December 31, 2006, to $11.5 billion—one of the highest levels in the WSIB's history—on December 31, 2008.

The funding ratio (the ratio of assets to liabilities) is a useful measure of the adequacy of a workers' compensation system to pay future claims. A ratio above 100% indicates that the workers' compensation organization has more than sufficient assets to meet its estimated future liabilities.

Figure 1: WSIB Unfunded Liability, 1990–2008 ($ billion)

Source of data: Ontario Workplace Safety and Insurance Board
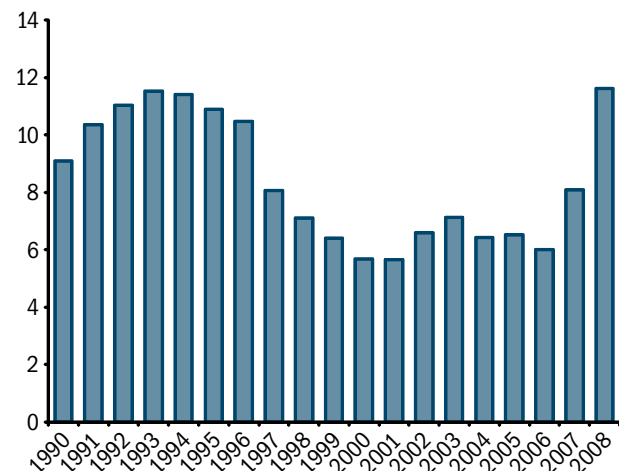
Conversely, a low ratio indicates that the organization currently has insufficient assets to meet its estimated future liabilities. As of December 31, 2008, Ontario's funding ratio stood at 53.5%. By comparison, the funding ratio of the other four large provincial boards included in our review ranged from 70% to 116% and averaged 102%.

Figure 2, which breaks out the unfunded liability by its asset and liability components, shows that, since 2001, the WSIB's liabilities (consisting mainly of workers' claims for benefits) have increased at an average rate of 2.5%, which is close to the 2.7% average growth rate in the fund's assets over that same period. Because the WSIB's liabilities are so much larger than the fund's assets, the generally consistent average growth rate in both the liabilities and the fund's assets means the liabilities are increasing much faster in size than are the fund's assets, and therefore the unfunded liability has gotten larger. On a year-over-year basis, the other key variable has been that the yearly rates of return on the fund's assets have varied significantly since 2001.

Figure 3 shows that Ontario's unfunded liability dwarfs those of the several other larger provinces we compared it to.

HISTORICAL PERSPECTIVE AND PROJECTIONS

In 1984, the WSIB adopted what it called a "full-funding" strategy to retire the unfunded liability over a 30-year period. The full-funding strategy aimed to have the WSIB's assets match its liabilities by 2014. From 1984 onward, achieving the goal of eliminating the unfunded liability by 2014 was the primary objective of the WSIB's funding approach.

By 1994, the unfunded liability stood at $11.4 billion. In response to the growing unfunded liability, the government reduced benefits in 1995. In 1996, the government of the day undertook a comprehensive review of the system. That review determined that legislative intervention was necessary because the existence of such a large unfunded liability threatened the viability of Ontario's system.

Figure 2: WSIB Liabilities, Assets, and Unfunded Liability, 1996–2008 ($ billion)
Source of data: Ontario Workplace Safety and Insurance Board
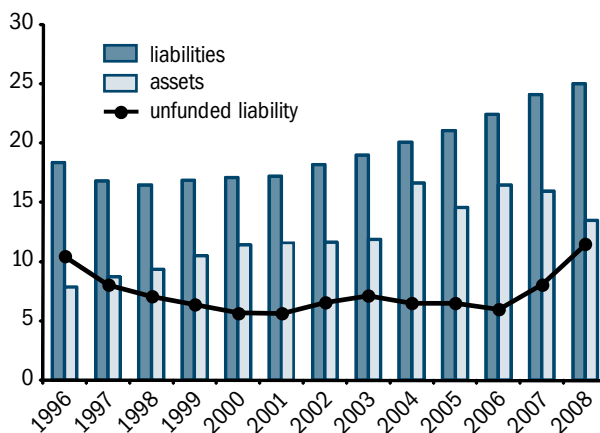
Figure 3: Funded Position and Unfunded Liability for Major Provincial Boards in Canada, 2004–2008 ($ billion)
Source of data: Various Provincial Workplace Safety and Insurance Boards and Workers' Compensation Boards
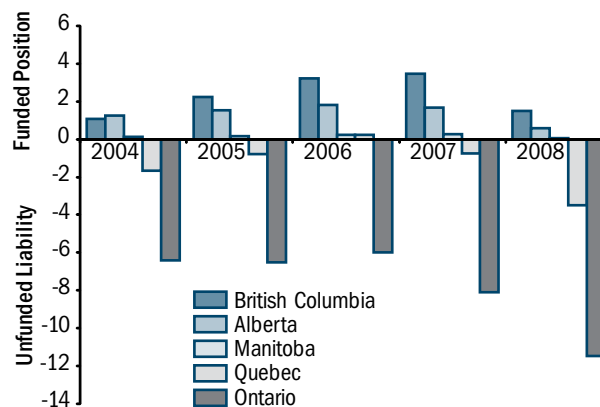
The government believed that the unfunded liability not only put at risk the system's ability "to provide fair and secure compensation to injured [and ill] workers both now and in the future" but also had resulted in premium rates that were among the highest in North America—a situation that adversely affected Ontario's competitive position.

The 1996 review of Ontario's workplace safety and insurance system led to the passage of the new *Workplace Safety and Insurance Act, 1997* (Act). The Act made fundamental reforms to Ontario's

workplace safety and insurance system by refocusing the system on the need for preventing injuries and encouraging early return to work. The Act contained new provisions that were intended to restore the system's financial viability by reducing benefits to a level consistent with those in other provinces and by tightening eligibility requirements for workers seeking compensation. These legislative reforms resulted in a net reduction of $1.8 billion in future benefit costs and expected benefit liabilities.

Subsequent to the passage of the Act, the WSIB has consistently maintained its commitment to deal with the size and growth of the unfunded liability and have the plan fully funded by 2014. For instance:

- The 2005 funding framework reconfirmed the WSIB's commitment to avoid passing the unfunded liability on to future generation of employers.

- In 2006, the WSIB released its 2006–10 five-year strategic plan entitled *The Road Ahead*. This plan noted that, in the interests of financial sustainability, the WSIB was "building a strong financial framework to address the elimination of the unfunded liability." This five-year strategic plan was updated in September 2007 as *The Road to Zero,* which covers the period 2008–12. The document notes that "the Board [remains]committed to a planned and disciplined approach to eliminating the Unfunded Liability and achieving full funding by 2014."

- The 2008 funding framework updated the 2005 framework and formalized it for the next three years. In detailing how the WSIB would meet its full-funding target by 2014, the 2008 funding framework relied heavily on the targets set in *The Road to Zero* with respect to the WSIB's commitment to eliminating all workplace injuries, illnesses, and fatalities and to reducing the amount of time it takes for injured or ill workers to recover and return safely to work.

In our opinion, the WSIB's publicly stated goal of achieving full funding status of the plan by 2014 in the 2008 funding framework was ambitious. This expectation was premised on having all employers and their workers meet all the objectives and targets set out in *The Road to Zero*. Specifically, the Board would have to reduce costs, increase premium revenues, and/or record investment gains that, when combined, would produce an average surplus of approximately $1 billion in each of the remaining eight years in order to eliminate by 2014 the $8.1 billion unfunded liability that existed at December 31, 2007. However, given the $11.5 billion unfunded liability reported at December 31, 2008, the WSIB's operating results would have to go from annual operating deficits averaging over $900 million in recent years to operating surpluses averaging $1.6 billion in each of the remaining seven years in order to eliminate the unfunded liability by 2014, as shown in Figure 4.

The Board of Directors was advised, in presentations on the 2009 corporate budget in November 2008 and in a preliminary 2009 funding outlook presentation in December 2008, that the 2014 target was no longer achievable. The Board was advised that the impact of the significant downturn in the global financial markets was the key driver for the re-assessment of the 2014 target.

Figure 4: WSIB Unfunded Liability 1995–2008 and Future Projections (Annual Decline Required to Achieve Full Funding by 2014) ($ billion)

Source of data: Office of the Auditor General of Ontario
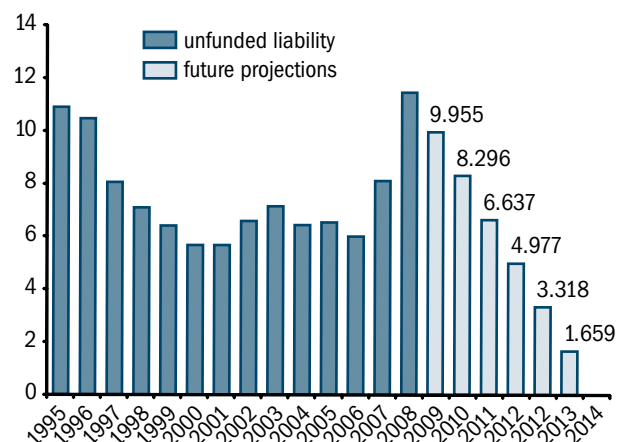
In February 2009, largely as a result of the impact of the global financial crisis on the value of the WSIB's investments, the WSIB prepared new estimates of the unfunded liability based on three scenarios:

- Base Case, 2009 Preliminary Funding Estimate—Under this scenario, the 2014 unfunded liability would be $6.7 billion and its elimination was projected to occur in 2018.
- Plausible Adverse Scenario—Factoring economic uncertainties and cost pressures into the Base Case, this scenario estimated the 2014 unfunded liability to be $11.4 billion and projected its elimination in 2021.
- Plausible Adverse with Indexation Scenario Base Case—This scenario factored the economic uncertainties and cost pressures into the Base Case, but also assumed continued full indexation for certain workers' benefits, as required under Bill 187, which was an act respecting Budget measures and interim appropriations. It estimated the unfunded liability in 2014 to be $14.1 billion and projected it would be eliminated no earlier than 2022.

SHOULD WE BE CONCERNED ABOUT THE UNFUNDED LIABILITY?

The risk that a large unfunded liability poses to the system's financial viability was recognized over a decade ago. In the 1996 review that led to the legislative changes contained in Bill 99, it was noted that the problems associated with the unfunded liability could eventually come to a head when the WSIB was forced to liquidate investments in order to fund current operations and benefit payments. The 1996 review noted that between 1985 and 1995, the WSIB had "transferred some $1.65 billion from the investment portfolio to general operations to pay for benefit payments." A 1998 Statistics Canada research paper, *Government Finances and Generational Equity*, noted that "[i]t is compounded returns on these assets that the [WSIB] relies upon in order to pay future benefits. Removing the base

of assets upon which investment revenues must be earned presages the descent into a vortex that will require strong action to reverse."

Withdrawals from the Investment Fund are still occurring: in the past seven years, the WSIB has transferred approximately $3.4 billion from investments in order to fund payments in workers' benefits. In addition, the WSIB had to sell $550 million more in investments than it has purchased in order to cover cash shortfalls from operations. The seriousness of this practice was conveyed in 2003 by a member of the Board of Directors who, as noted in the Board of Directors' meeting minutes, indicated that there was a strong sentiment among members of the Investment Committee that the WSIB should avoid drawing funds from the Investment Fund and that one member of the committee indicated he or she might resign as a result of this issue.

We acknowledge the argument that because the worker's compensation system is a perpetually ongoing operation, the unfunded liability is meaningless. From this point of view, this liability is merely an amount that will become due only in the highly unlikely event that the WSIB was to wind down its operations today. For example, the WSIB told us that, from an injured worker's perspective, there are currently sufficient funds to pay benefits for up to three years even if ongoing premium revenue was eliminated completely and the WSIB was wound down.

We do not agree with this argument and are concerned that the trend of selling off the WSIB's investments to fund current operations and benefit payments is not financially sustainable.

The more pertinent issue is whether a large unfunded liability poses significant risk to the financial viability of the system. To assess this concern, one needs to examine the major drivers that increase (or decrease) the unfunded liability—that is, the factors that drive either decreases in assets or increases in liabilities.

Of the several drivers that either decrease assets or increase liabilities, the most notable for 2007 and 2008 were actual investment returns in comparison

to the 7% expected return; increased costs resulting from legislated changes that increased benefits liabilities; and the cost to carry the unfunded liability itself (at 7% per annum). Over the last two years, $4.2 billion has been lost owing to investment losses; almost $900 million owing to additional injured-worker benefits; $1.3 billion owing to changes in actuarial estimates and assumptions; and $1 billion to carry the liability. Conversely, over these two years, only $2 billion has been collected from employers to offset this, with the end result that the unfunded liability has increased by almost $6 billion.

Although the WSIB has suffered significant investment losses for 2007 and 2008, it does not expect these to continue in the long term. On the basis of average long-term returns in the equities markets, this is not an unreasonable assumption. If this turns out to be the case, the risk to financial viability arising from the size of the unfunded liability will therefore rest primarily with the other two components: whether premium rates are sufficient to cover current benefit payments and the cost to carry the unfunded liability and pay it down over a reasonable period of time; and whether legislated changes add additional unfunded costs to the system. For instance, under Bill 187, partially disabled workers were granted a 2.5% increase in each of 2007, 2008, and 2009. There is added pressure from certain stakeholders to restore full inflation protection for 2010 and beyond.

ELIMINATING THE UNFUNDED LIABILITY

The WSIB has only three levers at its disposal to reduce the unfunded liability:

- increasing premium revenues;
- reducing benefit costs (by reducing the number and duration of benefit claims and health-care costs and/or by reducing or eliminating benefits); and
- increasing investment income.

This section discusses each of these tools and makes reference to some of the practices we found in the other provincial jurisdictions we visited. But it is important first to supply some perspective on some of the pressures and challenges the WSIB faces in its operating and political environment.

Balancing Stakeholder Interests

The Road to Zero communicates the WSIB's five-year (2008–12) corporate strategy, which supports the WSIB's vision of eliminating all workplace fatalities, injuries, and illnesses. The WSIB advised us that it uses an integrated approach to workplace health and safety that promotes collaboration among system partners and stakeholders through initiatives such as a prevention partnership model, rewarding superior workplace behaviour, and facilitating a cultural shift through social marketing campaigns. The WSIB indicated that key initiatives in *The Road to Zero* include reducing injured workers' time off work, bringing a more integrated approach to case management, facilitating early and safe return to work, purchasing cost-effective and evidence-based health-care services, managing occupational-disease services more effectively, and a new service delivery model, which is expected to help reduce benefit costs and optimize premium revenue while improving overall service.

As *The Road to Zero* communicates, the WSIB's efforts to improve its funding position have focused primarily on reducing the number of new claims and reducing claims duration. Increasing premiums or reducing benefits has proven difficult—many years of experience have shown the inherent political, social, and economic sensitivity of implementing changes to either. But the last two years have also demonstrated how unpredictable and inconsistent the results can be when the third option of overly relying on increased investment returns is chosen.

Governments and workplace safety/workers' compensation organizations face significant pressures in trying to manage the system. The problem faced by the government and the WSIB when trying to eliminate the unfunded liability is that there is

little agreement among labour groups and employers as to whether the unfunded liability is even a problem, let alone how it should be addressed if it is a problem. The positions generally taken by labour groups and employers differ in ways that reflect a concern that they will be required to bear the entire cost of eliminating the unfunded liability.

Labour is concerned that the unfunded liability will be eliminated by reducing benefits to workers and by restricting the eligibility of certain types of injuries and occupational diseases for compensation. Many employers believe that the unfunded liability exists only because benefit levels are too high and because the scope of injuries and occupational diseases being compensated is too broad. In addition, they believe that increasing premium rates to eliminate the unfunded liability would hurt both their competitive position and job creation. Employers therefore tend to believe that premiums should not be increased and that, instead, benefit reductions represent the only acceptable approach to reducing the unfunded liability. Both the government and the WSIB must balance the concerns of labour and employer stakeholders. This balancing act between changing employer premiums and/or changing worker benefits is where the WSIB is most susceptible to the influence of the government of the day.

Authority of the Board to Address the Unfunded Liability

The Ontario Financial Review Commission's (OFRC's) 1995 report on the province's accounting, reporting, and financial-management practices commented on the government's apparent influence over benefits, premiums, and coverage, which the OFRC believed undermined the WSIB's ability to govern itself in an accountable fashion. The OFRC stated that "while the government has the responsibility for setting the Board's mandate, the Board must have the sole power to carry it out." Our observation is that the OFRC's comments continue to be relevant.

For example, in 2002, one WSIB director commented (as recorded in the Board of Directors' meeting minutes) that "some government representatives are of the view that the Board should reduce premium rates [for 2003, which was a provincial general election year] below the level required to meet claims costs."

We noted that the funding models of the two other provincial boards we visited require that their plans be fully funded—and that the officials at one board even consider this full-funding requirement to be enshrined in their governing legislation. Although Ontario's legislation does not require a fully funded plan, the government and the WSIB may wish to consider whether there is lack of clarity around the role of the WSIB and of the government in ensuring that the system is managed in a financially accountable manner and that the plan remains financially viable. For example, we noted that one of the guiding principles in the Memorandum of Understanding (MOU) between the WSIB and the government is that the "Minister and the Board are committed to a workplace safety and insurance system predicated on sound insurance and business principles, including…a commitment to achieving and maintaining a financially sustainable workplace insurance plan." Missing from the MOU's described elements of sound insurance and business principles is a specific statement that the system must be based on sound financial management practices that will facilitate a fully funded plan. In the insurance business, sound financial management practices include ensuring the system's financial stability and sustainability for the beneficiaries not only by making the plan fully funded but also by setting aside reserves to address any major financial shocks that may affect the system.

Premium Revenues

In 1996, the average premium rate was $3 per $100 of payroll—a decrease from the 1991 average premium of $3.20. Despite the WSIB's apparent

authority to set premium rates, the government's May 7, 1996, Budget Speech announced a planned 5% reduction in the average premium rate (to $2.85) effective January 1, 1997. Since then, notwithstanding the unfunded liability's upward trend, the average premium rate has been reduced multiple times, levelling out in 2006 at $2.26, where it has remained through 2009. Figure 5 presents the WSIB's average premium rates from 1991 through 2009.

In the first quarter of 2009, the WSIB concluded that, had the 1996 average premium of $3.00 been maintained from 1997 until the end of 2008, the unfunded liability would have been $3.7 billion instead of $11.5 billion. This analysis clearly illustrates the sensitivity of the unfunded liability to premium rates.

Clearly, premium revenues have not increased enough to offset the costs of the benefits that are mandated under the Act. We noted that:

- Benefit expenses increased by about 7% annually from 1999 through 2008, but premium revenues increased by an average of only 3% during the same period.

- Premium revenues, which include a surcharge intended to help pay down the unfunded liability, are not sufficient to cover the WSIB's annual expenses. In fact, they just barely cover the actual cash amounts of benefits paid, with none of the surcharge actually going toward paying down the WSIB's unfunded liability. Figure 6 illustrates this point.

- Premium revenues in Ontario cover a lower percentage of the WSIB's expenses than premium revenues cover in the four other large provincial boards we considered. As Figure 7 shows, premium revenues from 2004 to 2008 have covered on average only 70% of the WSIB's total expenses. For each of the other provincial boards, premium revenues covered a higher percentage of total expenses over this same period—between 80% and 103%, with an average of 86%.

Figure 5: WSIB Average Premium Rates, 1991–2009 ($ per $100 of Insurable Payroll)

Source of data: Ontario Workplace Safety and Insurance Board

	Rate
1991	3.20
1992	3.16
1993	2.95
1994	3.01
1995	3.00
1996	3.00
1997	2.85
1998	2.59
1999	2.42
2000	2.29
2001	2.13
2002	2.13
2003	2.19
2004	2.19
2005	2.19
2006	2.26
2007	2.26
2008	2.26
2009	2.26

Figure 6: WSIB, Comparison of Benefit Expenses, Benefit Costs Paid, and Premium Revenues, 1998–2008 ($ billion)

Source of data: Ontario Workplace Safety and Insurance Board
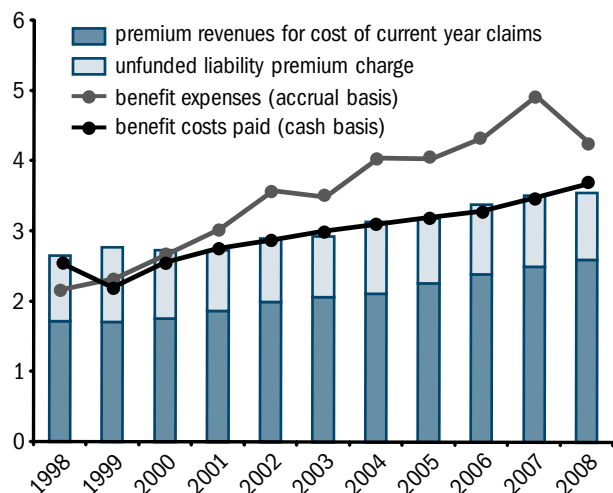
Figure 7: Major Provincial Boards, Total Gross Premium Revenues as a Percentage of Total Expenses, 2003–2008 (%)
Source of data: Ontario Workplace Safety and Insurance Board and Provincial Workers' Compensation Boards

- British Columbia
- Alberta
- Manitoba
- Ontario
- Quebec
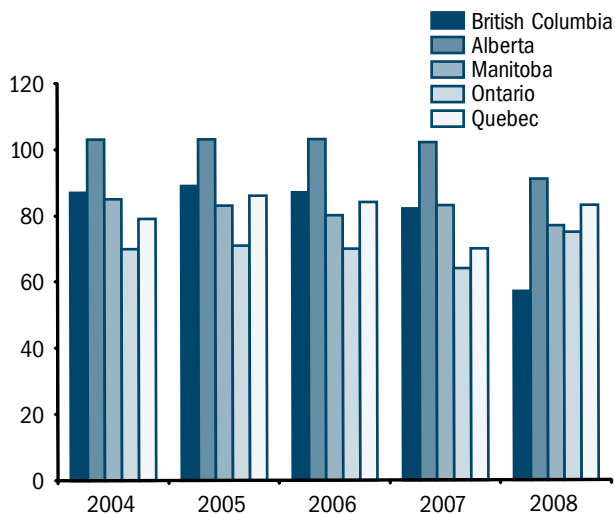
- In reviewing the WSIB's Statement of Operations over the last 10 years, we noted that the WSIB has not reported an annual surplus since 2001, and since that date, the annual deficits (that is, losses on operations) have ranged from a low of $142 million in 2006 to a high of $2.4 billion in 2008, with the annual deficit averaging over $900 million since 2002. Admittedly, investment losses in 2008 have been significant owing to the global economic downturn and have contributed over $3 billion to the increase in the unfunded liability in 2008. However, the WSIB's lack of success in eliminating the unfunded liability has been more directly the result of benefit expenses not being adequately funded by the premium-revenue and investment-revenue streams. More specifically, if previously recorded unrealized gains on the WSIB's investments are netted against the investment losses in 2008, the unfunded liability would likely still have been in excess of $7 billion.

Premium Setting in Other Jurisdictions

In each of the other two provincial jurisdictions we visited, there was no ambiguity regarding how they establish their premium rates: each sets rates based on the principle that its plan must be fully funded at all times. For example:

- One provincial board's Act imposes a statutory obligation on the board to ensure that its plan is fully funded: "The Board must ensure that there is sufficient money available in the Accident Fund for the payment of present compensation and future compensation as estimated by the Board's actuary." The board's rate-setting policy rests on a philosophy that includes eliminating the use of investment returns to subsidize average premium rates. According to the board's funding policy, its plan is considered to be sufficiently funded only when the plan's total assets equal or exceed its total liabilities, and its plan is not considered to be fully funded unless its funded ratio is within the target range of 114% to 128%. If the funded ratio falls below that target range, that provincial board's funding policy requires that special levies be included in the premium rates to recover the shortfall.

- Officials from the second provincial board indicated that, although its governing legislation includes no specific provision requiring full funding, they have adopted an external benchmark for determining a suitable funding level for their plan. The benchmark chosen—that used in the insurance sector as legally required by that sector's regulator (the Office of the Superintendent of Financial Institutions)—requires insurers to hold prescribed levels of capital to help mitigate against possible adverse circumstances and to be able to continue operating. The minimum capital reserve requirements therefore depend on the risk inherent in the assets (for example, equities require relatively more capital reserves than bonds) and in the liabilities (for example,

liability estimates that have greater uncertainty require more capital reserves). The provincial board officials told us that adopting these capital adequacy guidelines has had the additional benefit of providing clarity to their stakeholders, with the result that stakeholders had no expectation of receiving large-scale refunds of the surplus that had built up during the four years before the 2008 declines in the investment markets. Stakeholders understood that capital reserves could be used to dampen the impact on employer premiums during difficult economic periods.

In reviewing the process for setting premium rates in the two provincial jurisdictions we visited, we also noted that the underlying funding model obliges them to ensure that annual premiums charged to employers during a given year cover the cost of all new claims, the future costs of these claims, and related operating costs incurred during the year so that future employers do not bear the costs of prior-year worker injuries:

- Officials from one provincial board noted that they ensure that premium revenues meet or exceed all claim costs plus all overhead incurred during the year. They set a rate for each rate group based on that rate group's injury experience. Rates within that rate group are then adjusted for safety association levies, claims administration, appeals commission, medical panels, and occupational disease reserve funding. They noted that charging employers with the full cost of workplace injuries through premium rates "is imperative to securing workers' benefits for the lifetime of the claim and not passing costs on to future employers."

- Officials from the second provincial board noted that they ensure that current premium rates reflect the system's current costs: their target rate is the rate required to ensure that the system remains fully funded. They indicated they ensure that premium levels and corresponding benefit costs are evaluated by industry. In summary, they stated that their funding strategy's overall objective is "full funding at the rate group level (and consequently for the system as a whole) with additional appropriated reserves" provided "as deemed necessary."

- The officials from the second provincial board also noted that their organization has had a longstanding "unique practice of maintaining separate segregated industry rate group results and funding levels that are transparent to employers." That is, their board tracks each rate group's results by business activity (for example, premium revenues, claims costs, and unfunded liability/funded asset position) and by injury risk (for example, number of claims, accident types, nature of illnesses, injury rates, and claims duration). In their view, this "open-book policy" of tracking and reporting the performance of a particular industry rate group or industry sector on the types of injuries and illnesses taking place in that industry rate group, as well as on the costs of the workplace injuries and illnesses of that sector, has had a very positive effect of "garnering employer support for [premium] rate increases when necessary in order to recover from deficits or to lower accident rates and injury costs." They commented that their funding policy of requiring premium assessment rates to cover the costs incurred during the year, supported by this segregated industry rate group data, has the additional benefit of making it very difficult for the government of this province to influence premium rates.

Ontario's Approach to Setting Premiums

Setting premium rates that reflect the "full target level"—that is, the level required to cover the anticipated full costs of new claims, including administrative charges and unfunded liability charges—ensures that firms and industries pay for their costs relating to injuries or deaths incurred in

their workplaces. The WSIB has stated that it follows a similar approach. As the 1996 review noted, Ontario employers are classified in nine industry classes, which are divided into rate groups.

The WSIB advised us that in 2008 there were 154 employer rate groups based on similar business activities and workplace health and safety risks. Premium rates are set each year on the basis of projecting a rate group's health and safety performance from the previous five years to the premium-rate year. Premium rates comprise four components:

- costs of new claims;
- a charge to repay the unfunded liability;
- gain or loss component; and
- administration expenses covering the expected costs to run the WSIB and administer the *Workplace Safety and Insurance Act*, the costs of the Ministry of Labour to administer the *Occupational Health and Safety Act*, funding for the health and safety associations, research, and the costs of the Offices of the Worker and Employer Advisers.

Under this methodology, premium rates can go up or down depending upon a rate group's workplace health and safety performance. When the average premium rate remains unchanged, about one-third of the rate groups have a rate increase, one-third stay the same, and one-third have a rate decrease.

In using this approach, the WSIB faces a challenge when unanticipated events, such as the recent economic downturn, result in either higher costs or lower revenues than planned. Ideally, such unanticipated shortfalls would be recovered by increasing subsequent years' premiums. However, as Figure 5 illustrates, average premium rates are 12.7% lower now than 10 years ago. Notwithstanding this, we recognize that increasing premium rates, and thereby increasing the cost of doing business in this province, would not be a popular option for either the WSIB or the government in the midst of a severe economic downturn. This problem is compounded by the fact that Ontario's average premium rate is among the highest in Canada (see

Figure 8). Ontario will eventually need to increase its premium rates if it hopes to make any progress toward eliminating its unfunded liability—unless downward revisions are made to the current benefits structure or investment returns recover dramatically.

Premium revenues are also affected by the number of workers covered by the workers' compensation system. As the 1996 review pointed out, coverage of Ontario's workforce was significantly lower than in many other provinces. The 1996 review suggested that covering more workers might create additional revenues for the WSIB. Ontario's coverage rate remains among the lowest in the country.

In April 2009, the WSIB analyzed the additional revenues it would earn if coverage were expanded to include the entire Ontario workforce. Estimated additional revenues would be approximately $280 million. Included in this is $72 million that will be earned beginning in 2012 resulting from Bill 119, *The Workplace Safety Amendment Act*, which will make insurance coverage mandatory for a number of construction workers who had not previously been covered. The incremental revenues from expanding coverage would not come close to solving the unfunded liability problem. But one advantage of increasing coverage to all workers is that it would stabilize and improve the WSIB's financial position as the economy restructures. Many industries that are not currently covered are in sectors, such as financial institutions, that are experiencing high employment growth, whereas, for example, 26% of the WSIB's premium revenues in 2008 came from the currently ailing automotive industry.

And finally, in a worst-case scenario, the Act does allow the government to provide loans to the WSIB if the WSIB is ever unable to pay workers the benefits that they are entitled to. We are not aware of this having occurred previously in any workers' compensation system in Canada. In Ontario, the government has provided financial assistance in the form of interest-free loans to the Pension Benefits Guarantee Fund (PBGF). The PBGF's mandate is to

Figure 8: Comparison of 2009 Average Premium Rates, 2009 ($ per $100 of Insurable Payroll)
Source of data: Association of Workers' Compensation Boards of Canada
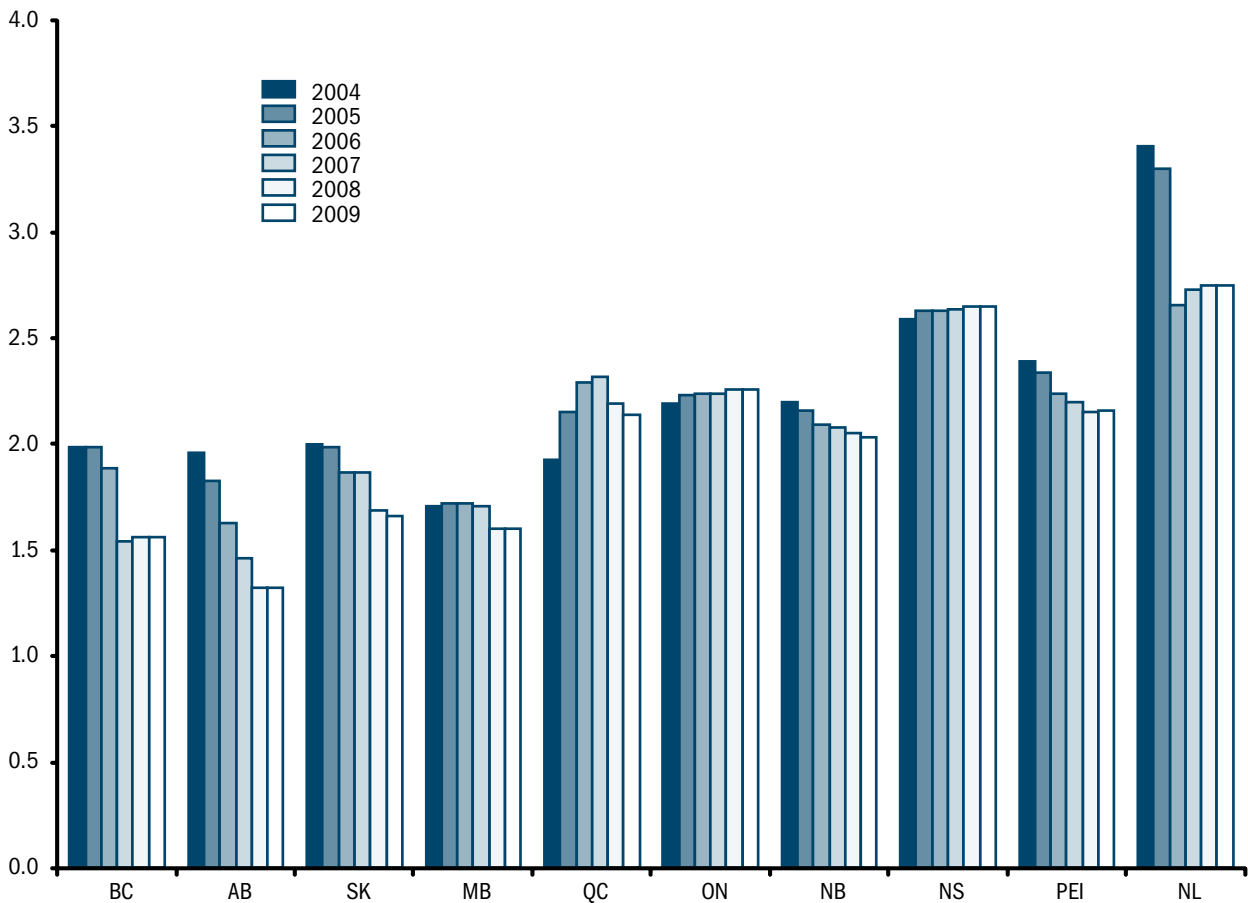
supplement the pensions of workers whose pension plans are insolvent. Like the WSIB, the PBGF is classified as a trust because it is funded by employers that have private-sector pension plans and therefore not included in the province's financial results. The province had to step in and provide the PBGF with the interest-free loans because the PBGF's potential liabilities far exceeded the assets available to pay those liabilities.

Benefit Costs

In accordance with the Act, the WSIB provides benefits for loss of earnings, benefits for permanent injuries, payments for health care, assistance to facilitate return to work, and survivor benefits in the case of work-related fatalities. Collectively, these payments are termed "benefit costs".

From 1999 to 2008, the WSIB's benefit costs increased by about 7% annually—almost doubling—from $2.17 billion as of December 31, 1998, to $4.26 billion as of December 31, 2008. This is generally in line with the growth rates of benefit costs of the other provincial boards we compared Ontario against.

The WSIB has identified increasing claims duration, which is the average number of days an injured worker is on benefits, as the key contributor to the increase in benefit costs since 1998.

Legislative Changes Affecting Benefits Costs

The 1997 legislative changes under Bill 99 generally reduced worker benefits, but the 2007 changes increased them. Both changes undoubtedly reflected the policy agenda of the government of

the day. Before Bill 99, the legislative framework was highly structured and prescriptive regarding both the process and the timelines for handling claims. This system had numerous mandatory reviews or checkpoints, extensive WSIB interventions between worker and employer, and a strong focus on vocational rehabilitation. Bill 99 changed these processes significantly: its legislative reforms were based on a "self-reliance model", which follows the philosophy that workplace parties—employers and workers—are in the best position to make practical decisions about the management of workplace injuries and that the workplace parties should therefore co-operate. For the WSIB, these reforms resulted in fewer and less-prescriptive policies and interventions, eliminated vocational rehabilitation, and refocused the WSIB's role from one of direct intervention to one of monitoring the workplace parties. The WSIB indicated that this may have had the unintended effect of increasing claims duration. The legislation also required the WSIB to increase its activities aimed at preventing workplace injuries. Bill 99 also reduced the inflation protection provided to partially disabled workers.

The 2007 legislated changes, announced in the 2007 Ontario Budget, introduced a temporary indexing factor that increased some workers' benefits for three years. The amendments became law when the Legislature passed the 2007 Budget Bill on May 17, 2007, and affected benefit payments beginning on July 1, 2007. The amendments, among other things, temporarily increased benefits for a number of workers by 2.5% on July 1, 2007, 2.5% on January 1, 2008, and a further 2.5% on January 1, 2009. The government decision to increase benefits added $750 million to expenses and to the unfunded liability reported by the WSIB in its December 31, 2007, financial statements.

If the government were to introduce further benefit increases after January 1, 2009, similar to those implemented in the previous three years, the WSIB estimates that such changes would increase its expenses by $1.6 billion and add $1.6 billion

to the unfunded liability in 2010 (because, under generally accepted actuarial standards, the WSIB's actuary would likely need to assume that this indexing rate had at that point become permanently built into the system).

Our Office is not questioning the government's policy decision to increase workers' benefits—the government has the sole responsibility for setting benefits and coverage through legislation. However, we do want to highlight how a government's decision to increase benefits can impair the WSIB's ability to address the unfunded liability. The problems inherent in increasing benefits without adequate financial provision were highlighted in the 1996 review that led to the legislative changes contained in Bill 99:

> However, the costs of [the] improvements [introduced in 1989 and 1994] were not balanced by measures to guarantee adequate reserves to meet current and future obligations. Understandably, expansion and enrichments in the name of improved equity have proved popular. However, governments in the past have chosen not to address the critical but difficult problem of how to finance these benefit changes.

In 2007, concerns about the rising benefit costs prompted the WSIB to engage the Institute for Work and Health (Institute) to examine its claims-duration data. That study identified three primary drivers of increased claims duration:

- Legislation: There was a high correlation between longer duration outcomes and the changes made by Bill 99 to the legislation and the Board's service delivery model (for example, Bill 99's elimination of mandatory reviews and checkpoints, along with the Board's vocational rehabilitation programs).
- Health Care: There was a high correlation between duration and health-care services being received, especially with prescriptions for narcotic medication.

• Workplace Behaviour: There was a high correlation between duration and changes in workplace behaviour that are affected primarily by the WSIB's workplace-safety employer-incentive programs.

The study concluded that only systemic change would make it possible for the WSIB to reverse the longstanding upward trend in claims duration.

The Institute's study showed that before Bill 99, claims duration was decreasing. Although Bill 99 was intended to decrease claims duration, it actually contributed to some significant unanticipated increases in claims duration. For example, the percentage of locked-in claims relative to long-term claims almost doubled from 1997 to 2001.

The Institute also examined why the self-reliance model had not achieved the intended result of decreasing claims duration, concluding that the primary reason was the ineffectiveness of the WSIB's return-to-work incentive programs. For the self-reliance model to succeed, the WSIB would need to have incentive programs that motivate employers to improve both prevention and return-to-work practices.

From an operational standpoint, the WSIB advised us that to reduce claims duration, it is introducing a new service delivery model that includes changes in how the WSIB manages claims both before and after accepting them. For example, changes are being made to the roles and function of the WSIB's claims adjudicator, and interventions will occur earlier than has been the practice in recent years. This revamped process will be supported by a new service delivery technology system that will provide the adjudicator with better information with which to make decisions. This new technology will be phased in, with complete implementation expected by mid-2010.

Although it is hoped that these initiatives will help reduce claims duration, fundamental legislative changes may also be needed before any significant progress can be made in reducing claims duration.

The following sections discuss the previously mentioned health-care and workplace behaviour issues in more detail.

Health-care Costs

Health-care costs are those medical costs incurred by the injured worker that are paid by the WSIB. Health-care costs paid by the WSIB on behalf of workers receiving benefits averaged 16% of total benefit costs over the 1999–2008 period. But in that same period, these health-care costs more than doubled—rising from $238 million in 1998 to $619 million in 2008.

One of the primary drivers of increased health-care costs is the increased number of narcotic prescriptions for analgesia (pain relief). The Institute for Work and Health's study reported that in the nine-year period from 1999 to 2007 the number of such prescriptions included in the WSIB's health-care costs more than doubled (see Figure 9). Prescription costs grew from 20% to over 44% of the total health-care costs paid annually by the WSIB.

The increased use of these drugs concerns the WSIB from two standpoints: the drugs' direct costs

Figure 9: WSIB, Number of Narcotic Analgesic Prescriptions Included in Health-care Costs, 1999–2007

Source of data: Ontario Workplace Safety and Insurance Board
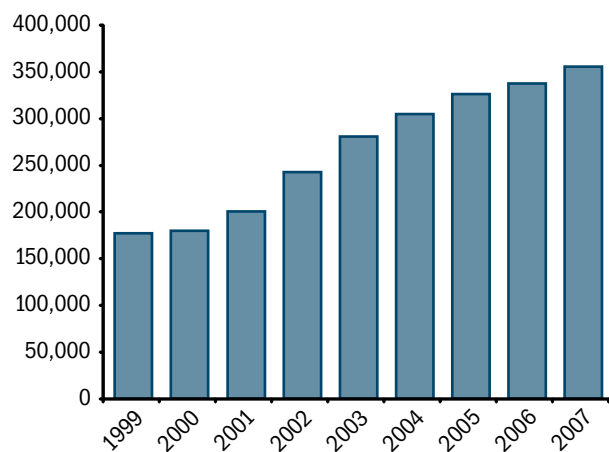
and the drugs' high potential for creating dependency. The Institute report noted that dependency on such drugs can often delay an individual's return to work and can increase the chances of an injury occurring when the individual does return to work. Studies have also shown that the addiction negatively affects the efforts of other return-to-work programs. Experience has shown that it is important to get the worker back to his or her workplace as soon as safely possible, because the longer the worker is away from the job the more difficult it is to return to work. Thus, any factor that tends to delay the return to work will increase claims duration (and therefore benefit costs) for both the short term and the longer term.

The WSIB, however, has minimal involvement in determining the need for these drugs, which is typically decided by the patient's doctor. This limitation restricts the WSIB's influence over the costs involved. Nevertheless, the WSIB is in the process of rolling out a narcotic drug program. This program includes the establishment of a narcotic drug advisory committee, and the WSIB will work with the Ontario Medical Association on ways to better inform treating physicians about the risks associated with these drugs. The WSIB hopes these collaborative efforts will succeed in reducing the use of such drugs. But if these efforts fail, the WSIB believes the only option would then be to consider the introduction of standards governing the situations under which it will and will not pay for prescribed analgesic narcotics.

Workplace Behaviour/Incentive Programs

The WSIB has a number of incentive programs of the type referred to as "experience-rating programs." Such programs reward employers (typically through rebates) for results that reflect good practices and penalize (typically through surcharges) employers for poor results. For example, employers whose injury rates are lower than the average for their rate group are rewarded; those whose injury rates are higher than their rate group's average are penalized. The Institute pointed out that if claims duration in general is increasing, rebates should decrease and/or surcharges should increase correspondingly. But the study noted that the opposite was occurring: employers were still being rewarded even as their injured-worker claims duration was increasing.

The WSIB recognized this issue and engaged an external consulting firm in June 2008 to review the programs. The report's key findings included the need for "better integration of the Board's experience rating programs with its legislative obligations," and "improved fairness and equity so that the programs enhance the focus on real improvements in prevention and return-to-work outcomes."

In response to the consultant's recommendations, the WSIB began obtaining input from stakeholders during 2009, with a view to revising the experience-rating programs to address those concerns.

Reducing New Claims

Reducing the amount of new claims entering the system is also critical to controlling the growth of benefit costs. Both the WSIB and the other major provincial boards focus on initiatives aimed at preventing work-related injuries and illnesses. In our discussions with the WSIB and the two other provincial boards we visited about lost-time injury rates, the consistent message we heard was that their injury-prevention initiatives have improved awareness of health and safety issues among employers and workers and have resulted in lower lost-time injury rates than those reported 10 years ago. But the other provincial boards also commented that, despite such efforts, their levels of new claims for lost-time injuries have remained relatively flat over the last few years.

In its 2008 funding framework, the WSIB set a goal of attaining a 7% reduction in new claims each year from 2008 through 2012, which is consistent with the 35% target for reduction of lost-time injury rates set out in the *The Road to Zero* strategy for that

same period. The target assumes that the WSIB's prevention efforts will result in significant reductions. But the 2008 target was not met. According to the WSIB, the factors that prevented its achievement were that year's lower-than-anticipated employment—and therefore premium—growth and the worse-than-expected lost-time injury rates of two large industry sectors.

Investment Income

The WSIB relies on both premium revenues and investment income to fund its current and future obligations. The carrying value of the Insurance Fund's investments as of December 31, 2008, was $11.1 billion. This amount represented a decrease of $2.6 billion from the December 31, 2007, balance of $13.7 billion—a decrease caused primarily by the significant decreases in global financial markets. Investment results are reviewed by the WSIB's Investment Committee, which includes as advisors external investment and financial experts.

In most pension and insurance funds, investment returns constitute an important source of revenue to fund operating expenses, pay future benefits, and increase the net assets held that are needed to pay for increases in expected future benefit payments. Therefore, having too few investments relative to the WSIB's liabilities and liquidating investments to pay current operating expenses and benefit claims typically have a significant negative impact on the size of the unfunded liability and fiscal sustainability of the WSIB.

Our review of the WSIB's investments during the past two years shows that they were diversified among three primary asset classes: public equities, 59%; public fixed-income securities, 35%; and real estate, 6%.

When looking at investment performance as it relates to the unfunded liability, it is important to look at investments' long-term performance rather than their short-term performance, which can be very volatile. As Figure 10 shows, for 1994 through

2008, the WSIB's investments earned a 15-year average rate of return of 6.6%.

Most of the WSIB's long-term strategies for reducing the unfunded liability by 2014 have assumed a 7% average rate of return on its investments. Given that actual returns have been less than 7%, investment performance has not contributed to reducing the unfunded liability, which is now one of the largest in the WSIB's history. In an insurance operation such as the WSIB's, where future benefits payments are expected to rise by 7% annually, investments must earn more than 7% before any reduction in the unfunded liability can be realized from investment returns. In our view, this situation reinforces our observation that inadequate premium revenues in comparison to benefit levels—rather than inadequate long-term investment returns—are the main reason why benefit costs are not being fully funded.

It appears to us that, given the pressures to keep premium rates low, expectations were placed

Figure 10: WSIB, Average Rate of Return on Investments, 1994–2008

Source of data: Ontario Workplace Safety and Insurance Board

	Return (%)
1994	(1.7)
1995	18.4
1996	16.6
1997	16.3
1998	11.1
1999	12.8
2000	8.0
2001	(1.5)
2002	(6.2)
2003	12.8
2004	8.5
2005	10.5
2006	16.2
2007	(0.7)
2008	(15.5)
15-Year Avg. Return on Investments	**6.6**

on achieving very high investment returns as the vehicle for solving the unfunded liability issue. These pressures also may have contributed to the Board's adoption of an investment policy of having a relatively high exposure to equities—in the hope of generating high returns—than the more conservative investment policies pursued by the two other boards we visited. Figure 11 compares the WSIB's investment mix with those of the two provincial boards we visited. The WSIB's public-equity holdings have represented a much higher proportion of its total investments than has been the case with the other two organizations. Although having higher public-equity holdings can result in increased returns, it can also increase the risk, volatility, and

losses in the WSIB's investment returns compared to the other organizations.

In 2006, at 16.2%, the WSIB had the best investment returns of any provincial board in Canada. But as Figure 12 shows, when the economy started to slow in 2007, the WSIB's investment returns dropped to negative 1%, causing the WSIB to rank 10th in Canada. In 2008, all provincial boards suffered significant losses.

It appears to us that one consequence of having good investment returns in any one year seems to have been a strong temptation for the government to assume that those gains can be used to finance enhancements to workers' benefits. We noted that the Bill 187 legislative reforms—which added

Figure 11: Comparison of Investment Mix in Provincial Jurisdictions Reviewed (%)
Source of data: Ontario Workplace Safety and Insurance Board and Provincial Workers' Compensation Boards
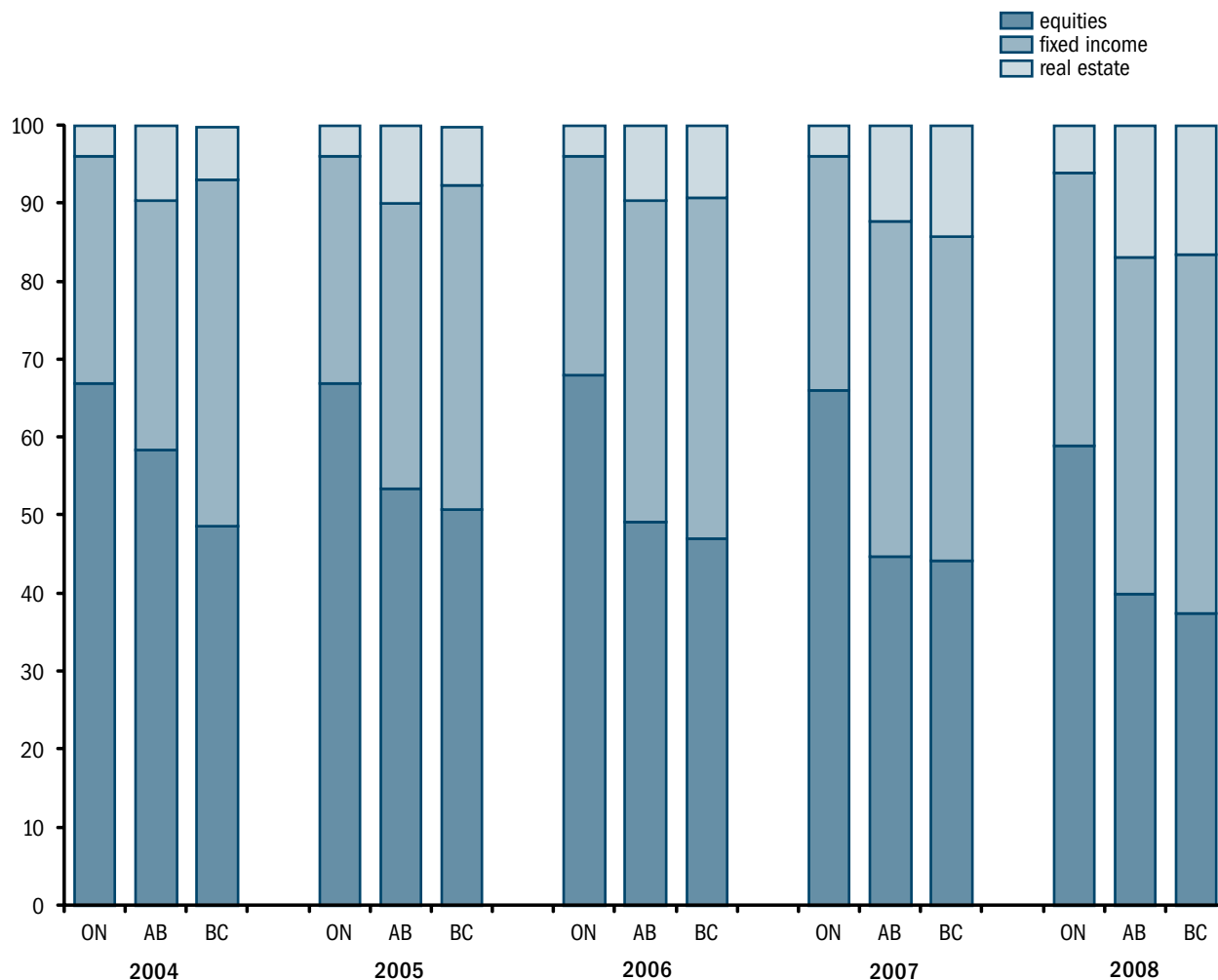
Figure 12: One-year Rates of Return on Investments, All Provincial Boards, 2004–2008

Source of data: Association of Workers' Compensation Boards of Canada, 2004–2007, and
Ontario Workplace Safety and Insurance Board and Provincial Worker's Compensation Boards, 2008

Year	Ontario Board Rate of Return on Investments (%)	Ontario Board Ranking	Rate of Return on Investments Range		Avg. Rate of Return (%)
			Low	High	
2004	8.5	8	7.6	12.8	9.8
2005	10.5	7	9.5	15.7	11.9
2006	16.2	1	11.6	16.2	14.1
2007	(0.7)	10	(0.7)	6.5	2.7
2008	(15.5)	4	(26.9)	(8.2)	(16.5)

$750 million for 2007 by introducing a temporary increase in the indexation of workers' benefits for 2007 through 2009—followed shortly after the impressive 16.2% investment returns experienced in 2006.

To reduce the effects of market volatility and to better match its investments to its long-term funding obligations, the WSIB revised its investment policies as of January 1, 2009. Its new Statement of Investment Policies and Procedures continues to have a long-term investment return objective of 7%, but proposes a significant change in the asset mix. The new asset mix strategy emphasizes reducing risk by the public equity component to 25% from its current 59% level and includes private equity, infrastructure, and additional real estate investments. We were advised by the WSIB that this approach is supported by the Ministry of Finance and is expected to lower volatility while still achieving the target investment return of 7%.

TOMORROW'S EMPLOYERS PAYING FOR COSTS OF TODAY

Section 96 (2) of the *Workplace Safety and Insurance Act, 1997* states:

The Board has a duty to maintain the insurance fund so as not to unduly or unfairly burden any claims of Schedule 1 employers in future years with payments under the insurance plan in respect of accidents of previous years.

Clearly, the very existence of the unfunded liability demonstrates that, over the years, the province's employers have not fully funded the costs of injuries and occupational diseases, so these liabilities will need to be funded by future employers.Thus, employers in currently declining industry sectors have transferred workplace-safety financial obligations to other current and future generations of employers.

Given the government's legislated role in determining benefit levels and employees to be covered by the system, addressing this section of the Act is not entirely within the Board's purview. However, we urge both the government and the WSIB to keep the intent of this section of the legislation in mind when making future premium and benefit decisions.

Follow-up on 2007 Value-for-money Audits

It is our practice to make specific recommendations in our value-for-money (VFM) audit reports and ask ministries, agencies, and organizations in the broader public sector to provide a written response to each recommendation, which we include when we publish these audit reports in Chapter 3 of our Annual Report. Two years after we publish the recommendations and related responses, we follow up on the status of actions taken by management with respect to our recommendations.

Chapter 4 provides some background on the value-for-money audits reported on in Chapter 3 of our *2007 Annual Report* and describes the status of action that has been taken to address our recommendations since that time as reported by management.

For over 90% of the recommendations we made in 2007, management has indicated that progress is being made toward implementing our recommendations, with substantial progress reported for over half.

Our follow-up work consists primarily of inquiries and discussions with management and review of selected supporting documentation. In a few cases, the organization's internal auditors also assisted with this work. This is not an audit, and accordingly, we cannot provide a high level of assurance that the corrective actions described have been implemented effectively. The corrective actions taken or planned will be more fully examined and reported on in future audits and may impact our assessment of when future audits should be considered.

Archives of Ontario and Information Storage and Retrieval Services

Follow-up on VFM Section 3.01, *2007 Annual Report*

Background

The Archives of Ontario (Archives) has a broad mandate to oversee and manage recorded information in paper, electronic, and other forms created by ministries and most agencies, and to preserve recorded information of historical and permanent value and make it accessible to the public.

Records that are not needed on an ongoing basis by a ministry or agency are transferred to and stored in warehouses operated by the government's Information Storage and Retrieval unit (ISR), which has been the Archives' responsibility since April 1, 2007. Storage periods for these semi-active records, which are set using a record-retention schedule authorized by the Archives, usually range from five to 100 years. After that, the records are to be either destroyed or transferred to the custody and ownership of the Archives.

Ministries and most agencies must follow a government directive that sets out requirements for the storage of recorded information. The Archivist of Ontario ultimately has sole responsibility for approving the final preservation or disposal of all documents and records.

Access to the Archives' collections can be obtained through its reading rooms, the Internet, and public libraries via the interlibrary-loan microfilm program. Annually, customer inquiries and access requests for the archival and art collections include 16,000 visits to the Archives' reading rooms, 21,000 research requests, 7,000 microfilm loan requests, and approximately 70 million visits to the Archives' website.

In the 2008/09 fiscal year, the Archives' expenditures were $18.8 million ($16.7 million in 2006/07) and the Archives employed about 100 staff. In April 2009, the Archives of Ontario completed its move to a new head-office facility in north Toronto.

In our *2007 Annual Report*, we concluded that although the Archives had recently introduced a number of initiatives to upgrade its facilities and information systems, it did not yet have adequate systems and procedures to ensure that information of historical significance was being identified, stored, or archived safely and securely, and made readily accessible to users. The large growth and sheer volume of records destined for the Archives, both paper and electronic, exacerbate the challenge of identifying and cataloguing archival records of

historical value. Our more significant observations were as follows:

- The Archives did not have adequate systems and procedures for ensuring that the more than 10,000 record-retention schedules of government ministries and agencies, which are used to identify records with archival value, were complete and up-to-date.
- The Archives had no information on whether ministries and agencies were following required storage and archival policies.
- The Archives needed to be more proactive in working with ministries and agencies to reduce the significant growth in stored records.
- The Archives did not have a comprehensive strategy for dealing with the extensive electronic documents that will need to be archived nor the technical expertise and capacity necessary to store and make them available to the public.
- We found a number of weaknesses in inventory control practices, which may have resulted in significant losses, including thefts, over the years.
- Many archival records were not readily accessible to the public because they had not been processed or fully described in the Archives Descriptive Database system.
- Although the Archives has made good progress in developing a modern new storage facility for archival records, the storage facilities and storage methods for the more current semi-active records that are destined for the Archives pose a risk of deterioration or loss of these records.

We made a number of recommendations for improvement and received commitments from the Archives that it would take action to address our concerns.

Status of Recommendations

According to information received from the Archives, progress is being made in implementing most of our recommendations. Given the magnitude of the actions required, substantially more time will be needed for the Archives to fully implement or address several of our recommendations, such as the recommendations that involve dealing with the large quantity of archival electronic records, reducing the growth in the volume of stored records, and fully describing archival records in the Archives Descriptive Database system to make them more accessible to the public.

The status of the action taken on each of the recommendations is described in the following sections.

RECORD-RETENTION SCHEDULES

Recommendation 1

To ensure that records created by all program areas of ministries and agencies are assessed for their archival value and the length of time they should remain in storage, the Archives, in collaboration with ministries and agencies, should:

- *complete its analysis of each ministry and agency, establish a list of all program areas that are required to prepare record-retention schedules, and periodically update that list; and*
- *complete its system enhancements so that it can ensure that it obtains and authorizes record-retention schedules from all those required to provide one.*

OVERSEEING OF MINISTRY AND AGENCY RECORD-MANAGEMENT PRACTICES

Recommendation 2

To ensure that the Archives can fulfill its obligations to monitor compliance by ministries and agencies with record-management requirements, it should:

- *establish a cost-effective means of periodically obtaining the information it needs to monitor ministry and agency compliance; and*
- *use this information to identify best practices among ministries and agencies and address any gaps between the directive, Archives policies and guidelines, and actual record-management practices.*

Status

The following covers the status of both Recommendations 1 and 2.

The new *Archives and Recordkeeping Act* that was implemented in 2007 strengthened the responsibilities of both the Archives and Archivist and the ministries and agencies. The Archives informed us that since that time, it has been working with ministries and designated provincial Crown agencies to modernize records management across government.

A multi-year strategy has been put in place for the Archives to complete its high-level analysis of each ministry's and agency's creation of records with archival value and record-retention requirements. The Archives plans to complete all analyzes by the end of the 2010/11 fiscal year. It intends to use these analyzes in monitoring ministries' and agencies' compliance with the Act. The Archives advised us that as of March 31, 2009, it had completed or updated 46% of ministry analyzes and 48% of agency analyzes.

In April 2008, the Archives streamlined the requirements and procedures for the approval of record-retention schedules. The Archives has established a team of six records advisors that is providing advice and training to ministries and agencies on record-retention schedules and other related issues. According to the Archives, as a result of an increase in requests from ministries and agencies to update and add record-retention schedules, more than 2,000 updates were made in the 2008/09 fiscal year. In addition, more than 700 obsolete or superseded record-retention schedules have been deleted to date.

In December 2008, the Archives contacted all ministries asking for confirmation on their use of updated record-retention schedules for common records, such as human resources and finance. Over half of ministries had responded to the Archives as of June 2009, with responses from all ministries expected by September 2009. The Archives plans to make a similar request to agencies before the end of the 2009/10 fiscal year for completion by September 2010. The Archives plans to issue compliance reports on record-retention schedule coverage for individual ministries by December 2009 and for agencies by December 2010. Analysis of inactive record-retention schedules will also be completed for ministries and agencies by these dates.

The Archives has converted approximately 14,000 approved record-retention schedules (formerly paper-based) to an electronic database. On-line access to the database and an information resource site for records management is available to ministries on the government intranet. We were informed that the agencies are to be provided with on-line access to the database in the fall of 2009.

Subject to Management Board of Cabinet approval, the Archives was planning to publish a government-wide standard for storage of semi-active paper records by September 2009.

ELECTRONIC RECORDS

Recommendation 3
In order for the Archives to oversee, manage, and archive electronic documents and records created by ministries and agencies, the Archives should:
- *ensure that it has the necessary technical expertise and capacity to deal with electronic records; and*
- *then establish and implement strategic plans that would permit the efficient transfer of archival electronic documents and records to the Archives in accordance with recognized best practices for information management.*

Status

The Archives continues to rely on the government's information technology (IT) community for preserving and maintaining electronic records. According to Archives estimates, by 2013 approximately 144 terabytes of ministry and agency electronic records will need to be preserved by the Archives. To put this amount in perspective, it is the equivalent of approximately 3.6 million containers of paper-based records—that is, nine times larger than the Archives' current holdings of 0.4 million containers. The Archives noted that finding a solution to the preservation of electronic records has been identified as a priority in Ontario's five-year Corporate I&IT Plan (2008–2013), and it is also recognized as a key priority in the Archives' Strategic Plan for 2007–2010.

In March 2009, a project to establish archival processes and procedures for arranging, describing, and providing access to electronic archival records was completed. These processes and procedures were tested using a collection of electronic records as a pilot.

The Archives informed us that it has conducted research to examine various national and international programs being undertaken to preserve electronic records and make them accessible. According to the Archives, its research suggests that it should base its program on the Open Archival Information System model developed by the International Standards Organization (ISO).

A multi-year project is to start in the 2009/10 fiscal year to establish a trusted digital repository based on the ISO standards. Such a large-scale enterprise-wide project will require obtaining funding and approval for development of functional requirements for the repository, and for analyzing the marketplace to identify suppliers of the components needed for the repository.

GROWTH IN VOLUME OF STORED RECORDS

Recommendation 4

To fulfill its obligations to manage the growth in the volume of stored government records, the Archives should, in collaboration with ministries and agencies, develop strategies and timetables for reducing the growth in and minimizing the volume of records that require storage.

In order to manage the expected significant growth in the number of records destined for the Archives and to ensure that the Archives can manage its operations cost-effectively in future, the Archives should identify and accept only those records that clearly have permanent and historical significance.

To ensure that records are not being stored longer than they need to be, the Archives should determine the number and types of records that remain in ISR storage facilities past their originally authorized retention dates or are unaccounted for and the reasons for the delays in their disposition. It should use this information to evaluate its policies and procedures and those of ISR with the objective of reducing any unnecessary or prolonged storage of records and delays in transferring archival records.

In addition, the Archives should investigate ministries and agencies that have not returned records that they retrieved from ISR and should implement controls that will ensure that unreturned records are followed up.

Status

Standardized record-retention schedules for transitory records (such as records of temporary or minor transactions having no ongoing value—for example, memos or messages) were issued to ministries and agencies in 2008, making it clear that duplicate copies and records of short-term value can and should be discarded quickly. The transitory record-retention schedules allow paper records to be discarded if the same information is maintained in electronic form. The Archives informed us that following this policy change, it observed a decrease in the proportion of revised record-retention

schedules submitted for approval that specified retention of paper as well as electronic versions of information.

We were advised that the work done so far and planned by the Archives to promote modern record-management practices, such as its efforts to ensure that ministries' and agencies' record-retention schedules are up-to-date, is likely to result in a modest reduction in both the length of time records are stored at ISR and the proportion of records transferred to the Archives. The adoption of the standardized record-retention schedules was still in progress, and given the natural time lags in the transfer of records, it may be some time before the impact in reducing records will be seen at ISR or the Archives.

The Archives continues to review incoming transfers of records that have reached their disposition date at ISR and to apply selection strategies where possible to reduce the overall quantity of records held as archival. We were informed that as a result of its review process, the Archives reduced by over 30% the volume of records originally scheduled to be transferred to the Archives during 2008.

In late 2009, the Archives was planning for a review of the retention and appraisal policies for court records, which account for a large volume of the paper records that are destined for the Archives but stored in the interim at ISR warehouses.

The Archives has developed new policies and procedures for monitoring, controlling, and reducing the volume of records placed on hold by ministries and agencies in ISR warehouses past the originally established destruction date. A tracking database has been implemented to document a ministry's or agency's rationale for the need to store the records and for the recommended hold period. This approach allows for more timely follow-up when the hold period expires. Annually, the new process requires a ministry's program area to provide a rationale (for example, ongoing litigation) for requests to hold records past their designated destruction date, as well as an indication of how long they need to be held. The Archives informed

us that the number of yearly destructions increased approximately 40% between 2006 (before the new process) and 2008.

As well, the Archives informed us that it has established a process to help ministries and agencies identify any records that they have retrieved from ISR warehouses but not yet returned. Each ministry and agency has received a report identifying all outstanding unreturned records, which will assist them in locating and returning the records. Subsequently, ISR sends monthly reports identifying retrieved records that have been outstanding more than 90 days. Once a year, ISR flags all unreturned records. The Archives noted that most ministries are using the reports to better manage their ministry's retrievals process and are providing information on files that are not being returned because of operational use. The Archives claims that there was a significant drop in files that remain out—from more than 500,000 before the reporting process was initiated to 380,000 as of March 31, 2009.

INVENTORY CONTROL FOR THE ARCHIVES

Recommendation 5

To ensure that proper and effective inventory controls are established and maintained for archival records and collections and to reduce the risk of loss and theft, the Archives should conduct, possibly with the assistance of ministry internal auditors or other experts, a thorough assessment of its inventory and security controls and other loss-prevention measures and correct any deficiencies identified.

Status

We noted that the Archives has made some progress in improving its inventory and security controls. The Archives informed us that it has completed its project to bar-code all of its remaining containers of records and enter those records into its electronic container-tracking system. More than 48,000 entries were added to the system during the

2008/09 fiscal year in anticipation of the Archives' March 2009 move to a new head-office facility. The Archives' current process is to capture new records in the tracking system as they are acquired.

However, records inside containers (such as photographs and documents) are still not catalogued at the item level. As a result, the Archives' inventory systems cannot provide complete details of the records inside the containers, including whether any of the records are missing. The Archives advised us that cataloguing at the item level is not feasible given the large volume of documents and its limited resources. However, it expects that its enhanced security at its new head-office public facilities will minimize the risk of theft. Furthermore, we were informed that, although the Archives began sealing containers during transit in 2007, sealing containers when in storage is not being considered for the government-operated or privately operated storage facilities, because the Archives did not feel that this security measure was practical. Instead, it planned to continue to rely on the security measures already in place at the facilities. We were advised that the facilities' security measures, such as ensuring that doors are locked, are tested during routine inspection of storage facilities carried out by Archives staff.

The Ministry's internal auditors were engaged to help assess the physical security and environmental risks, such as fire and flood, of the Archives' new head office and to help develop policy and procedures to support secure access, and the Archives informed us that it has acted on recommendations made by the internal auditors. We were advised that only retrieval staff now have access to vaults containing certain valuable archival holdings. However, we noted that the Ministry's internal auditors were not asked to help assess security and inventory controls and risks for records and archival holdings at ISR and Archives storage warehouses.

A province-wide inventory and secure mounting of artworks in the government of Ontario art collection were in progress at the time of our follow-up. The Archives put a procedure in place in March 2008 to follow up on artworks that are reported as unaccounted for or stolen. We were advised that since the procedure was put in place, there have been no instances of unaccounted-for or stolen art.

ACCESS TO ARCHIVAL COLLECTIONS

Recommendation 6

In order to improve access to archival collections, the Archives should identify records that have not been listed or described fully in its Archives Descriptive Database system and should establish a plan and timetable for their inclusion.

Status

We were advised that a project to review the records not listed or fully described in the Archives' on-line catalogue, called the Archives Descriptive Database, was under way at the time of our follow-up. As part of the Collections Management Backlog Reduction Strategy that the Archives established in the 2008/09 fiscal year, the Archives has developed selection criteria for prioritizing backlog projects to be added to the database. This multi-year strategy identified that approximately 60% of non-government collections and 33% of government records required some degree of processing to be complete.

The Archives informed us that it no longer adds to the backlog. All newly acquired collections, whether private records or government records, are to be fully described in the Archives Descriptive Database system within a year of receipt in order to ensure that the backlog is capped at its current level. We were advised that, as of the end of March 2009, about 88,000 updates had been entered in the database and made publicly accessible. This reflected the processing of 57 recent acquisitions, the archival records transferred from ISR warehouses during 2008, and 15 high-priority backlog collections.

Work was to continue on the backlog but we were advised by the Archives that it could take 10 years to complete, depending on the Archives' available resources and competing operational

priorities. In the interim period, backlog collections will be made physically available to the public and are listed in the container-tracking system.

STORAGE FACILITIES

Recommendation 7

In order to better protect and preserve records that are destined for the Archives and that are normally not stored in facilities with suitable environment and building conditions, the Archives should:

- *conduct a cost-benefit and feasibility analysis to determine if it should make greater and earlier use of its environmentally sound storage facility;*
- *examine ISR's storage policies, procedures, and facilities to identify changes that would improve the environment and building conditions for records in their facilities that are scheduled to be transferred to the Archives; and*
- *evaluate and make improvements to its inspection program and reporting requirements for ISR's storage facilities and establish policies and procedures for requiring corrective action when inspection results are unsatisfactory.*

In addition, the Archives should ensure that government of Ontario artworks are protected and preserved by storing them in environmentally sound and secure facilities.

Status

The Archives informed us that it was in the process of considering options for its long-term storage facilities requirements for semi-active records, which are currently met by ISR's two government-owned-and-operated warehouses (which hold about 400,000 containers) and by a private-sector company's warehouse facility (which holds about 600,000 containers). A business case and cabinet submission for approval were planned for during the 2009/10 fiscal year. In the interim, as a result of a tender, a new three-year agreement with its private storage-facility provider was established in January 2009, with options by the Archives for three one-year extensions to the term.

The new agreement with its private storage-facility provider includes stricter and clearer requirements for the storage environment. Information on temperature and humidity is being captured and monitored at all warehouses. We were informed that quarterly environmental inspections of the private storage facility are being conducted. Also, a contracted company was hired to provide the Archives with monthly reports that outline the results of environmental conditions at each warehouse facility, whether government-operated or privately run.

We were advised that water-detection sensors have been installed in government-owned warehouses, and precautions have been taken to eliminate the risk of flood damage to containers stored at these warehouses. Formal inspections have increased to quarterly for government-owned facilities and monthly for the private company's facilities. We were advised that issues identified at inspections are brought to management's attention for resolution.

Artworks are no longer permanently stored in a basement storage room of a Queen's Park building. Most artworks not on display were moved to a secured environmentally controlled storage vault at the Archives' new head office in May 2009, and a few remaining artworks were planned to be transferred in July 2009. A new Art Collection Tracking System was also established, and artworks are to be bar-coded and scanned into the new system for inventory tracking.

PRIVACY CONTROLS OVER RECORDS

Recommendation 8

In order to ensure that the confidentiality of records in storage is protected and that service providers are in compliance with the security and confidentiality requirements of their contracts, the Archives should:

- *conduct a thorough privacy risk assessment of its storage facilities operated by private-sector contractors;*

- *restrict activities and impose security controls at storage facilities that will minimize the exposure of confidential records;*
- *revise its inspection program of storage facilities to include formal assessments of its security and privacy controls; and*
- *develop classification criteria for confidentiality and security levels and establish special storage arrangements for the most sensitive records.*

Status

Guidelines issued during the 2006/07 fiscal year by the Information and Privacy Commissioner of Ontario and the Chief Information and Privacy Officer recommend that when ministries contract with private firms, a thorough risk assessment should be conducted. The Archives informed us that, in response to our recommendation in the *2007 Annual Report,* a privacy risk assessment was under way that would examine both the government-run and private-sector storage facilities. Although the Archives did complete a privacy risk assessment for its government-run warehouses in September 2008, no privacy assessment had yet been performed at the private storage facilities at the time of our follow-up.

The Archives informed us that it has nonetheless completed a project to eliminate personal information from the exterior of boxes at both its private- and public-sector facilities. Going forward, staff at these facilities are required to ensure that no personal information is noted on the exterior of storage containers. In addition, the Archives' recent contracts for storage and transportation services include provisions regarding confidentiality and the *Freedom of Information and Protection of Privacy Act,* and monthly inspections of the private storage facility include testing security.

However, we noted that certain control weaknesses we identified in our *2007 Annual Report* were not addressed in recent contracts awarded to the Archives' private-sector storage contractor. First, the Archives advised that, because this is an industry-standard practice, it continues to allow its private-sector storage contractor's staff to retrieve individual files from storage containers, a practice that risks exposing potentially sensitive information. Second, no changes were made to require that ISR's approximately 600,000 containers be separated from containers belonging to the contractor's other clients. ISR containers represent about 30% of the total holdings at the contractor's facilities, and separating these containers could help to reduce the risk of loss or security breaches.

At the time of our 2007 audit, a government-wide file-classification plan was established to promote consistency across the government in the identification and organization of records and to classify information according to its sensitivity. However, at the time of our follow-up, the Archives had not changed its systems and procedures so that it could use this information to designate records that should remain in facilities with enhanced security arrangements.

CONTRACT MANAGEMENT

Recommendation 9

In order to ensure that contracts with service providers are managed properly and that procurement processes are documented properly, ISR and the Archives should evaluate the way in which they manage procurement documents, and ISR should ensure that payments are made only for amounts and services that are in accordance with contractual requirements.

Status

The Archives informed us that it has implemented a document-management system to track procurement and contract management documentation. A Contract Tracking Report is also reviewed and updated on a monthly basis.

Documentation was provided to us for several large contracts recently awarded by the Archives for transportation services and private storage facilities. Procurement decisions in each of these cases were well documented and in accordance with established policies and procedures. However, the

Archivist of Ontario recently asked the Ministry's internal auditors to review a contract for file-storage shelving and related services, valued at $775,000. In January 2009, the internal auditors concluded that this contract, already spent, had been inappropriately awarded because it had not been competitively tendered. The Archives responded to the internal auditors that it would comply with the procurement policies and procedures in the future.

Controls for ensuring that the Archives' private storage-facility provider meets contractual requirements for maintaining suitable environmental and security controls were also enhanced through improvements to inspection procedures and frequency and to reporting requirements.

The Archives informed us that, due to weaknesses in its ISR container-tracking system and backlogs in data entry regarding storage and container movement activities, it is unable to establish procedures for reconciling differences between the volumes reported by its container-tracking system with its contractor's monthly billings for storage services. We noted that discrepancies continue to exist between the information in the ISR's container-tracking system and its contractor's invoices, which the Archives continues to pay without verification procedures. The Archives was planning for a new container-tracking system, which will permit it to verify contractor invoices.

Centre of Forensic Sciences

Follow-up on VFM Section 3.02, *2007 Annual Report*

Background

The Centre of Forensic Sciences (Centre) provides independent forensic-science laboratory services to law-enforcement officers and other justice-sector clients. Police investigators and Crown prosecutors rely on forensic science to identify or eliminate suspects and to provide evidence that can withstand scrutiny in court. Delays or errors in forensic analyses can prolong police investigations, increase their costs, and affect public safety by allowing criminals to remain free to reoffend.

During the 2008/09 fiscal year, the Centre received more than 11,600 requests (10,400 in 2006/07) from its justice-sector clients for scientific analyses of evidence. These requests resulted in the issuing of almost 15,100 analytical reports (12,700 in 2006/07). The types of services (with approximate percentage of staff working in each area in parenthesis) were as follows:

- biology (32%);
- toxicology (20%);
- chemistry (14%);
- firearms and toolmarks (8%);
- documents and photoanalysis (4%); and
- electronics (3%).

The Centre's head office and central laboratory are located in Toronto, and a northern regional

laboratory is located in Sault Ste. Marie. During the 2008/09 fiscal year, the Centre had operating expenses of approximately $26.4 million ($25.5 million in 2006/07).

In our *2007 Annual Report*, we concluded that the Centre had established reasonable processes for ensuring the quality of its services, and noted that it was pursuing international accreditation in this regard for 2008, which it has since received. As well, its clients were generally satisfied with the calibre of its work. While the timeliness of its services was an issue in the past, over the last several years it had improved in this area—its DNA analysis in particular—despite an increase of more than 70% in the demand for forensic services.

However, improvements in systems and procedures were required for the Centre's turnaround times to be comparable to those of leading international forensic laboratories. Some of our more significant observations were as follows:

- We compared the Centre to two global leading forensic-science laboratories—one in the United Kingdom and the other in Sweden—and found that the two completed their case reports in about half the Centre's average turnaround time of 64 days.
- The Centre used only one turnaround-time target to monitor the performance of its different investigative sections. However, since

the kinds of cases each section works on are completely different, each different section should have its own turnaround-time target.

- Having standards and case-completion benchmarks by section would facilitate managerial oversight and identification of bottlenecks requiring corrective action. The Centre's 90-day target for completing 80% of its cases was much longer than targets set by forensic-science laboratories in other jurisdictions, which often set targets of 30 days or less.
- The Centre had established no documented systems or procedures for monitoring the number of urgent cases processed by each section or their turnaround times.
- The Centre's information systems did not help management determine why certain case reports had been delayed.

We made a number of recommendations for improvements, and received commitments from the Centre that it would take action to address our concerns.

Status of Recommendations

The Centre has made a substantial effort to update its systems and procedures to address our recommendations and increase its efficiency. Of particular note is the Centre's participation in a multi-jurisdictional performance-benchmark project. However, it has so far been unable to improve overall turnaround times, given the increased demand for its services, and its available resources. The status of action taken on each of the recommendations is described in the following sections.

MONITORING REPORT TURNAROUND TIMES

Recommendation 1

In order to ensure that it better meets the needs of its clients for investigating and prosecuting crime, the

Centre of Forensic Sciences should conduct a review of its practices and resources on an area-by-area basis, with a focus on achieving improvements in its turnaround times for completing case analyses, especially for the more urgent cases.

Status

The Centre informed us that it had completed an area-by-area review of its practices and resources in May 2008, with the objective of improving turnaround times. It identified ways it could be more efficient through enhancing processes and eliminating bottlenecks. These changes were either implemented or were under consideration for future implementation.

We were advised that turnaround-time improvements had been achieved in the biology, chemistry, and firearms investigative sections. In the areas where turnaround times had not improved, such as toxicology, initiatives were underway that were expected to improve things over time. In addition, the Centre improved its central receiving area's procedures and this section subsequently saw an increase in its efficiency.

However, the Centre was not able to improve its overall turnaround times, which have increased marginally. The Centre noted, and as Figure 1 shows, since our audit of two years ago, the Centre has had to deal with an almost 11% increase in the cases it receives. During this period, it received an operating budget increase of 3.5%, yet increased its output of completed reports by about 19%.

Figure 1: Centre of Forensic Sciences Workload and Turnaround Times, 2006/07–2008/09

Source of data: Centre of Forensic Sciences

Fiscal Year	Cases Received	Completed Reports	Avg. # of Days to Issue Reports	% of Reports Completed within 90 Days
2006/07	10,454	12,693	64	79
2007/08	11,393	14,016	67	73
2008/09	11,573	15,146	66	79
Change (%)	**11**	**19**	**3**	**–**

SETTING TARGETS FOR REPORT TURNAROUND TIMES

Recommendation 2

To ensure that the Centre of Forensic Sciences' target turnaround times for completing case analyses are meeting the needs of its clients and the administration of justice, the Centre should establish processes, involving its clients, to:

- *set turnaround-time targets for the various types of investigative services its provides, and segregate these between urgent and non-urgent cases;*
- *assess actual performance against targets; and*
- *compare its turnaround times and methods of achieving them with those of other jurisdictions.*

Status

The Centre informed us that it had conducted target surveys on turnaround times in June 2008 and held focus groups from June to August of the same year with special investigation units, police, and the Crown to assess client needs for timely delivery of analytical reports for both non-urgent (routine) and urgent cases. As a result, the Centre decided to bring its method for setting turnaround-time targets more into line with the methods used in other jurisdictions, so that it would better meet its client needs.

New turnaround-time targets for both routine and urgent requests were put into place as of January 2009. For a routine case, the turnaround time target became 30, 60, or 90 days, depending on the seriousness of the offence, the complexity of the analysis, and the capacity within a section. For urgent cases, the Centre began to directly consult its client to determine the turnaround time needed according to the circumstances and the criteria established by the Centre, which has resulted in "client-driven" turnaround-time targets being set for each case.

The Centre has also been preparing quarterly reports for each investigative section on the performance achieved against the targets set for both routine and urgent cases.

TRACKING CASES BY PRIORITY

Recommendation 3

The Centre of Forensic Sciences should ensure that its information systems capture information on urgent cases that allows the monitoring and assessment of:

- *each investigative section's success in responding to urgent cases;*
- *the impact of urgent cases on each investigative section's workload; and*
- *the turnaround times achieved.*

Status

The Centre informed us that it had modified its information system in November 2008 so that it would be able to capture and track performance on urgent cases. The system can now record the turnaround time committed to the client and the actual completion date, and can capture the reasons for urgency.

The impact of urgent cases on each section workload is to be assessed annually as part of the Centre's operational and performance-planning activities.

As previously noted, among the Centre's quarterly reports are those that assess performance for urgent cases against the turnaround times to which the Centre committed.

The Centre told us that the data it had collected in the first five months since modifying its information system indicated that 89% of all urgent cases had been completed by the due date and within an average turnaround time of 10 days.

MONITORING CAUSES OF DELAYS

Recommendation 4

To ensure that the causes of delays in processing cases are monitored and assessed so that any systemic issues can be addressed, the Centre of Forensic Sciences should:

- *ensure that its information systems record the reasons for any significant delays in each case it investigates;*

- *set standards for the processes used by each investigative section and monitor variances between expected and actual times;*
- *conduct regular evaluations where delays in completing cases appear high to identify the reasons and determine what steps can be taken to mitigate the likelihood of the same delays arising in the future.*

Status

The Centre informed us that it had modified its information systems in November 2008 to allow section managers to monitor any delays in completing cases and record the reasons for delays.

The system provides reports to managers on those cases that are approaching their targeted turnaround times. Managers have been reviewing these reports and, when necessary, expediting the cases to prevent delays.

The Centre informed us that it had started requiring managers to input an explanation into the information system for any cases that exceed their targeted turnaround time by 50% or more. The categories used to describe reasons for delay include equipment problems, staffing issues or absences, quality incidents, competing workloads, administrative bottlenecks, subcontractor issues, supply chain problems, insufficient case information, inability to contact client, and delays in other sections. Analysis of the data collected since November 2008 has shown the most common cause for delay was competing workloads due to large volumes of work within a section.

The Centre informed us that it needed to continue collecting data for at least a year to properly identify trends in delays. It expected that managers would use this information for their next annual operational and performance-planning activities to identify what caused delays and the necessary corrective action.

MEASURING PERFORMANCE

Recommendation 5

In order to better monitor and report on its financial and operational performance, the Centre of Forensic Sciences should:
- *establish measures to monitor the cost effectiveness of its operations;*
- *benchmark its performance against that of other forensic laboratories;*
- *investigate whether its quarterly reports on average turnaround times are reaching those clients who would best benefit from them and consider distributing these reports directly to them.*

Status

The Centre informed us that it had conducted a cost-measuring and comparison exercise using 2007/08 data in February 2009. It has been measuring cost-effectiveness by calculating each report's average cost, using staffing and other costs in each section along with a prorated portion of all other support costs. This measurement is to continue each year as part of the Centre's annual operational and performance-planning activities. Measures for additional activities are to be created by the end of 2009/10, after the required changes have been made to the Centre's information systems.

The Centre also made changes to bring its activities more into line with those of other jurisdictions. It started classifying its cases using industry-standard crime-report violation codes and has been using internationally recognized definitions to record specific examination activities for each case.

The Centre informed us that, since 2007, it has been participating in an ongoing multi-jurisdictional benchmarking project. The project is led by West Virginia University, sponsored by the U.S. National Institute of Justice, and 14 forensic labs from across North America are participants, including the RCMP. Assessment strategies are to be developed by the end of 2009, once enough data for comparison and benchmarking have been collected from various jurisdictions.

According to the Centre, the benchmarking exercise is aimed at defining and standardizing performance measures that can be used to compare performance across jurisdictions and assess resource allocation, efficiencies, and value for services. Some of the key reporting measures to be benchmarked for comparison across jurisdictions are:

- breadth of analysis, such as the average number of tests conducted per case;
- accuracy and quality control, such as the average number of tests per item within a case;
- efficiency and productivity, such as the average number of items per full-time equivalent staff;
- market conditions, such as the average salary;
- labour productivity, such as the average number of tests per full-time equivalent staff;
- economy of operation, such as the average cost per case; and
- other measures, such as backlog of cases older than 30 days.

The Centre informed us that it has continued its practice of providing information sheets to its clients upon receipt of each case. The client information sheets include information on targeted and actual turnaround times, which are updated on a quarterly basis, and are intended to give the Centre's clients a reasonable expectation of when they will receive the results for their cases.

As part of its annual client satisfaction survey, to be conducted in 2009, the Centre plans to include a question seeking clients' feedback on the usefulness of the performance reports, such as client information sheets on turnaround-time statistics, that they received.

Ministry of Community and Social Services

Community Accommodation Program

Follow-up on VFM Section 3.03, *2007 Annual Report*

Background

The Developmental Services Program of the Ministry of Community and Social Services (Ministry) funds community-based agencies that provide a broad range of services and support for both adults and children with a developmental disability. In the 2008/09 fiscal year, expenditures on this program were approximately $1.5 billion ($1.2 billion for the 2006/07 fiscal year), almost two-thirds of which went to the Community Accommodation Program to provide residential accommodation and support services for both children and adults with a developmental disability.

The Ministry's expenditures on the Community Accommodation Program at the time of our audit in 2007 were $767 million, more than double what they were at the time of our previous audit of the program in 1999, and grew to approximately $976 million for the 2008/09 fiscal year. The largest portion of these expenditures was for adult-group-home accommodation. Residential placements are based on the assessed needs of the individual and range from relatively independent living arrangements in apartment-like settings with regular agency support to intensive 24-hour-a-day, seven-day-a-week care in group homes typically

housing three to six individuals. However, access to residential services is limited by the availability of existing spaces, which are primarily dependent on ministry funding.

In our *2007 Annual Report*, we made a number of observations that were similar to those we had made in our 1999 audit. The most significant of these observations were as follows:

- For many years, agency funding has primarily been historically based rather than needs-based, which exacerbates funding inequities. Agency budget submissions lack the sufficiently detailed information required to make informed funding decisions, and there is little evidence that budget submissions have been reviewed and assessed for reasonableness. Many agencies did not receive their final approved budget until long after the fiscal year had ended.
- The annual budgeting process left the Ministry without the ability to monitor or compare information such as the average cost of spaces and services within a home. Costs at the agencies we visited ranged from $30,000 to more than $200,000 per person per year, according to our calculations. The Ministry was unaware of these cost differences and was unable to demonstrate that they were reasonable or justified.

- The Ministry lacked the necessary procedures and expertise to ensure that it is receiving value for money for the capital projects it funds, and some of the costs incurred seemed excessive. In one instance, it spent $380,000 to renovate a bungalow that had been purchased for $390,000—without assessing the need for and reasonableness of the renovation or receiving a proper accounting of the costs.

- There was often little documentation to support an individual's developmental disability determination or to demonstrate that the placement of an individual was appropriate and cost-effective.

- We noted a number of instances where beds remained vacant for six to 12 months. The Ministry's funding mechanism pays equally for vacant and occupied beds, leaving the agencies with little incentive to fill vacant beds. At the same time that beds in some agencies remained vacant for extended periods, those agencies' access centres had lengthy waiting lists for accommodations.

We made a number of recommendations for improvement and received commitments from the Ministry that it would take action to address our concerns.

Status of Recommendations

According to information obtained from the Ministry of Community and Social Services and a review of work undertaken by the Ministry's internal audit division, some progress has been made in addressing most of our 2007 recommendations, but more needs to be done to address all areas satisfactorily. The status of action taken on each of our recommendations was as follows.

AGENCY GOVERNANCE AND ACCOUNTABILITY

Recommendation 1

To help ensure that transfer payments to agencies represent value for money spent and that services provided are effective and in accordance with program requirements, the Ministry of Community and Social Services and its transfer-payment agencies should adhere to the mandatory governance and accountability frameworks.

Status

The Ministry informed us that it was implementing an agency governance strategy that included a four-point plan as follows:

- clarify ministry expectations for good agency governance;
- include the clarified governance expectations in the service contract;
- monitor and report on how agencies meet expectations on governance; and
- develop progressive corrective action for medium- and high-risk agencies.

The Ministry also informed us that it was drafting a guide on basic requirements for transfer payment accountability, which was to be sent to agencies once it was finalized. It has provided training to ministry staff and developed a learning guide that includes practical guidance on accountability. The Ministry also made a number of amendments to improve the clarity of its standard service contract. These amendments included a note on the Ministry's expectations regarding agency governance.

The most significant improvement in this area since our *2007 Annual Report* was the development of an agency risk assessment process that looks at eight different areas, including agency governance. The Ministry has already identified medium- and high-risk agencies using the process and will require these agencies to submit action plans outlining how risk will be mitigated and corrective action taken. At the time of our follow-up, however, the Ministry informed us that there had not been

sufficient time to review agency progress to address the issues that had been identified.

TRANSFER PAYMENT CONTROLS

Budget Submissions and Annual Service Contracts, Quarterly Reports, Annual Program Expenditure Reconciliation, Staff Qualification and Training.

Recommendation 2

To ensure that funding provided to service-delivery agencies is based on assessed needs and is commensurate with the value of the services provided, and to implement more effective financial accountability in transfer payments to agencies, the Ministry of Community and Social Services should:

- *reassess the objectives of its annual agency budget submission, review, and approval process, and design a meaningful process that it can adhere to;*
- *either implement its current quarterly reporting process effectively or design and implement a revised process that it can adhere to and that will enable regional staff to monitor in-year agency expenditures and service levels effectively, possibly screening agencies on a few critical indicators;*
- *assess whether its current APER process as implemented meets its objectives and, if it does not, design a more practical means of overseeing agency expenditures; and*
- *assess the level of financial expertise required in regional offices, and determine the number of staff with this expertise that it requires and the best way of acquiring this expertise.*

Status

The Ministry has made some improvements to the annual agency budgeting process, quarterly reporting, and annual financial reporting processes. These changes were being piloted at the time of this follow-up, with full implementation to occur in the 2010/11 fiscal year. The Ministry approved an information strategy that includes improvements as follows:

- Standardized categories of financial information on revenues and expenditures, as well as for staffing, are now required for budgeting and quarterly reporting purposes, as opposed to the variety of information that was previously received. The goal of these new requirements is to ensure better information for cost–value analysis, to compare performance metrics across agencies, to be able to perform regional variation analysis, and to simplify reporting.
- It streamlined the number of expenditure categories used for financial reporting by half to provide more accurate and meaningful information about the services provided.
- It developed business requirements for the automation of the transfer payment budget package. Pending development of this automated solution, the Ministry developed a modified budget package and a central repository that stores all budget and quarterly data, financial and data standards, and validation rules to improve the accuracy of data-entry done by agencies.

The Ministry informed us that it had also implemented a new annual reconciliation process called Transfer Payment Annual Reconciliation (TPAR), which replaced the Ministry's Annual Program Expenditure Reconciliation (APER) during the 2007/08 fiscal year. The goal of the new process is to simplify the reconciliation process and provide the Ministry with better information on financial performance. It includes new reconciliation and verification requirements, the submission of segmented information by specific program, such as residential or individualized living costs, along with audited financial statements and the requirement to submit a post-audit management letter. Training on TPAR was provided to both ministry and agency staff in 2008.

With regard to staff qualifications, the Ministry has not yet reviewed and assessed the need for financial expertise in its regional offices, but plans to do so in the near future. However, the Ministry

has implemented a learning and development curriculum to enhance the knowledge and skills of existing staff. At the time of this follow-up, 19 training sessions had taken place. In addition, the Ministry set up on-line resources, including self-directed learning, to assist staff.

Although we have noted these improvements, the Ministry's internal audit testing identified lack of timely budget approvals and reporting as an outstanding issue. Budget packages continued to be sent out late to agencies, and agency submissions of critical financial information were still not being received or approved by the Ministry on a timely basis.

Facilities Initiative

Recommendation 3

In order to ensure that funding given to agencies for relocating persons from provincially operated facilities into community placements is reasonable and appropriate, the Ministry of Community and Social Services should:

- *assess the merits of instituting a more competitive process instead of having community planning tables (committees consisting of representatives of local service agencies) nominate only one agency to submit a proposal for placing an individual in the community; and*
- *obtain sufficiently detailed budgetary or other information for assessing and documenting the reasonableness of the amount of funding requested where that amount differs significantly from the expected cost amount.*

Status

The movement of individuals from provincially operated facilities into community placements was completed by March 2009. Although the Ministry did not implement more competitive processes for determining placement of individuals into the community as was recommended, it informed us that the regional offices had implemented strategies to ensure the reasonableness of budgets for placements. In particular, regional offices were providing

only first-year funding to agencies whose placement costs exceeded the established benchmarks and were not committing to ongoing future years' annualized funding until a detailed review of costs had been completed. Third-party reviews of costs were also conducted in some regions to determine the reasonableness of any placement costs that exceeded the established benchmark.

These strategies notwithstanding, the Ministry has not demonstrated that service and funding decisions regarding these placements were reasonable and appropriate, and funding has continued to be approved without sufficiently detailed information to support the cost of the placements submitted.

Oversight of Capital Projects

Recommendation 4

In order to be able to demonstrate that capital funding provided to agencies is both necessary and reasonable and creates as many spaces as possible, the Ministry of Community and Social Services should:

- *ensure that all existing requirements in its Guidelines for Developing Infrastructure are complied with, including the requirement to prepare a business case that demonstrates that alternatives were considered and that the most cost-effective alternative was selected;*
- *obtain the necessary expertise (by engaging an external expert if necessary) and sufficiently detailed information for all proposed projects to be able to assess the need for, and reasonableness of, the costs to be incurred; and*
- *obtain a final accounting of the costs incurred.*

Status

The Ministry hired four capital analysts to assist the regions in ensuring that critical documentation was on file for all capital projects completed at the time of our 2007 audit and to provide ongoing support to regions for capital projects relating to the facilities initiative. One capital analyst was to be retained after the completion of the facilities initiative.

The Ministry updated its guidelines in 2007 following the completion of our audit work and informed us that at the time of our follow-up a further update was in progress. It had also developed new tools to support the regions and transfer payment agencies. The Ministry has been providing training on capital processes and procedures to the regions.

The Ministry's internal audit division reviewed capital expenditure files at the regions and noted that files were generally well organized and supported the need for the capital project. However, more emphasis was needed on documenting the alternatives considered and competitive bids received to demonstrate that the most cost-effective option was selected. The internal audit division also noted that in some cases supporting invoices and other necessary information to account for the final costs incurred for capital projects were missing and that when capital agreements were amended, the reason for the changes was not explained.

Agency Purchasing Policies and Procedures

Recommendation 5

To help ensure that agency expenditures are reasonable and represent value for money spent, the Ministry of Community and Social Services should confirm that agency boards of directors ensure adherence to good business practices, including written policies and procedures for such things as purchasing goods and services and processing invoices for payment.

Status

The Ministry informed us that it had issued "best practices" to its transfer payment agencies in November 2008 in the following areas:

- travel, meal, and hospitality expense reimbursement;
- the procurement of goods, services, and consulting services, and the use of agency credit and purchasing cards; and
- fleet management and the use of other road transportation.

The Ministry has indicated to its agencies that it expects them to incorporate these best practices into their policies and procedures, and requires them to provide written confirmation of their compliance with them. The Ministry has also advised the agencies that they will be expected to demonstrate their compliance with the best practices when they are next audited by the Office of the Auditor General of Ontario.

OVERSIGHT OF PROGRAM SERVICE DELIVERY

Access to Services

Recommendation 6

To help ensure that all individuals with a developmental disability are treated consistently across the province and that program placements are appropriate and economical, the Ministry should:

- *consider providing access centres with guidelines to encourage consistent placement decisions across the province;*
- *ensure that access centres maintain the necessary documentation to demonstrate that developmental disability determinations are made consistently and that residential placements are appropriate and economical;*
- *ensure that all vacancies are filled as quickly as possible; and*
- *obtain information about waiting lists and vacant beds for use in its service planning process and take this information into consideration when making annual funding decisions.*

Status

The Ministry informed us that it had piloted a new application form and common assessment tool, which had yet to be implemented across the province. The new application form incorporates a set of risk factors that is to be part of the new prioritization process. At the time of this follow-up, the risk factors still needed to be validated to provide a consistent approach to managing the various waiting lists for developmental services across the province.

The Ministry also informed us that, as a result of new requirements for service contracts, agencies are required to report vacancies to local access centres within 10 days of the vacancy occurring. Access centres in turn are required to maintain data on the number of vacancies by agency and program type, and to provide an explanation to the Ministry for any vacancy not filled within the quarter.

Proposed legislation outlining a revised process for access to services has been introduced since our 2007 audit. The legislation designates placement and funding entities that will have the authority to administer the application process. Once designated, these entities will be responsible for prioritizing access to services, establishing and maintaining waiting lists, and issuing annual reports to the Ministry. The Ministry will be required to publish these reports within 60 days of receipt. It is expected that the proposed legislation will be proclaimed in the 2010/11 fiscal year and the entities are to assume their new responsibilities in the 2010/11 and 2011/12 fiscal years.

Program Compliance Reviews and Licensing Inspections

Recommendation 7

To help ensure that the Ministry's compliance review process meets its objective of protecting vulnerable people in care, the Ministry of Community and Social Services should:

- *maintain an accurate and up-to-date listing of all adult group homes and ensure that the requirement to review 20% of them annually is met, and that higher-risk group homes are reviewed with reasonable frequency;*
- *reassess the advisability of having agencies select the homes to be reviewed and of giving significant advance notice of reviews;*
- *consider developing a comprehensive checklist that would help ensure that all the required elements of the compliance review are undertaken and adequately documented; and*

- *ensure that where deficiencies are identified, they are followed up on to confirm that the necessary corrective action is taken in a timely manner.*

Status

The Ministry informed us that it had made improvements in the area of compliance reviews since the time of our 2007 audit. These improvements included the development of a standardized, automated checklist to be used for compliance reviews and the creation of an up-to-date and accurate list of group homes funded under the community accommodation program, which is to be maintained by the Ministry's Service Management Information System and its Automated Licensing System.

The Ministry also established a combined corporate/regional review model in 2008 to conduct compliance reviews of adult group homes. This two-year project is to be completed in 2010. Its goal is to bring compliance reviews up to date and establish processes to maintain the currency of compliance inspections and the list of eligible group homes. At the time of this follow-up, approximately 24% of all eligible adult group homes had undergone compliance inspections. The Ministry has indicated that it has decided to make the compliance team permanent so that compliance reviews will continue at the end of this two-year project.

In addition, new legislation for developmental services has been proposed that includes provisions for inspections without a warrant. Further details on the criteria under which inspections may be conducted without a warrant are to be outlined in a regulation, which had yet to be developed at the time of this follow-up. Quality assurance mechanisms were under development and may also be included in the new regulation and in ministry policy directives.

At the time of our follow-up, the Ministry had not yet established the process for taking any necessary corrective action.

Serious Occurrence Reporting

Recommendation 8

To safeguard more effectively the health and safety of individuals living in community accommodations, the Ministry of Community and Social Services should reassess the objectives of the serious occurrence reporting process and, in the light of that reassessment, it should:

- *provide agencies with a clear and unambiguous definition of the serious occurrences that need to be reported; and*
- *design a process that meets its objectives and that its regional offices can oversee effectively.*

Status

The Ministry informed us that it had made the following improvements with regard to our recommendation on serious occurrences:

- the development of new guidelines and service provider procedures, including clarified definitions for serious occurrences;
- the introduction of a new, streamlined, integrated reporting form;
- the identification of best practices for managing serious occurrences, and communication of this information to regional offices; and
- more effective use of the automated database.

Although the Ministry appears to have taken several important steps in addressing our recommendation, options for reporting physical restraints—the most common reason for serious occurrences—were still under development at the time of this follow-up. Also, a review undertaken by the Ministry's internal audit division noted inconsistencies in the regions' progress in implementing these improvements: one regional office had developed specific business practices for the management of reporting procedures for serious occurrences to ensure that ministry expectations were being met, while another regional office had only made changes to the way it used the database.

Complaint Procedures

Recommendation 9

In order to help ensure that all complaints received by agencies get a fair hearing and are satisfactorily resolved on a timely basis, the Ministry of Community and Social Services should:

- *require all agencies to have a complaints process in place that is similar to the process described in the Child and Family Services Act and ensure that they comply with it; and*
- *ensure that all complaints that are escalated to a ministry regional office are logged, tracked, and resolved fairly and on a timely basis.*

Status

The Ministry appears to have made little progress with regard to implementing our recommendation on complaints procedures. It informed us that it was attempting to identify best practices for managing complaints received by the Ministry and that it planned to recommend a set of best practices to the regional offices.

We note that proposed legislation for development services includes provisions that require service agencies to have written procedures to address complaints and that the Ministry may provide more detail on these requirements in the regulation that is to be developed by the end of the 2009/10 fiscal year. Complaints procedures for service providers may also be required in future policy directives and guidelines.

INFORMATION SYSTEMS

Recommendation 10

The Ministry of Community and Social Services should ensure that its Service Management Information System (SMIS) provides complete, accurate, and useful information on which to base management decisions and to help determine whether services provided by transfer-payment agencies are effective and represent value for money spent.

Status

The Ministry has made some progress towards implementing our recommendations regarding its information system. It has developed business requirements for the automation of the transfer payment budget package. Pending development of the automated solution, the Ministry has also developed a modified budget package and a central repository that stores all budget and quarterly data. This tool will include the new financial inputs, streamlined expenditure categories, service data standards, and validation rules to improve the quality of data at the point of entry.

The Ministry has also implemented a web-based application, which includes a range of tools and analytical reports to assist regional offices in improving the completeness and accuracy of SMIS data. The completeness, accuracy, and usefulness of SMIS reports for management decision-making will be evaluated in future audits.

Driver Education and Examination

Follow-up on VFM Section 3.04, *2007 Annual Report*

Background

The Ministry of Transportation (Ministry) is responsible for protecting the public by ensuring that the privilege of driving is granted only to persons who demonstrate that they are likely to drive safely.

Although the province does not regulate driving schools, the Ministry administers a voluntary Beginner Driver Education (BDE) program under which driving schools that meet specified requirements can become Ministry-approved course providers. They may issue driver-education certificates to students who have completed the course successfully; the certificates entitle students to have their 12-month G1 stage reduced by up to four months and, possibly, to save on insurance. Of the approximately 218,000 new drivers each year, about 120,000, or 55%, take the BDE course and about 67,000 take advantage of the time reduction that allows them to attempt their G2 road test earlier.

In our *2007 Annual Report*, we found that collision-involvement rates for novice drivers who enrolled in the BDE program were significantly higher than those for drivers who did not participate in the program. Although this statistic is not necessarily an indication of the effectiveness of the BDE course, the Ministry had not followed up on

the reasons for the higher collision rates. We also noted the following:

- Our analysis of statistics concerning Ontario drivers and a number of other studies showed that drivers who had taken advantage of the time reduction had higher collision rates than those who had remained longer in the supervised stage.
- Virtually all the external stakeholders we interviewed had expressed concerns about the sale of driver-education certificates by unscrupulous driving schools to students who had not completed the BDE course requirements.
- The Ministry's inspection of BDE driving schools had not focused on ensuring that the training was in accordance with the Ministry-approved curriculum. Where inspections had been done, they had found many cases of repeated non-compliance by driving schools.

Although the Ministry is ultimately responsible for the examination and licensing of drivers, the administration of driver examination services is outsourced. We noted that there had been significant improvement in the wait times for taking a road test, a major issue that also had been noted in our last audit in 2001. However, we noted differences in the pass rates of examiners that were large enough to indicate that applicants had not been

passed or failed on a consistent basis throughout the province. In addition, there were many cases where applicants had not been required to complete all necessary driving-test manoeuvres. As well, some applicants may have been travelling significant distances from their home area to take their test at more distant centres that seemed to have less stringent testing requirements.

The Ministry's driver-examination outsourcing agreement had good oversight mechanisms that included a number of performance standards. However, in monitoring the performance of the service provider, the Ministry found a high number of defects that could be indicative of persistent problems.

Under the Driver Certification Program, the Ministry designates bodies such as municipalities, trucking firms, and school-bus companies as Recognized Authorities to operate driver-licence training and testing programs for their employees. Upon successful completion of the program, employees are entitled to have their class G driver licences upgraded to a commercial class licence. About 8,600 commercial licences, or 20% of such licences, are issued this way annually. Ministry inspections and investigations of complaints had found instances where Recognized Authorities and their trainers had been upgrading drivers who had neither received any training nor demonstrated the necessary driving skills, as well as instances where non-employees had been upgraded.

We made a number of recommendations for improvement and received commitments from the Ministry that it would take action to address our concerns.

Status of Recommendations

According to the information we received, the Ministry has made significant progress in addressing many of the recommendations in our *2007 Annual Report*, including improvements to the Ministry's

inspection process for the delivery of driver education under the BDE program and stronger controls over the issuing of driver-education certificates. For a number of our other recommendations, such as taking corrective action on differences in pass rates and reviewing the appropriate amount of time needed to administer road tests, we noted that the Ministry's action was ongoing and there had been some progress in implementation. The status of the action taken on each of our recommendations at the time of our follow-up was as follows.

DRIVER EDUCATION

Beginner Driver Education (BDE) Program

Recommendation 1
To ensure that novice drivers enrolled in the Beginner Driver Education (BDE) program receive effective training in safe driving, the Ministry of Transportation should evaluate the effectiveness of the BDE program, including investigating the reasons for the higher collision involvement rates for drivers who have completed the BDE program.

Status
The Ministry indicated that it had made significant changes to improve the BDE curriculum standards and strengthen its oversight of driving schools. In addition, an internal review of the Graduated Licensing System (GLS) had identified several improvements to the GLS that would affect the BDE program, such as increasing the minimum amount of time that a novice driver must remain in a supervised driving stage (G1). The Ministry was in the process of seeking the regulatory amendments that would allow it to implement these improvements.

Given this and other significant changes to the BDE program described in the section below, the Ministry indicated that it would be more appropriate to wait and evaluate the effectiveness of the new BDE program instead of evaluating the program using old standards. It estimated that a combined evaluation of both the GLS and BDE could be done in about three to five years, the time generally

required for the accumulation of the collision and violation data needed for the evaluation of program changes.

The Ministry contracted the Traffic Injury Research Foundation (TIRF) to develop a methodology to evaluate the GLS, which is to be used in the future to determine the effect of recent changes to the system. As part of that contract, TIRF is to deliver a safety evaluation and survey of G1 drivers who have taken a BDE program and used the time discount. Finalized versions of the methodologies were expected to be completed by September 2009.

Driver-education Curriculum, and Drivers with Reduced G1 Stage

Recommendation 2

To help ensure that new drivers receive adequate behind-the-wheel supervised training, the Ministry of Transportation should:

- *update its standards and curriculum to recognize changes in the driving environment over the last decade; and*
- *reconsider the desirability of reducing the supervised (G1) driving stage for drivers who successfully complete the Beginner Driver Education program.*

Status

The Ministry informed us that it had updated the BDE standards and developed a new curriculum that recognized changes in the driving environment. The previous standards had focused on the mechanics of driving. The new BDE standards still include all the mechanics of driving, but add a greater focus on driving attitudes, placing particular emphasis on risk awareness, attention, and responsibility.

BDE course providers had the option of purchasing the new curriculum from the Ministry or developing their own and submitting it to the Ministry for approval by April 17, 2009. According to the Ministry, all BDE course providers had complied and were required by regulation to teach the new curriculum as of September 1, 2009. The

Ministry will be auditing schools as part of its compliance-monitoring to ensure that all of them have complied.

Regarding the desirability of reducing the duration of the supervised driving stage for drivers who have completed the BDE program, the proposed changes to the GLS would increase both the minimum length of the G1 stage and the time BDE drivers must spend in that stage before the time discount can apply. Under the existing GLS, novice drivers are required to remain in the G1 stage for 12 months before attempting a road test to progress to the unsupervised G2 stage, and this time would be reduced to eight months for drivers who successfully complete the BDE program. With the proposed changes, the minimum length of the G1 stage would be extended to 18 months, and drivers who have completed the BDE program would be required to remain in a supervised stage (G1) for 12 months.

Inspection of Driving Schools

Recommendation 3

The Ministry of Transportation should ensure that driving schools are providing students with training in accordance with the Ministry-approved curriculum by:

- *developing and following a more comprehensive and curriculum-based approach to inspection;*
- *following up on deficiencies found and taking more definitive action where repeat violations are being noted; and*
- *working with the Ministry of Government Services to help inform students about driving schools that are on its Consumer Beware List.*

Status

The Ministry indicated that it had implemented a new audit program in December 2008 that involved the inspection of all schools, with a special focus on those considered high-risk. The audit program takes into account previous audit results and includes features such as an improved field-audit program for opening new schools, compliance with Ministry standards, fraud prevention, and awareness of identity theft (which occurs when students'

information is falsely used to book road tests). The new process also placed more emphasis on inspectors' attending sessions to observe what is being taught in a class. As well, the Ministry indicated it had continued to conduct "mystery shopping," where people engaged by the Ministry pose as members of the public and enroll in a BDE course, then evaluate whether the course was delivered in accordance with ministry standards.

The Ministry also stated that it had taken action to revoke the "Ministry-approved" status from schools that were found to have committed fraud. After audits conducted in 2007, eight schools had their status revoked for selling driver-education certificates and another 23 schools for teaching below standards. Depending on the severity of the non-compliance, the Ministry also initiated follow-up audits to ensure that any compliance issues had been rectified. According to the Ministry, its action to date had been effective and subsequent audits had indicated that, overall, driving schools were complying with Ministry standards.

Regarding driving schools that were on the Ministry of Consumer Services (previously the Ministry of Government Services) "Consumer Beware List," the Ministry has been posting information on its website for students considering or currently taking BDE, to make them aware of program requirements and the responsibilities of the BDE course provider.

Driver-education Certificates

Recommendation 4

The Ministry of Transportation should strengthen its controls to minimize the risk of driver-education certificates being issued to students who have not completed the required driver training. It should also follow up on any suspicions of fraudulent selling of certificates and take immediate action where such suspicions are confirmed.

Status

The Ministry indicated that, beginning in September 2008, it had replaced paper driver-education certificates with an electronic interface that links

driver-education certificate data to the driver-test database. This eliminates the need to issue and keep track of blank paper certificates and prevents schools that are not Ministry-approved from gaining access to certificates. The electronic system matches the name and driver licence number with that in the driver-test database to ensure that the records and identity are legitimate. The system also does not allow back-dating of course completion information and a student can only receive a time discount at the time that they book their test. These checks help to prevent unscrupulous providers from readily selling driver-education certificates.

The Ministry also informed us that only certified instructors and schools have access to the system, and the volume of certificates issued by schools was being tracked and monitored. Any school found (for example, through an audit) to be graduating students who had not completed a BDE course would have its Ministry-approved status revoked and its access to the system cut off. The Ministry can also lay charges against a school under the *Highway Traffic Act*, if warranted.

Non-Ministry-approved Driving Schools

Recommendation 5

To protect the public, the Ministry of Transportation should work with the Ministry of Government Services and take action to ensure that only legitimate course providers are allowed to operate and advertise as Ministry-approved course providers.

Status

As of June 2007, it is an offense under the *Highway Traffic Act* for a school to advertise itself as Ministry-approved if it is not. In the past, the Ministry's response to any non-approved school engaged in false advertising of this sort was to issue a cease-and-desist order. The Ministry informed us that it had since strengthened its response and would lay charges on any school making a false claim, if warranted. Regulations implemented in September 2007 have also helped to accelerate the timeframe

for sanctioning a school for failing to meet the BDE standards, and to help prevent sanctioned owners from reopening a new school under a different name.

Effective December 2007, only those driving instructors working in Ministry-approved schools providing BDE courses were allowed to teach new drivers in Ontario. The Ministry indicated that the change from paper-based driver-education certificates to an electronic system would prevent non-approved schools from having access to driver-education certificates and anyone attending these schools would not receive a certificate.

Driving Instructors

Recommendation 6

To ensure that student drivers receive proper training, and to protect the safety of the public, the Ministry of Transportation should:

- *update the driving-instructor curriculum and consider reinstituting training for new master driving instructors;*
- *consider strengthening the training requirements for maintaining a driving-instructor licence; and*
- *ensure that instructors who are the subject of numerous complaints are more stringently dealt with.*

Status

The Ministry informed us that it had developed standards for training new master driving instructors, but a curriculum based on the new standards had yet to be developed. The Ministry informed us that it was to meet with industry stakeholders in fall 2009 to work on designing new curricula for master driving instructors and driving instructors.

The Ministry also indicated that it had taken action to strengthen the requirements for obtaining and maintaining a driving instructor licence. The new requirements included no demerit points and criminal convictions to be allowed before becoming licensed, licences to be revoked for any fraud conviction, and a reduction in allowable demerit points after licensing. The Ministry had reviewed all existing driving instructor licences according to the revised policy and it resulted in the revocation of over 150 instructor licences. The Ministry was also in the process of implementing a requirement that all driving instructors take refresher courses within a specified time period.

Regarding driving instructors who had been the subject of numerous complaints, the Ministry informed us that it could assess instructors on "fit and proper" grounds if they engaged in fraudulent activities, such as selling driver-education certificates. This was a new approach—the Ministry was previously unable to take such actions. Revoking an instructor's licence under the fit and proper clause, although a complicated process requiring a great deal of information, at least exists as an option where it did not before.

Driver Certification Program

Recommendation 7

To minimize risk to the safety of the public and given the concerns that are arising from current inspections of those organizations that are allowed to train and test drivers for the more advanced licence classes, the Ministry of Transportation should:

- *comply with its policy to inspect those organizations annually and expand its inspection to include the training and examination processes; and*
- *pay particular attention to the risk of those organizations providing an advanced class of licence to unqualified drivers.*

Status

The Ministry indicated that, to improve program integrity and strengthen consumer protection, it had developed a risk-based inspection process to target and follow up on high-risk Recognized Authorities every one to three years. The new process included inspection of training and examination processes. Should an audit reveal non-

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compliance with the program, an administrative suspension would be applied against the Recognized Authority. As of March 31, 2009, the Ministry had completed audits of all Recognized Authorities not inspected in the last two years. According to the Ministry, any organization that had a previous history of providing advanced-class licences to unqualified drivers would be automatically designated high-risk.

DRIVER EXAMINATIONS

Monitoring the Service Provider's Delivery of Examination Services

Recommendation 8

To help ensure that the outsourced driver-examination function meets its objective of passing only qualified persons, the Ministry of Transportation should:

- *conduct compliance monitoring according to the frequency established under its risk-based approach;*
- *provide the service provider with more information on systemic non-compliance areas noted where a formal default notice was not issued and ensure that such areas are specifically assessed in future compliance reviews; and*
- *enhance the query and reporting capabilities of the management information system to enable a more proactive approach to identifying the more serious and recurring problems.*

Status

The Ministry informed us that its compliance-monitoring focus had shifted to monitoring high-risk and problem locations. It developed new rating standards based on the history of performance and past defaults, geographic location, transaction volume, etc., to help assess the frequency of compliance monitoring. These standards have been distributed to all field staff to ensure uniform practice and compliance with standards.

Ministry staff advise Drive Test Centres of any performance problems immediately following an audit. In addition, new governance structures were put in place in fall 2007 to better collaborate and share information with the service provider. Working committees, made up of staff from both the Ministry and service provider, have also been meeting regularly to discuss various operational and compliance issues and make recommendations on specific issues.

The Ministry informed us that it had remedied the problems with its compliance-monitoring reporting system. The system is able to supply the service provider with monthly data and reports on systemic non-compliance areas, organized by location and performance standards. In addition to normal reporting, the system can run ad hoc analyses more easily than it could in the past. Previously, any non-standard reporting would have required a significant amount of programming effort.

Results of Driver Examinations

Recommendation 9

To ensure that driving examinations are carried out consistently across the province, the Ministry of Transportation should:

- *investigate significant differences in the pass rates of individual examination centres and require corrective action to reduce the differences; and*
- *review the time needed to administer road tests with all required manoeuvres being tested, recognizing that this may necessitate either less or more time depending on the municipality in which the centre is located.*

Status

The Ministry indicated that its service provider had formalized procedures and protocols for Drive Test Centre supervisors to use when examiner pass rates deviate from the norm. It was establishing an acceptable pass-rate norm for each Drive Test Centre and examiners are to be monitored against this acceptable norm.

The Ministry and the service provider initiated a comparison of the characteristics of all routes used

with the requirements prescribed by road tests. The purpose of this exercise was to identify gaps that might prevent requirements and manoeuvres from being met as a result of the required road infrastructure being absent from a test location, as well as to estimate the time needed to reasonably complete a test using that route. The Ministry expected all routes to have been driven by the end of September 2009 and all information to have been consolidated by October 2009.

Customer Service

Recommendation 10

To maintain a high level of customer service, the Ministry of Transportation should periodically monitor the service provider's compliance with its customer-service performance standards, including its complaint-handling and -resolution process.

Status

The Ministry informed us that a customer survey had been conducted at all Drive Test Centres in fall 2007 and the final results presented to the Ministry in August 2008. Overall, province-wide satisfaction was reported to be 87%. The Ministry indicated that it had continued to conduct annual customer surveys and work with the service provider to develop action plans to address annual survey results.

In addition, the Ministry worked with its service provider to develop a Customer Care Report protocol. The initial report, for the period May through July 2008, was finalized in October 2008. The Min-

istry was to continue to produce the Customer Care Report semi-annually and was to work with the service provider to develop action plans to address the Report's findings.

Performance and Training of Examiners

Recommendation 11

To maintain a high standard for driving examinations, the Ministry of Transportation should ensure that:

- *All driver examiners receive the required training; and*
- *Their work is evaluated periodically and effective performance management procedures are followed.*

Status

The Ministry informed us that the service provider had provided comprehensive records for all trainers, driver examiners, and customer service agents. This assured the Ministry that the required training had been given and that records had been properly documented and maintained.

In addition, since our 2007 audit, the service provider has provided the Ministry with semi-annual reports on in-car examinations to prove that they were done and to ensure that examiners' qualifications were up to date. Spot-auditing was also conducted as part of compliance-monitoring activities to ensure that only qualified examiners were conducting only those road tests for which they were trained.

Drug Programs Activity

Follow-up on VFM Section 3.05, *2007 Annual Report*

Background

Ontario has a number of drug programs that provide prescription drugs to Ontario seniors, social assistance recipients supported by the Ontario Works and Ontario Disability Support programs, and certain other types of eligible recipients as defined under legislation. The Ministry of Health and Long-Term Care (Ministry), through the Health Network System (Network), processes payment of drug claims, and provides on-line information to pharmacists. The Network is linked to approximately 3,050 pharmacies and 100 other dispensers.

The Network processes 109 million prescriptions annually for approximately 3.2 million eligible recipients. For the 2008/09 fiscal year, total expenditures for Ontario's drug programs were $4.1 billion ($3.7 billion in 2006/07), of which $774 million($742 million in 2006/07) was paid by the Ministry of Community and Social Services for drug benefits for social assistance recipients.

Our 2007 audit indicated that the externally managed Network generally processed drug claims in accordance with legislative requirements and ministry policy. However, to further control costs, the Ministry must be more vigilant in ensuring that the risks related to ineligible claimants and unusual drug claim patterns are appropriately addressed. Specifically:

- The Ministry did not closely monitor pharmacists' use of system override codes to grant drug coverage eligibility to recipients identified by the system as ineligible for drug coverage. System overrides must be supported by appropriate documentation such as temporary eligibility cards. For instance, one pharmacy made more than 300 claims in a five-month period through system overrides for one individual who was ineligible for drug coverage during that time.

- When pharmacists acquire drugs at costs greater than the Ontario Drug Formulary (Formulary) prices, they can be paid at these higher drug prices by entering a price override code in the system. Our review of a sample of price override claims paid by the Ministry in February 2007 found that more than 30% of the unit drug prices in these claims exceeded their Formulary prices by more than 100%. In one case, the price claimed exceeded the Formulary price by 12,500%, resulting in the Ministry paying almost $2,400 for a claim that, according to the Formulary price, should have cost less than $20.

- Our previous audits in 1996 and 2001 and the Standing Committee on Public Accounts all expressed concern about the decline in field inspections of pharmacies. Our work in 2007 indicated that, at the Ministry's current inspection rate of 3% of dispensing agencies in a year, it will take up to 30 years to cover all

agencies. The Ministry needs to target high-risk dispensing agencies identified through activities such as a review of unusual claims statistics. For instance, our review of 2005/06 claims data found that 20 dispensing agencies filled prescriptions for an average drug supply of less than three days, which allowed them to charge more dispensing fees, yet only one of these agencies was inspected in the last six years. In conjunction with the Ministry, we selected a dispensing agency that had a high number of claims per drug recipient and attended the related field inspection. This single inspection identified $270,000 in overpayments, of which $240,000 was because of claims for invalid dispensing fees.

We made a number of recommendations for improvement and received commitments from the Ministry that it would take action to address our concerns.

Status of Recommendations

The Ministry has made good progress in addressing most of our recommendations, although several will take another year or two to be fully addressed. The status of the actions taken on each recommendation at the time of our follow-up is as follows.

ELIGIBILITY FOR DRUG COVERAGE

Recommendation 1
To ensure that only eligible recipients receive or continue to receive drug coverage, the Ministry of Health and Long-Term Care (Ministry) should ensure that:

- *income levels of seniors receiving reduced co-payments are supported by proper documentation or through electronic means, such as the Canada Revenue Agency income link;*
- *eligibility override codes used by pharmacists are applied and supported appropriately;*

- *the use of override codes is monitored and abnormally high override rates are investigated; and*
- *continuing eligibility of long-term-care residents is confirmed independently by obtaining information from the long-term-care homes or the Ministry's Long-Term Care Program.*

Status
The Ministry advised us that the electronic link to Canada Revenue Agency (CRA) income information for the Trillium Drug Program is in place; the Ministry was in the process of enhancing this link at the time of our follow-up and expected it to be complete by the end of the 2009/10 fiscal year. Once enhancement is completed, the Ministry will determine what systems and program-administration changes are required to implement electronic income verification through the CRA for the Seniors' Co-payment Program. Seniors applying for the Seniors' Co-payment Program are to provide proof of income and a signed consent form, and the Ministry is to verify their eligibility for benefits using the CRA link when this feature becomes available.

The Ministry informed us that because the use of override codes was specific to the situation and the clinical decision of the pharmacist who initiated the code, it did not set benchmarks for the use of these codes. Instead, the Ministry's inspection staff had been ensuring compliance by reviewing claims and monitoring any abnormal activity relating to the use of an override code, and investigating where appropriate. In their reviews, inspection staff had been considering the clinical expertise of pharmacists who had decided to use the code and requesting documentation to support any claims submission.

Because there is no data repository of long-term-care residents in the Ministry's Long-Term Care Program, the Ministry had not been able to use internal information to verify the continuing eligibility of these residents. To support its audit function, the Ministry had doubled its inspection resources for doing site-inspections and auditing

claims submitted by pharmacies. Where applicable, the Ministry would check with long-term-care homes to verify the eligibility of residents.

PROCESSING OF PAYMENT CLAIMS

Electronic Processing of Payment Claims

Recommendation 2

To help ensure that all claims are processed accurately and completely in accordance with legislative and policy requirements, the Ministry of Health and Long-Term Care should:

- *periodically perform Health Network System (Network) assessments or tests to identify areas of non-compliance, with particular emphasis on ensuring that the Network has been updated for program changes; and*
- *regularly obtain information from the Ontario College of Pharmacists (College) on pharmacy closings to update the Network database.*

Status

The Ministry cited the following initiatives it had put in place to identify areas requiring updates to the Network since our 2007 audit:

- In 2008, the Ministry instituted a governance process for information technology changes to the drug program portfolio. Specifically, a team of senior managers from the business, policy, and information technology areas relating to drug programs were meeting monthly to prioritize projects and to monitor the status of projects under way and assess the impact of any proposed policy changes on the Network.
- In 2008, the Ministry terminated all prior agreements and entered into a new agreement with all the dispensing agencies in the Network. This new agreement reinforced to dispensing agencies that claims must be submitted in compliance with the Ministry's legislative and policy requirements and provides the Ministry with clearer authority to terminate agreements.

- The Ministry completed a review of adjudication rules for recipients under the Ontario Works drug program. As a result of this review, the Ministry updated the information in the Network in February 2009 to allow a maximum 35-day supply of drugs for recipients in the Ontario Works program even if they are also registered in the Trillium Drug Program (some recipients had been receiving up to a 100-day supply of medication).
- In 2008, subsequent to a review of claims data on the frequency of dispensing in the Ontario Drug Benefit Program, legislative changes were made such that the Ministry would pay a maximum of two dispensing fees to dispensers for the supply of a listed drug product in a calendar month. The Ministry believes that these changes will result in substantial savings.

The Ministry informed us that the Ontario College of Pharmacists regularly notified it of new pharmacy openings and changes of ownership. In addition, the Ministry told us that it had updated the Network and reconciled pharmacy listings in 2008 and early 2009.

Cost-to-operator Payments

Recommendation 3

To ensure that it pays drug prices charged in excess of Formulary prices only when appropriate, the Ministry of Health and Long-Term Care should:

- *regularly review and monitor pharmacy claims for manufacturer costs exceeding Formulary prices for accuracy and for evidence of manufacturer invoice support; and*
- *take appropriate action to recover overpayments when claims are found to be invalid or incorrect and when drug manufacturers are in non-compliance with Formulary prices.*

Status

The Ministry informed us that it had reviewed all Formulary products to ensure that information was current and accurate and that some 300

discontinued products had been removed. The Ministry estimates that this will result in savings that could average several million dollars annually. The Ministry had also recovered overpayments of $2.3 million between January 2008 and June 2009, an 18-month period, which it found during routine audits that identified discrepancies in claims. As of June 2007, the Ministry no longer allows the use of cost-to-operator intervention codes for almost all generic drugs, as well as for brand-name drugs with price agreements and no equivalent inter-changeable products (at the time of this follow-up, approximately 60% of brand-name drugs fell into this latter category). Blocking the use of such codes prevents pharmacies from charging more than the drug-benefit price that is listed in the Formulary.

The Ministry informed us that it was allowing the use of intervention codes for brand-name drugs that are without price agreements but that legislation requires that a manufacturer supplying a listed drug product for the purposes of the public drug program must sell it at the drug-benefit price listed in the Formulary. Regarding claims for single-source drugs, which are typically brand-name prod-ucts, the Ministry informed us that the Network was not paying dispensers an amount higher than the drug-benefit price.

Manual Processing of Paper Claims and Reimbursement Receipts

Recommendation 4
To ensure that all manual claims are valid and are accurately processed in compliance with legislative and policy requirements, the Ministry of Health and Long-Term Care should conduct regular quality-assurance reviews of such claims.

Status
The Ministry informed us that it had implemented a quality-assurance process in April 2007, and had since made adjustments to, and continued to review, this process. As part of its quality-assurance process, the Ministry was completing random checks of approximately 10% of claims on a weekly basis. The Ministry was correcting errors identi-fied through these checks and using them in its refresher training where possible.

INDIVIDUAL CLINICAL REVIEWS

Recommendation 5
To more effectively identify high-request drugs for inclusion in the Formulary, the Ministry of Health and Long-Term Care should consider tracking Individ-ual Clinical Review drug approvals by diagnosis type and the related numbers of requests.

Status
The Ministry advised us that the existing Individual Clinical Review (ICR) system provided information, mainly volume and cost data, to support decisions on whether or not a drug should be included in the Formulary. However, the Ministry informed us that ICR was to be replaced by a new program that will capture additional information.

TRILLIUM DRUG PROGRAM

Recommendation 6
To ensure that the Trillium Drug Program is adminis-tered in accordance with legislative requirements, the Ministry of Health and Long-Term Care should:
- *ensure that households provide appropriate documentation verifying income; and*
- *develop and implement appropriate policies and procedures to pursue unpaid deductibles owed to the Ministry.*

Status
The Ministry informed us that it had implemented monthly inspections of randomly selected house-hold files to verify that Trillium applications were processed with the required income documenta-tion. Whenever the Ministry encountered missing or incomplete documentation, it sent a letter asking the applicant to submit the required information. Similarly, the Ministry was issuing termination let-ters to households that had not accessed program

benefits in over 18 months, as required by ministry policy.

To reduce the amount of unpaid deductibles in the future, the Ministry implemented policies limiting the quantities of drugs to be dispensed in the third and fourth quarters of a benefit year prior to all deductibles being paid. The Ministry also informed us that it had conducted an analysis in July 2008 to better understand the potential costs of recovering unpaid deductibles. It concluded on the basis of this analysis that collecting unpaid deductibles would not be cost-effective.

SPECIAL DRUGS PROGRAM

Recommendation 7

To ensure that the cost of special drugs used is minimized, the Ministry of Health and Long-Term Care should:

- *develop and implement appropriate and consistent policies and procedures relating to the Special Drugs Program that address the supporting claim information required, including details about drug quantities and unit prices paid, and the acceptable reimbursement method;*
- *consider securing more contracts with drug companies for better special-drug prices; and*
- *consider conducting periodic reviews of hospital supporting records to verify the accuracy and validity of the amounts claimed.*

Status

The Ministry advised us that it had reviewed the operational procedures for reimbursement of drug costs under the Special Drugs Program. At the time of our follow-up, the Ministry was asking hospitals submitting claims for amounts greater than the prices allowed by the Formulary to submit documentation with the claim. In the Special Drugs Program specifically, where the Ministry has standing agreements with two drug manufacturers that they will not charge the hospitals higher costs than the agreed-upon prices, the Ministry advised us that detailed information on drug quantities and

unit prices paid was not always available from certain hospitals because they dispensed bulk supplies for patients (for instance, through clinics). The Ministry also informed us that it had started transitioning the method used to reimburse hospitals' claims. The new method would reimburse hospitals on the basis of actual drug use rather than on the amount of special drugs purchased. However, some hospitals were not able to apply the new method because administrative records of patients' medication were not always computerized. This was the case, for example, in hospital clinics where patient dispensing (medical administration) records were not kept in electronic format, and actual usage information was not readily available.

With respect to securing more contracts with drug companies for special drugs at better prices, the Ministry informed us that it had reviewed program expenditures and secured contracts for high-cost drug products and their generic equivalents. The Ministry will monitor low-volume and low-cost products for potential agreements should costs increase.

The Ministry informed us that it had conducted reviews on all invoices submitted for reimbursement to identify any excessive unit prices and manufacturer's discounts to be deducted from its payments to hospitals. The Ministry was also reviewing reports on dispensing and usage to confirm the amounts claimed.

INSPECTION AND VERIFICATION

Recommendation 8

To promote thorough and effective inspections that encourage ongoing compliance, the Ministry of Health and Long-Term Care should:

- *conduct a review of the inspection staffing resources and develop an overall audit plan to ensure that sufficient inspection resources are in place to provide adequate inspection coverage across the province;*

- *on a regular and systematic basis, select dispensing agencies for inspection using appropriate risk factors;*
- *provide inspectors with ongoing formal audit training in how to conduct an audit, including risk assessment, development of inspection programs, file completion and documentation, and follow-up requirements; and*
- *deter repeat offenders by enforcing existing legislative penalties.*

Status

At the time of our 2007 audit, the Ministry had three full-time inspection field staff. At the time of our follow-up, the Ministry had hired another three full-time inspectors who had trained as pharmacists, and planned to hire two pharmacy technicians to support routine desk audits. In addition, the Ministry had negotiated an agreement with the Ministry of Revenue to assist with auditing the Ontario Drug Benefit Program in the 2009/10 fiscal year.

The Ministry also advised us that it had developed a training manual that helps it to identify risk and carry out its inspections of agencies. In addition, the Ministry told us it had developed a standardized auditing process to assist new staff and promote consistency and accountability in its inspection procedures.

In our *2007 Annual Report*, we noted that ministry policy allowed for interest penalties to be charged when recovery of overpayments is repaid by instalments, and the Ministry could take court action to penalize dispensing agencies for offences identified under the *Ontario Drug Benefit Act*. However, the Ministry did neither at that time. The Ministry informed us that provincial offence charges under the *Ontario Drug Benefit Act* were laid for the first time in April 2009.

CONTRACT MANAGEMENT

Recommendation 9

To ensure that the third-party processor of the Trillium Drug Program and the Seniors Reduced Co-payment Program complies with the terms of its contract, the Ministry of Health and Long-Term Care should:

- *regularly conduct ongoing audits of the third-party processor's records and supporting documents to confirm the accuracy and validity of the amounts invoiced; and*
- *develop and implement the necessary ministry information reports to facilitate reconciliation of the amounts invoiced.*

Status

The Ministry informed us that a dedicated staff member was supposed to perform ongoing inspection (a "walk-around") and verification of the third-party processor's records on a monthly basis; however, due to increased workload, the staff member did not perform these inspections regularly in most of 2009, but resumed this responsibility in August 2009. In addition, the Ministry had planned to conduct more complete site visits to the third-party processor on an annual basis, and had done so in October 2007 and May 2009. These site visits included an evaluation of the following areas:

- security clearances for staff;
- safeguarding of personal information;
- inventory of assets;
- training provided to staff;
- quality control of applications, re-assessments, renewals, and receipts; and
- customer calls.

The Ministry of Finance, as part of its Financial Assurance Program, also visited the site of the third-party processor and reviewed its transaction-processing systems and controls in March 2009.

The Ministry told us that it had not yet finished developing the necessary internal information reports to reconcile the amounts invoiced by the third-party processor. The Ministry expected to have some reports for the Trillium Drug Program by the 2009/10 fiscal year and a new client-server application for the Trillium Drug Program and the Seniors' Co-payment Program by April 2011.

PERFORMANCE MANAGEMENT

Recommendation 10

To better monitor and assess the performance of the Ministry of Health and Long-Term Care in meeting its objectives, the Ministry should:

- *regularly measure and report actual results against the performance standards, with variances, if any, being resolved on a timely basis;*
- *comply with its correspondence standards in handling complaints and take corrective action when response times exceed ministry standards; and*
- *track and analyze the types of complaints and inquiries received about pharmacy practices in order to identify areas for corrective action or improvement.*

Status

In our *2007 Annual Report*, we noted that the Ministry had no performance standards for work conducted internally to monitor quality of services and post-payment verification (for example, inspection workload standards). The Ministry indicated to us that it had since established indicators for evaluating performance for these activities, including a target number of audits and inspections to be performed by each inspector. The Ministry was continuing to monitor inspection workloads and expected that it would be conducting reviews on a bi-annual basis.

In our *2007 Annual Report*, we noted that the Ministry was exceeding its standard for responding to complaints and inquiries by an average of 11 days. The Ministry told us that it had since met the standard it had set for correspondence turnaround time—rush requests were processed within 72 hours, biologic requests within 15 business days, and non-rush requests within eight weeks—and that management was monitoring the progress of all requests and reducing backlog by reallocating staffing resources where necessary. The Ministry also developed and implemented a joint tracking system to keep track of drugs-related correspondence and issues and ensure timely turnaround in two program areas.

With respect to complaints and inquiries received about pharmacy practices, the Ministry informed us that it was treating such complaints and inquiries in the same way it had other correspondence: dedicated ministry staff track, file, account for, and respond to such complaints and inquiries. The Ministry also stated that it was referring complaints and inquiries on pharmacy practices to the Ontario College of Pharmacists.

Fish and Wildlife Program

Follow-up on VFM Section 3.06, *2007 Annual Report*

Background

The Ministry of Natural Resources (Ministry) promotes the sustainable use and development of Ontario's natural resources so that nature can renew itself and be available for the use and enjoyment of future generations. The Ministry estimates that each year, 6.7 million Ontarians enjoy recreational fishing, hunting, and wildlife viewing, and that these activities are worth nearly $6.3 billion annually to the provincial economy. Funding for the Ministry's Fish and Wildlife Program for the 2008/09 fiscal year was $95.8 million ($74.2 million in 2006/07).

In our *2007 Annual Report*, we concluded that although the Ministry gathered data and carried out assessments on fish and wildlife resources, the information was neither sufficient nor current enough to provide assurance that the Ministry was effectively managing resources for sustainability. Although the Ministry had taken some steps to address biodiversity and sustainability issues with a formal biodiversity strategy and the enactment of the *Endangered Species Act, 2007*, we noted a number of plant, fish, and wildlife species whose sustainability was of increasing concern. Our observations included the following:

- Although the Ministry had issued guidelines and frameworks to protect fish and wildlife habitats, it had no comprehensive inventory of the critical habitats key to the recovery or sustainability of fish and wildlife resources. Identifying these habitats would help the Ministry develop strategies to protect them from further degradation.
- In 2002, we recommended that the Ministry develop an overall strategy for the conservation, protection, restoration, and propagation of species at risk. In 2007, we noted that such a strategy had subsequently been drafted but had not yet been approved or implemented.
- Of the 120 recovery strategies in various stages of development for endangered and threatened species, only two of the approved strategies related to species deemed most at risk. For example, the golden eagle had declined to six nesting pairs in Ontario, yet no recovery strategy was in place.
- The Ministry lacked complete and current data on moose populations, which led to the issuing of more hunting tags than recommended by harvest guidelines. For example, 41 of the 66 geographic areas that calculate moose-harvest quotas and allocate hunting tags reported a huntable population greater than the estimated total population.
- Although the Ministry had developed a draft recovery strategy for the forest-dwelling woodland caribou, a threatened species in Ontario, it had been slow to finalize and implement it.

- The Ministry's management of commercial fisheries had been largely successful in promoting the sustainability of commercial fish stocks, but there was a need for better monitoring and enforcement. In a number of cases, commercial and aboriginal operators on Lake Superior and Lake Huron exceeded their catch quotas by more than 200%.
- A reduction in deterrent patrols by conservation officers and gaps in enforcement coverage may have put added pressure on the province's fish and wildlife resources. For example, we noted that when a two-week enforcement blitz was carried out in 2006, officers seized 57 moose that had been hunted illegally—almost double the 29 animals seized during a similar blitz in 2005.

Status of Recommendations

According to information received from the Ministry, we noted that some action has been taken on all of the recommendations in our *2007 Annual Report*. The Ministry has made policy changes, launched a number of initiatives, and committed significant additional funding to address most of these recommendations. In a number of areas, several years may be required to fully address the recommendations. The status of action taken on each of our recommendations is as follows.

BIODIVERSITY

Ontario's Biodiversity Strategy

Recommendation 1
To better ensure that Ontario can meet its commitments under the Canadian Biodiversity Strategy, which was adopted by the province in 1996, the Ministry of Natural Resources should:

- *develop a comprehensive plan for implementing its biodiversity strategy, along with appropriate time frames;*
- *review the adequacy of resources devoted to biodiversity;*
- *clearly define biodiversity outcomes and performance indicators to measure progress; and*
- *prepare a comprehensive report on the overall state of biodiversity in the province.*

Status
The Ministry informed us that although it had not developed a comprehensive plan for implementing its biodiversity strategy, a biodiversity implementation team was established to address the 37 actions in the Ontario Biodiversity Strategy. This will help the Ministry achieve the overall goals and objectives of the strategy. The Ministry allocated an additional $850,000 during the 2008/09 fiscal year to support the development of biodiversity reporting activities and to hire project staff.

The Ministry has completed a draft Biodiversity Outcomes Framework to measure progress towards meeting its commitments under the Canadian Biodiversity Strategy. The Framework will define the strategic outcomes for biodiversity and how the Ministry will work to meet its commitment. Pending approval, the Ministry plans to implement the Framework in the 2009/10 fiscal year. In May 2008, the Ontario Biodiversity Council released an interim report on Ontario's biodiversity as a first step toward preparing a comprehensive report on the state of Ontario's biodiversity. The Ministry plans to release a comprehensive report in 2010 to meet its commitment under the Canadian Biodiversity Strategy.

Habitat Protection

Recommendation 2
To help protect fish and wildlife habitats from further loss, alteration, and fragmentation and to preserve biodiversity, the Ministry of Natural Resources should identify the key habitats that are critical to

the continued sustainability of native species and prepare timelines for the development of management plans to protect those habitats.

Status

The Ministry informed us that habitat protection and conservation is being achieved through several activities, including management plans for parks and protected areas, input into municipal official plans, implementation of policies and legislation, and input into resource management planning. These actions are being accomplished through the *Endangered Species Act, 2007*, through management plans for forestry and fisheries, and through management frameworks for key wildlife species. In addition, the Ministry is developing a legislative regulation that will define the areas of habitat to be protected for nine of the top 10 endangered and threatened species. The habitat protection regulations for all nine species were expected to be in place by the end of 2009.

Species at Risk of Extinction in Ontario

Recommendation 3

To more proactively manage species at risk and help sustain and increase endangered populations, the Ministry of Natural Resources should:

- *finalize and put into place its Species at Risk Strategy for Ontario; and*
- *prepare and implement a recovery plan with related time frames for necessary actions for each of the species listed in Ontario as endangered or threatened.*

Status

The Ministry informed us that its Species at Risk Strategy for Ontario has been finalized and incorporated into Ontario's Biodiversity Strategy. The *Endangered Species Act, 2007* (Act) requires the development of recovery strategies for all current and future endangered and threatened species. Consequently, recovery strategies are required for 130 endangered and threatened species. Of these, one is complete, 116 are in development, and

13 have not yet been initiated. The one recovery strategy completed was done in August 2008 for forest-dwelling woodland caribou. In addition, draft recovery strategies for eight of the top 10 endangered species were posted on Ontario's Environmental Registry for public comment in the spring of 2009 and, at the time of our follow-up, were targeted for completion later in the year.

Invasive Species

Recommendation 4

To help protect Ontario's native fish and wildlife populations, habitats, and overall biodiversity, the Ministry of Natural Resources should:

- *address knowledge gaps regarding the long-term effects of existing invasive species on biodiversity;*
- *develop action plans that set priorities for the prevention, monitoring, and eradication of invasive species based on assessments of the risks posed by invasive species;*
- *evaluate and report on the effectiveness of measures taken through these action plans; and*
- *continue to work with the federal government to enact more stringent regulations with respect to flushing ballast tanks of ocean-going vessels before they enter Canadian waters to prevent the introduction of destructive invasive species.*

Status

The Ministry informed us that it was carrying out research, which it expected to complete by 2010, into the long-term impacts of existing invasive species on Ontario's biodiversity. To help prevent, monitor, and eradicate invasive species, the Ministry has worked with stakeholders to implement public-awareness campaigns, including an Invading Species Hotline and a website where the public can obtain information about invasive species and report new sightings. In addition, Ontario has prohibited the live possession of nine invasive fish species, implemented a mandatory training program for bait dealers and harvesters, and was

implementing an improved inland-lake monitoring program for aquatic invasive species. In an effort to assess the effectiveness of its action plans for invasive species, the Ministry will carry out an Invading Species Angler Awareness survey during 2009. The Ministry expects to publish the results of the survey, which will examine angler behaviour for washing boats, dumping of bait buckets, and the use of live bait, in 2010.

In order to close one path to invasive species, the Ministry has continued to work with the federal government to enact regulations in 2006 and 2008 requiring ocean-going vessels to flush their ballast tanks with salt water before entering the St. Lawrence Seaway and the Great Lakes. All vessels entering the Seaway now are checked through a joint Canada/United States inspection program to ensure that contaminated ballast water is not released in the Great Lakes.

WILDLIFE MANAGEMENT

Moose Management

Recommendation 5

To assist in maintaining the proper balance between keeping moose population levels sustainable and providing a reasonable level of hunting opportunities, the Ministry of Natural Resources should:

- *develop and implement a moose management policy designed to achieve the overall target moose population;*
- *carry out population inventory assessments more frequently to more accurately determine the current moose population;*
- *ensure that the huntable moose population used to determine the number of hunting tags issued does not exceed the estimated actual population;*
- *more severely restrict hunting in management units where the actual number of moose is significantly below target population levels; and*
- *implement tighter requirements for calf tags in all management units with low calf populations.*

Status

The Ministry informed us that it drafted a new policy direction for moose management and has undertaken a broad consultation on the moose-tag draw system. The Ministry prepared several draft documents for public consultation, including the Cervid Ecological Framework (cervid species include deer, moose, caribou, and elk), the Moose Management Policy, the Moose Population Objective Setting Guidelines, and the Moose Harvest Management Guidelines. At the time of our follow-up, the public consultation had been completed, and the Ministry was reviewing the revised documents for final approval.

During the 2007/08 fiscal year, the Ministry increased the frequency of its aerial surveys to more accurately determine the moose population. These surveys follow the Ministry's Standards and Guidelines for Moose Population Inventory in Ontario, which gives the Ministry important data to prepare annual moose-harvest plans, assess habitat suitability, and evaluate management strategies. The aerial survey results contribute significantly to the Ministry's determination of allowable moose-harvest levels and tag quotas. As such, the Ministry has attempted to review all available population information to ensure that all management units have a sustainable moose population, and that the tags issued do not exceed the estimated population or target population levels. As noted above, the Ministry has drafted new guidelines for population-setting and harvest management. These two documents are intended to enhance the way that moose-population objectives are established and to help meet ecologically based moose-population goals and objectives to ensure a sustainable moose resource.

The Moose Population Objectives Setting Guidelines outline a number of factors that impact on moose populations, such as disease, predators, and illegal hunting, which ministry staff at each management unit will monitor. Staff will also track the overall moose population at each unit and take

immediate action to address any significant population decline.

The Moose Harvest Management Guidelines provide a number of management strategies to be employed to restrict the number of moose calves harvested in areas with low calf-population densities. These strategies include limiting the harvest of calves and shortening the calf-hunting season.

Deer Management

Recommendation 6

To assist in maintaining a healthy deer population and controlling the spread of disease to more vulnerable animals, such as moose, the Ministry of Natural Resources should:

- *complete a deer management policy to provide strategic direction for managing the increasing deer populations;*
- *review its Ontario Deer Harvest Decision Support System to ensure that it provides biologists with appropriate, complete, and current information to set hunting quotas; and*
- *work with other jurisdictions to develop better detection and monitoring strategies for infectious diseases.*

Status

The Ministry informed us that it continuously updates its deer-management policies to help integrate the management of all cervid species (deer, moose, caribou and elk) as their ranges continue to expand in the province. This has been done through the Ministry's draft Cervid Ecological Framework that strategically addresses cervid management at the broad landscape and ecological level. It consolidates and integrates Ontario's approach to managing cervid species in relation to each other with consideration of the broader ecosystems they share. The Ministry also informed us that it has reviewed its Ontario Deer Harvest Decision Support System, a planning tool used to determine appropriate deer-harvest levels to help maintain a healthy and balanced deer population. The Ministry will

continue to update this system as priorities and resources permit.

The Ministry also indicated that it continues to monitor wildlife disease outbreaks in other jurisdictions, examines the potential actions it can take against emerging diseases not yet detected in Ontario, and participates in international and inter-agency co-ordination discussions. To enhance wildlife-disease monitoring and awareness, the Ministry is part of the wildlife disease surveillance and response network maintained by the Canadian Cooperative Wildlife Health Centre.

Black Bear Management

Recommendation 7

To ensure that black bear populations are maintained at sustainable levels in all areas of the province, the Ministry of Natural Resources should:

- *consider sanctions against bear hunters who fail to respond to the mandatory provincial mail-in surveys, which are needed to obtain accurate data to use in setting sustainability guidelines; and*
- *take corrective action against tourist outfitters who continually exceed the sustainability guidelines for the maximum bear harvest.*

Status

The Ministry informed us that it has chosen to promote and educate bear hunters on the importance of reporting rather than take sanctions against those who fail to report. In this regard, the Ministry is educating bear hunters about the importance of resource stewardship and the responsibility and importance of responding to provincial mail-in surveys. In addition, the Ministry prepared a draft Framework for Enhanced Black Bear Management in Ontario that provides enhanced public awareness and understanding of bear management and of the importance of hunter reporting for sustainable bear-population management.

At the time of our follow-up, the Ministry was developing a new guideline for population

objectives and harvest management that will include appropriate and consistent measures to deal with outfitters who continually exceed the harvest of black bears as noted in the sustainability guidelines.

Forest-dwelling Woodland Caribou

Recommendation 8

To help protect the threatened forest-dwelling woodland caribou from further deterioration, the Ministry of Natural Resources should gather the necessary information to finalize and implement its recovery strategy on a timely basis.

Status

In March 2008, the Ministry established an independent Woodland Caribou Science Panel to review the scientific basis for its recovery strategy. This resulted in the Ministry completing a recovery strategy for forest-dwelling woodland caribou in August 2008. The recovery strategy forms the scientific basis for the Caribou Conservation Plan (to be released in the near future), which provides broad policy direction for the conservation and recovery of the forest-dwelling woodland caribou in Ontario and outlines the actions the Ministry intends to take to protect this species. At the time of our follow-up, the Ministry was developing regulations—expected to be in place by the end of 2009—to protect the woodland caribou habitat under the *Endangered Species Act, 2007*.

FISHERIES MANAGEMENT

Commercial Fisheries Management

Recommendation 9

To further protect commercial fisheries and fish stocks, the Ministry of Natural Resources should:
- *take appropriate enforcement action when the number of fish harvested is above the quotas set for sustainability; and*
- *consider developing a bycatch policy to help reduce the ecological impact on aquatic*

ecosystems and sustainability of the bycatch species.

Status

The Ministry informed us that over-quota harvest by commercial fishers is being strictly enforced through monitoring, inspections, and the laying of charges as appropriate. However, with regards to aboriginal communities involved in a commercial fishery, the Ministry has negotiated consensus agreements with First Nation communities that it believes will ensure the sustainability of the fisheries resource.

With respect to the disposition of bycatch species—the unintended harvest of certain species of fish and other aquatic life—the Ministry has conducted a review of commercial fishing bycatch strategies in other jurisdictions. Accordingly, the Ministry plans to develop a provincial bycatch policy by March 2010.

Recreational Fisheries Management

Recommendation 10

To help ensure that recreational fisheries continue to be managed in a sustainable manner, the Ministry of Natural Resources should develop formal fisheries-management plans, along with appropriate time frames for implementation.

Status

Under the new Ecological Framework for Fisheries Management, the Ministry created 20 new Fisheries Management Zones (FMZs), which will be managed to ensure a sustainable recreational fishery. Pursuant to the Framework, fisheries regulations have been streamlined where appropriate, and a scientifically based monitoring program will be implemented. To date, the Ministry has developed draft fisheries management plans for three FMZs and has posted them on Ontario's Environmental Registry for public consultation. According to the Ministry, all fishery management plans will be in place by the 2013/14 fiscal year. In addition, the Ministry has implemented an initial five-year

fisheries-monitoring program under the new framework for recreational fisheries management, to be completed by the 2012/13 fiscal year. By that time, the Ministry plans to have completed assessments on more than 1,500 inland lakes to determine fish abundance, biodiversity, water quality, and the presence of invasive species.

Fish Stocking Program

Recommendation 11

To ensure that the fish-stocking program is effective in rehabilitating fish populations and providing enhanced recreational angling opportunities, the Ministry of Natural Resources should:

- *perform regular lake surveys and post-stocking evaluations to determine whether the stocking objectives are being met; and*
- *establish a monitoring program for testing the health and quality of fish stocked by its community partners.*

Status

To help determine whether its fish-stocking program is effective and meets stocking objectives, the Ministry indicated that it will obtain and analyze information through its fisheries monitoring program for both stocked and non-stocked inland lakes. According to the Ministry, there is no regulatory authority for a mandatory fish-health monitoring program of community hatcheries. However, the Ministry participates in a federal–provincial initiative led by the Canadian Food Inspection Agency to establish a science-based regulatory program for disease management called the National Aquatic Animal Health Program. This program incorporates surveillance and control measures for high-risk diseases and will be applied to a broad range of sectors, including the Ministry and community hatcheries. In addition, the Ministry developed technical bulletins of best practices for fish-health management and egg disinfection for the use of community hatcheries to reduce the spread of disease in stocked fish.

ENFORCING COMPLIANCE WITH LEGISLATION

Enforcement Activity

Recommendation 12

To help sustain fish and wildlife resources and ensure compliance with legislation, the Ministry of Natural Resources should determine whether the enforcement resources allocated are sufficient to achieve the enforcement goals established in its risk-based plans.

Status

The Ministry implemented a Risk Based Compliance Framework for the 2008/09 fiscal year to guide its enforcement activities. The Framework helps to achieve enforcement goals by balancing enforcement priorities against fiscal and human resources to ensure that enforcement efforts are focused on those activities that pose the most risk to selected fish and wildlife resources. These include the risk to public health and safety, natural resources, the economy, and social and cultural values. The Ministry indicated that when it identifies and sets provincial compliance and enforcement priorities, it will review the enforcement resources needed to carry out its plans.

Deployment of Conservation Officers

Recommendation 13

To further strengthen its risk-based enforcement plan and ensure that fish and wildlife resources are adequately protected, the Ministry of Natural Resources should review its deployment strategy to determine whether conservation officer staffing is sufficient in each area to carry out effective deterrent patrols and meet local service requirements while recognizing current funding pressures.

Status

As noted in the status of Recommendation 12, the Risk Based Compliance Framework is the guiding document for enforcement activities in the province. We were informed that, at the time of our follow-up, the deployment of conservation officers

was being made on the basis of the risk-based plans and the Framework, taking into consideration high-risk enforcement areas and workload data. The goal of the Ministry's deployment strategy is to deter illegal activity and protect resource sustainability. During the 2008/09 fiscal year, the Ministry allocated an additional $2 million to:

- add five conservation officers to address officer-deployment gaps; and
- fund a multi-year technology project to improve mobile enforcement operations.

Hunting and Fishing Licence Suspensions

Recommendation 14

To prevent suspended individuals from obtaining hunting and fishing licences or entering the deer and moose tag draws while under suspension, the Ministry of Natural Resources should improve procedures and controls to ensure that its information systems are more complete and that suspended hunters are not allowed to get moose and deer hunting tags.

Status

The Ministry indicated that it made improvements to its procedures and information-management-system controls to prevent suspended individuals from entering deer and moose tag draws or obtaining hunting and fishing licences. In addition, the Ministry is developing a new automated licensing system, to be operational in 2010, that will improve its ability to prevent individuals under suspension from obtaining a fishing licence or hunting tag.

FISH AND WILDLIFE FUNDING

Recommendation 15

Given the decline over the last 20 years in real dollar funding for Fish and Wildlife Program activities, the Ministry of Natural Resources should formally prioritize its responsibilities for maintaining biodiversity and safeguarding Ontario's fish and wildlife and allocate available funding accordingly.

Status

Since our audit in 2007, funding for the Fish and Wildlife Program has increased by more than $21 million to help maintain the province's biodiversity and to safeguard fish and wildlife resources. During the 2008/09 fiscal year, the Ministry allocated approximately $25 million in additional funding over a number of years for programs such as:

- species at risk;
- high-priority fish and wildlife activities;
- ecosystem monitoring and assessment for lake protection strategies;
- stewardship programs;
- partnership funding for the Great Lakes basin ecosystems;
- monitoring programs for endangered species; and
- the enforcement program.

MEASURING AND REPORTING ON EFFECTIVENESS

Recommendation 16

The Ministry of Natural Resources should develop more comprehensive indicators for measuring and reporting on the Fish and Wildlife Program's effectiveness in ensuring that Ontario's fish and wildlife resources are healthy, diverse, and sustainable for the use and enjoyment of the people of Ontario.

Status

According to the Ministry, some progress has been made to develop more comprehensive indicators for the effectiveness of the Fish and Wildlife Program. Through its involvement with the Ontario Biodiversity Council's effort to prepare Ontario's first biodiversity report in 2010, the Ministry is also to report on the success of its programs to ensure that fish and wildlife resources are healthy and sustainable. At the time of our follow-up, the Ministry was also in the process of establishing outcome-based performance measures for Great Lakes sustainability, to be in place for the 2010/11 fiscal year.

GO Transit

Follow-up on VFM Section 3.07, *2007 Annual Report*

Background

Established in 1967, GO Transit's commuter network is a vital part of the GTA transportation system, linking Toronto with the surrounding regions and serving a population of more than 5 million. On a typical weekday, GO Transit trains carry about 172,000 passengers (165,000 in 2007) and its buses carry an additional 28,500 passengers (30,000 in 2007). As of March 31, 2009, GO Transit had over 1,700 full-time-equivalent employees (1,200 as of March 31, 2007). Its annual operating expenditures, including amortization on capital assets, were approximately $507 million in 2008/09 ($375 million in 2007), of which about $284 million ($250 million in 2007) is recovered from passenger fares, with the province subsidizing the rest.

In our *2007 Annual Report*, we noted that the demand for GO Transit services was growing rapidly, with more than a 65% increase in rail passengers over the previous 10 years. Until recent years, GO Transit's on-time performance was in the mid-90% range, but delays and overcrowding had become increasingly common. During our audit, between October 2006 and February 2007, GO Transit's on-time performance was only about 85%. While GO Transit had taken some action to address this, more needed to be done to meet service demand and provide reliable rail services.

Specifically, GO Transit's capital expenditure plan was based not on projected ridership growth but mainly on expected government funding levels. Without a more comprehensive analysis of future demand, there might not be sufficient infrastructure to accommodate future growth in passenger volumes. Some areas of the GTA could continue to experience serious capacity issues and persistent problems with customer service.

At the time of our audit, 70% of the track that GO Transit operates on was privately owned. GO Transit had limited means to deal with what it considered to be high rates, restrictive covenant provisions, and controls over service levels that were imposed by the private railways. As well, over the next ten years, approximately $475 million was to be spent by GO Transit on improvements in rail service on the privately owned rail corridors. Although the railways were to maintain ownership of and control over the improved infrastructure, there was little guarantee that GO Transit would receive improved service in return. Because the regulation of railways falls under federal legislation, GO Transit needed to work more closely with the provincial Ministry of Transportation to ensure that representations made to the federal government better safeguard taxpayer-funded railway projects and to ensure adequate access to commuter railway service for the public.

With respect to GO Transit's proof-of-payment fare system, 99% of all riders inspected paid the appropriate fare. However, approximately 60% of all fare inspections were done on non-rush-hour trains with significantly fewer passengers.

With respect to the acquisition of goods and services, we found:

- Although the scope of work for two significant program-management consultant contracts clearly extended over several years, in selecting the successful consultant, GO Transit requested proposals for work spanning only 12 and 17 months. In the first case, a contract was awarded to a consortium for $247,000, repeatedly extended for another seven years, and totalled more than $25 million as of the time of our audit. Similarly, in the other case, a contract initially awarded for $2.3 million was subsequently extended for three years at an additional cost, as of the time of our audit, of $15.2 million.
- Including the extensions to the contract referred to above, more than 60 major amendments were made to contracts, totalling almost $70 million, or an increase of about 75% of the original contracts' values, in the three years from 2004 through 2006.
- There were numerous instances of suppliers being selected without a competitive process, including over $8.6 million for 170 single-sourced consultant contracts over two years.

We made a number of recommendations for improvement and received commitments from GO Transit that it would take action to address our concerns.

Status of Recommendations

In March 2009, the Ontario government introduced the *Greater Toronto and Hamilton Area Transit Implementation Act, 2009*, to merge GO Transit and Metrolinx into a single regional transit agency. Formerly known as the Greater Toronto Transportation Authority, Metrolinx is a Crown-controlled agency created by the Ontario government in 2006 to develop and implement an integrated transportation plan for the Greater Toronto and Hamilton

area. Under the legislation, the government is responsible for appointing a board of directors for the merged entity, known as Metrolinx, which is to plan, build, and operate transit across the Greater Toronto and Hamilton area. The merger became official in May 2009. For the purpose of this follow-up, we are referring to the actions taken by GO Transit prior to the merger. We recognize that direction for future implementation of our recommendations will need to come from Metrolinx's new Board and management.

According to information received from GO Transit in spring 2009, significant progress has been made in addressing many of our recommendations. But the implementation of others, such as those involving infrastructure improvements and outstanding fines collection, will require more time. The status of action taken on each of our recommendations is described in the following sections.

SERVICE DEMAND AND ON-TIME PERFORMANCE

Reasons for Train Delays

Recommendation 1

In order that appropriate and timely action is taken to ensure the on-time performance of trains, GO Transit should:

- *formalize the practice of periodically conducting individual trip reviews;*
- *follow through with its commitment to carry out a review of systemic issues leading to train delays and develop and implement an action plan with timelines to address each significant systemic issue; and*
- *conduct an updated customer satisfaction survey to obtain input from customers on ways to improve service.*

Status

GO Transit informed us that the on-time performance of all train trips had been formally reviewed on an individual basis. Its Board of Directors received regular reports on on-time performance,

and it was posting on its public website its monthly on-time performance for the previous twelve months for individual train trips. This would allow customers to compare the past reliability of particular trips when making their travel plans.

In addition, GO Transit had identified systemic delay issues and acted upon a number of major factors contributing to them. This had resulted in changes to operations and procedures. However, GO Transit also indicated that many of the mitigation measures for systemic problems involve infrastructure improvements that would take a number of years to make. These measures were incorporated into GO Transit's multi-year capital plans and the Board was being updated quarterly on the status of many of these major infrastructure programs.

With respect to obtaining input from customers on ways to improve service, GO Transit informed us that it has been continuously monitoring and evaluating customer satisfaction. For example, it had established a Customer Service Advisory Committee composed of GO Transit customers. Monthly reports on customer complaints and feedback were presented to the Board.

GO Transit had conducted a number of surveys to track customer characteristics, trends, and satisfaction. One of the surveys conducted in 2008 was to ensure that GO Transit management was aware of the most significant factors affecting riders' decisions whether to take GO Transit for their commute. The results indicated that passenger growth and loyalty would continue but keeping trains and buses running on time is of paramount importance.

GO Transit informed us that customer satisfaction surveys, which used to be done every two to four years, will now be undertaken annually.

Capital Planning to Address Growth

Recommendation 2
To ensure that an effective strategy is in place to address growing passenger demand, GO Transit should establish a more comprehensive capital plan-

ning process that takes into consideration such factors as passenger growth by individual corridor and the impact of different funding levels on meeting service demand.

Status
According to GO Transit, this recommendation would be addressed through the Regional Transportation Plan (RTP) prepared by Metrolinx, which was released in late September 2008. The Metrolinx RTP establishes what infrastructure is required to meet transportation demand in the GTA and Hamilton area, and thereby provides the foundation for a comprehensive capital planning and funding process. GO2020—GO Transit's strategic plan in place at the time of our follow-up—was consistent with Metrolinx's RTP and was being used as the basis for GO Transit's current capital plan in the interim.

In addition, GO Transit had already embarked on a billion-dollar infrastructure-expansion program to improve its rail system to help alleviate the congestion affecting many GO Transit train stations.

Track Congestion and Right of Access

Recommendation 3
To ensure that the interest of the public is adequately protected, GO Transit should work proactively with the province to ensure the public's right of access to economical and efficient railway service.

Status
GO Transit informed us that this work was in progress at the time of our follow-up. Working with the province, GO Transit had met with CN to start negotiations to secure GO Transit ownership of various rail corridors. GO Transit acquired two corridors in the 2008/09 fiscal year. The province has established a capital fund to accommodate further acquisitions and this strategy was reinforced in the GO2020 plan.

Agreements with Host Railways and Suppliers

Recommendation 4

To ensure reliable train service, GO Transit should:

- *work more effectively with service providers to address persistent delays attributed to them, monitor progress toward reducing the delays, and take appropriate action; and*
- *review the terms of the agreements with service providers and, where possible, negotiate appropriate changes to future agreements to enhance performance and accountability.*

Status

GO Transit informed us that it had held regular meetings with the host railways and major suppliers to identify on-time performance issues, contributing factors, and potential solutions. This process had yielded a number of procedural improvements and operational adjustments, as well as the initiation of capital projects to help improve on-time performance. In addition, new contracts were being structured to focus on the functional requirements needed to improve performance and customer service.

GO Transit indicated that it had awarded competitively bid contracts for train operation and train maintenance that are performance-based and include provisions for damages. The major contracts with host railways are multi-year agreements. As they come due for renegotiation, GO Transit intends to seek terms that enhance performance and accountability. GO Transit's strategy of acquiring corridors was also a response to the limited leverage it had in negotiating with the host railways.

ACQUISITION OF GOODS AND SERVICES

Recommendation 5

To ensure that value for money is received and GO Transit's acquisition processes are regarded as fair, open, and transparent, GO Transit should:

- *follow its internal policies, which require a competitive selection process in acquiring goods and services;*
- *monitor contracts for adherence to the original price and consider obtaining a separate tender for any significant change in the scope of work in the original contract;*
- *ensure that contracts have firm ceiling prices, whenever possible;*
- *conduct a long-term needs analysis on the costs and benefits of hiring consultants and consider alternatives, such as hiring and training staff instead of using consultants; and*
- *strengthen the terms of contracts with suppliers to ensure satisfactory and timely performance and take appropriate action to ensure that suppliers adhere to contract terms.*

Status

GO Transit informed us it has strengthened its internal policies. It has modified its procurement policies to enforce the competitive bid process and highlight that contract amendments and sole-sourced negotiated contracts are the two "least favourable" methods of contracting for new work. Each contract change that is brought forward for approval is challenged and subject to lengthy discussion by senior staff. In addition, GO Transit had instituted on all contracts a firm "ceiling" or "stipulated" price for the work specified in the contract.

According to GO Transit, it had established an ongoing process to review its consulting needs. The existing large assignments contracted out to program management consultants were scheduled to end on March 31, 2010. Reorganization within GO Transit was in progress, which would allow for a smooth transition of responsibilities from the program management consultants to GO Transit staff. GO Transit told us that bringing this work in-house was made possible by the Metrolinx RTP and the province's Move-Ontario 2020 Program. Because the program committed more stable funding, GO Transit indicated that it could hire staff for work that was often previously contracted out due

to uncertainty as to whether the necessary funding would be available.

With respect to strengthening the terms of contracts with suppliers to ensure satisfactory and timely performance, GO Transit's legal department had reviewed the terms and conditions of all contract documents, including construction-related and consulting agreements. It was in the process of enhancing existing standardized forms and implementing additional standardized agreements.

ENSURING PAYMENT OF FARES

Recommendation 6

To ensure that inspection and collection efforts are effective and consistent in enforcing payment of fares, GO Transit should:

- *review and make appropriate revisions to its inspection guidelines relating to when a fine should be levied on passengers who evade paying their fares;*
- *make sure inspection coverage and enforcement actions comply with internal inspection standards;*
- *monitor the results of inspections and take corrective action, where necessary;*
- *develop a policy with respect to repeat offenders; and*
- *work with the Ministry of the Attorney General and municipalities to establish a more effective and accountable system for collecting fines.*

Status

GO Transit informed us that it developed guidelines for staff outlining when fines should be levied on fare-evading passengers. These guidelines were included in a refresher training program delivered to all enforcement staff in May 2008. The supervisory group responsible for monitoring compliance also received additional training.

Internal inspection standards for 2009/10 were being finalized at the time of our follow-up. In mid-2008, GO Transit hired a staff dedicated to scheduling and tracking inspection resources to ensure

that internal inspection standards are maintained. Performance results were being tracked on a monthly basis to determine what corrective actions, if any, should be taken. The policy guidelines for fare enforcement had been updated to include a procedure to deal with repeat offenders.

In addition, GO Transit informed us that it had begun developing a model of administrative fees to deal with fare evaders and persons in contravention of parking regulations. This model requires legislative amendment but has been identified as a key component in improving the fine-payment process. It would see the process moved out of the court system and become a matter preferably resolved directly by GO Transit and the customer. This process is expected to improve the effectiveness of fare collection and reduce the number of outstanding fines.

With respect to the collection of fines, GO Transit's legal services met with all relevant court managers in February 2008. They determined that legislative amendment is needed to increase the effectiveness of collecting outstanding fines. GO Transit staff has approached the Ministry of Transportation to address this matter.

SAFETY AND SECURITY

Recommendation 7

To further enhance the safety and security of passengers, GO Transit should:

- *perform periodic systemic analysis of past safety and security incidents to determine whether measures can be taken on certain types of commonly recurring risks;*
- *formally analyze and report on the effectiveness of its simulated security exercises; and*
- *implement safety and security measures identified through audits on a timely basis.*

Status

GO Transit informed us that, at the time of our follow-up, it had started gathering statistics on security-based activities and was moving forward

on the acquisition of an Incident Management System.

In addition, GO Transit had completed a preliminary review of existing procedures related to parking lot security and had implemented various changes, including increasing the visibility and frequency of random station patrols, sharing vehicle crime statistics with local police services, and reviewing the use of closed-circuit TV recording.

GO Transit also completed a simulated tabletop security exercise in March 2008 and subsequently analyzed and reported on the effectiveness of the exercise. Staff presented a report, which included recommendations, to senior management.

According to GO Transit, any follow-up actions recommended in audits and/or reports are tracked to completion.

BOARD GOVERNANCE

Recommendation 8

To provide more effective governance, GO Transit's Board of Directors should:

- *approve a formal strategic plan setting GO Transit's strategic direction and share it with the Ministry of Transportation and the Greater Toronto Transportation Authority (GTTA);*
- *establish a committee structure that supports the Board with more detailed review of and advice on significant matters relating to overall governance and oversight;*
- *ensure more effective oversight of GO Transit's overall performance, as well as of specific operational issues, such as procurement and contract management; and*
- *consider adopting certain governance best practices such as enhanced performance-evaluation processes and a more formal orientation for new Board members, as well as periodic governance-training workshops.*

Status

According to GO Transit, governance practices, including the establishment of various committees

to ensure effectiveness and efficiency, have been put in place and continued at the new Metrolinx Board.

The now-dissolved GO Transit Board informed us that it had undertaken a more formal approach in developing a strategic plan (GO2020). A number of comprehensive meetings took place with the Board directing and guiding staff to create the corporation's next plan.

The former GO Transit Board had established a Risk Management Committee and a Governance and Compensation Committee. These committees provided regular in-depth analysis of inherent risks to the organization, ensured that all new directors receive comprehensive orientation and training, assessed the effectiveness of the Board of Directors and its committees, and made recommendations with respect to compensation issues.

AGENCY ACCOUNTABILITY

Recommendation 9

To fulfill its accountability requirements to the Ministry of Transportation, GO Transit and the Ministry of Transportation should work together to finalize a Memorandum of Understanding and produce an annual business plan and annual report in compliance with provincial policies and guidelines.

Status

GO Transit informed us that a Memorandum of Understanding had been approved by the former GO Transit Board and the Ministry of Transportation. Effective for the 2010/11 fiscal year, a business plan and annual report are to be produced in compliance with provincial policies and guidelines. At the time of our follow-up, a new Memorandum of Understanding between Metrolinx and the Ministry of Transportation was being drafted as a result of the merger.

Hazardous Waste Management

Follow-up on VFM Section 3.08, *2007 Annual Report*

Background

Hazardous wastes include a broad range of substances such as waste acid, contaminated sludge, photo-finishing and other chemicals, motor oil, and discarded batteries. The Ministry of the Environment (Ministry) is responsible for ensuring that hazardous waste is collected, stored, transported, treated, and disposed of with due regard for the environment and public health. Excluding household hazardous waste, Ontario produces approximately 400,000 tonnes of hazardous waste annually. In the 2008/09 fiscal year, the Ministry spent $16.1 million ($14.6 million in 2006/07) on its Hazardous Waste Management Program.

During our 2007 audit, we found that, partly owing to continuing problems with a computer system implemented in 2002, the Ministry did not yet have adequate monitoring and inspection procedures in place to ensure compliance with legislation and regulations aimed at protecting the environment from the risks posed by hazardous wastes. The system's weaknesses limited the ability of staff to monitor effectively the volume of hazardous waste activity in the province and contributed to many of the following concerns:

- We identified more than 5,000 organizations that registered as hazardous waste generators

in 2004 but not in 2005. Yet the Ministry had not determined whether these organizations were still generating hazardous waste and properly disposing of it.

- Certificate-of-approval applications from hazardous waste carriers and receivers that want to establish or expand a facility are reviewed by the Ministry to ensure that applicant operations will not adversely affect the environment. As of January 2007, we found that 50% of the applications remaining to be processed had been in the assessment stage for more than a year, and 20% for more than three years.
- In 2005, there were more than 26,000 shipments of hazardous waste where the quantity received was less than the quantity shipped by the generator. The difference was greater than 10% in half these shipments, with no explanation or follow-up regarding the discrepancy. Consequently, there was a risk that significant amounts of hazardous waste were not being disposed of properly.
- We identified almost 900 registered hazardous waste generators that apparently had not shipped any hazardous waste for the last three consecutive years as evidenced by the absence of manifests, which must accompany all shipments of hazardous wastes. The absence of manifests could indicate that hazardous

wastes were being shipped and disposed of inappropriately if they were not being accumulated on-site.

- As of April 2007, the Ministry held $150 million in financial assurance from over 700 carriers and receivers of hazardous wastes. Financial assurance is required to ensure that the government does not end up paying for hazardous waste cleanup. However, the financial assurance collected is often inadequate. For example, one chemical company provided financial assurance totalling $3.4 million for a landfill site, but the site experienced problems with leakage, and cleanup costs have been estimated at $64 million.

- Although the Ministry performed a significant number of inspections of hazardous waste generators, carriers, and receivers, its selection of facilities for inspection was often not based on risks posed to the environment. In the last five years, at least, the Ministry had performed no inspections at 11 of the 30 largest hazardous waste-generating facilities in the province. In addition, ministry inspectors found a significant level of repeat non-compliance, but had given the repeat violators more severe penalties only 20% of the time.

We made a number of recommendations for improvement and received commitments from the Ministry that it would take action to address our concerns.

Status of Recommendations

According to information received from the Ministry, action has been taken on all of the recommendations made in our *2007 Annual Report*, with substantial progress being made on many of them. The status of actions taken on each of our recommendations is as follows.

HAZARDOUS WASTE MANAGEMENT OPERATIONS

Registration of Hazardous Waste Generators

Recommendation 1

To ensure that all hazardous-waste-generating facilities are registered as required, the Ministry of the Environment should:

- *consider implementing deterrents to encourage generators to register by the legislated deadline and help reduce the significant volume of non-compliance; and*
- *inform district offices of all generators that do not register by the legislated deadline and follow up to ensure that they either register or no longer generate hazardous waste.*

Status

The Ministry informed us that it had introduced a series of procedures to ensure that all unregistered generators receive adequate deadline notifications and, if necessary, timely follow-up: three months prior to the registration deadline, the Ministry sends notices to generators reminding them of the legislated registration deadline. Subsequent to the deadline, the Ministry sends notices to unregistered generators notifying them that their registration has expired and that, if they generate any hazardous waste that requires shipping or disposal, they will be out of compliance.

The Ministry informed us that the current Hazardous Waste Information Network (HWIN) system generates exception reports, which list all shipments originating from unregistered generators or handlers not authorized by their certificates to handle hazardous waste. In March 2008, the Ministry implemented a new process where a dedicated staff member follows up on all exception reports. A standard operating procedure was created to assist ministry staff in this follow-up process. It outlines the steps to take to identify and follow up on cases of non-compliance of a generator, carrier, or receiver. If compliance cannot be achieved through

this process, the exception report is provided to the district office so it can conduct a site visit. The exception reports resulting from generators account for approximately 94% of all exception reports of generators, carriers, and receivers. The Ministry indicated that, by the end of April 2009, more than 80% of these exception reports had been followed up on and resolved.

As an additional compliance measure for unregistered generators that ship waste, in April 2008, the Ministry sent out a letter to all carriers of hazardous waste that were actively transporting waste as documented in HWIN in 2007. The letter reminded the carriers that picking up hazardous waste from unregistered generators is a violation of the regulation and their certificate of approval. In April 2009, a similar letter was sent to all active carriers of hazardous waste that were actively transporting waste as documented in HWIN in 2008.

The Ministry indicated that there were discussions on imposing financial deterrents and penalties to encourage generators to register by the legislated deadline in order to help reduce the volume of non-compliance. At the time of our follow-up, a final decision had not been made.

The Ministry also indicated that, in May 2009, it began sending "potential violation letters" to expired generators giving them 30 days to register their site or close their accounts, after which time compliance action would be taken, which may include referral to the Investigations and Enforcement Branch of the Ministry. When these letters were mailed out, district offices were notified of the unregistered companies located in their geographical area so they could follow up on them.

Certification of Hazardous Waste Carriers and Receivers

Recommendation 2

To help ensure that certificates of approval are in place for all carriers and receivers of hazardous waste and that certificate applications are properly assessed and approved on a timely basis, the Ministry of the Environment should:

- *implement procedures to ensure that all carriers and receivers of hazardous waste are holders of the legally required certificates of approval;*
- *ensure that all required documentation has been submitted and is on file before issuing a certificate;*
- *consider options for the submission of independent third-party evidence that application proposals comply with legislation and adequately protect the environment, as is done for other environmentally sensitive programs such as mines and forestry;*
- *enhance the functionality of the Integrated Divisional System to interface with other program systems and to distinguish hazardous waste certificates from other program certificates; and*
- *include all existing certificates and reporting requirements in its management information system.*

Status

In March 2008, the Ministry implemented a new process where a dedicated staff member follows up on all exception reports on carriers and receivers. These exception reports are generated by the HWIN system and identify all carriers and receivers without a valid certificate of approval. If this follow-up does not result in compliance, the exception report is provided to the district office so it can conduct a site visit and/or an inspection.

The Ministry informed us that, in addition, hazardous waste carriers and receivers had been added to the annual inspection plan to ensure that they are operating within the conditions of their certificate of approval. Subsequent to our 2007 audit, the Sector Compliance Branch and the Investigations and Enforcement Branch of the Ministry conducted sampling on carriers to verify the contents of vehicles that transport hazardous waste, and the Sector Compliance Branch now includes vehicle inspections in its annual work plans.

The Ministry informed us that it had rearranged the Application Processing Unit into specific groups by types of applications (air, water, wastewater, and waste) to better screen out incomplete applications.

The Ministry also updated the certificate-of-approval application guidance document and the application form. The updated guidance document clarifies what documents are required when an application is submitted. The updated application form is an interactive e-form that provides a list of supporting documentation required based on the type of application that is being submitted. If an applicant does not complete all mandatory fields, the application form will indicate that the application is incomplete. In March and April 2009, the Ministry also published sample application packages to illustrate the expected format and content of the application forms.

The Ministry informed us that, at the time of our follow-up, third-party submissions had become a mandatory component in the application process for a comprehensive certificate of approval for non-hazardous waste disposal. The Ministry was considering extending this type of certificate to hazardous waste sites. The Ministry also stated that it would continue to look for ways to capitalize on the use of submissions of independent third-party evidence that indicates application proposals comply with legislation and adequately protect the environment.

The Ministry informed us that upgrades had been made to the Integrated Divisional System to enable more comprehensive description and characterization of waste disposal sites by type (landfill or processing site) and by the type of wastes (hazardous or municipal waste) that are managed. This enhancement allows better tracking, reporting, and responding to waste disposal site applications. In November 2007, the Ministry upgraded the Integrated Divisional System to send out automatic email notifications to the local district office whenever the Approval Branch decides to issue, return, or revoke an application for a hazardous waste certificate of approval.

We were informed that, in 2007, the Ministry reviewed the HWIN database and identified those sites that had received hazardous waste. All sites identified through HWIN were cross-referenced to the Integrated Divisional System and were added to the Integrated Divisional System if the site was not previously entered. The Ministry also indicated that improvements have been made to increase the ability of the Integrated Divisional System to track whether a company has provided the appropriate amount of financial assurance and identify when a financial-assurance reassessment is due.

Monitoring Hazardous Waste Shipments

Recommendation 3

To ensure that hazardous waste shipments are properly monitored to minimize risk to the public and the environment, the Ministry of the Environment should:

- *follow up on all significant waste shipments that originate with unregistered generators;*
- *investigate all hazardous waste carriers and receivers that are not authorized by their certificates of approval to handle the hazardous waste manifested;*
- *review all registered generators with no manifest activity for extended periods of time to ensure that they are not involved in unauthorized waste shipment and disposal;*
- *investigate significant discrepancies between the amount of hazardous waste shipped and the amount received; and*
- *implement procedures to ensure that hazardous waste temporarily stored at a receiving facility is not double-counted in determining the total hazardous waste produced in Ontario each year.*

Status

In March 2008, the Ministry implemented a new process where a dedicated staff member follows up on all generator, carrier, and receiver exception reports. As of April 23, 2009, a total of 4,747 exception reports for generators, carriers, and receivers had been generated, and more than 3,800

of them had been closed. The centralization of the exception report follow-up process has allowed for consistent and timely resolution, and resulted in a 34% decrease in exception reports in comparison to the previous fiscal year.

The Ministry indicated that, in order to investigate all hazardous waste carriers and receivers that are not authorized by their certificates of approval to handle the hazardous waste manifested, based on the centralized exception report, inspections of these carriers and receivers took place where necessary to verify if the manifested waste corresponds to that on the certificate of approval.

Among the receiver exception reports, the majority of them are due to incorrect waste class information provided on the paper manifest by the generator. The Ministry has instructed receivers to ensure that all manifested waste has been properly documented on the manifest.

Carriers that are found to be transporting hazardous waste not approved within their certificate of approval are contacted and instructed to apply for a certificate-of-approval amendment if they intend to continue to transport the hazardous waste in question. If companies continue to operate outside of their certificate of approval, a provincial officer can issue an order to them to cease operations until an amended certificate of approval is issued or an agreement to cease transportation of the hazardous waste in question has been reached. If companies continue to transport the material in contravention of an order, penalties will be levied.

To ensure that registered generators with no manifest activity for an extended period of time are not involved with unauthorized waste shipment and disposal, the Ministry has reviewed and followed up on companies with no manifest activity to ensure that waste is being disposed of properly.

The Ministry also indicated that it has followed up with companies where manifest discrepancies were occurring and found that discrepancies occur because generators simply estimate the amount of waste they ship, and the waste is only weighed at the receiving site. The manifest document does

not require actual weight, and the current regulation only requires the receiver to track the amount of waste on a daily or weekly basis. The Ministry noted that approximately 60% of these weight discrepancies were found in the medical industry. To follow up on the discrepancies, from October 2007 to January 2008, the Ministry has completed 46 inspections of hospitals in Ontario for compliance in handling biomedical waste. There was no evidence of waste being lost in transit.

To prevent double-counting of hazardous waste temporarily stored at a receiving facility, the Ministry has developed a procedure to produce reports on hazardous waste shipped that excludes waste shipped from receiving facilities with temporarily stored waste.

Storage and Disposal of Hazardous Waste

Recommendation 4
To help reduce the substantial risk that the disposal and storage of hazardous waste pose to the public and to the environment, the Ministry of the Environment should develop a strategy to resolve the concerns that have delayed regulatory amendments designed to reduce the risks posed by medical waste and PCBs.

Status
The Ministry informed us at the time of our follow-up that the guideline on the management of biomedical waste in Ontario was being updated. In October 2008, the Ministry posted a revised version of the guideline to the Environmental Registry for a 60-day public comment period, which closed on December 22, 2008. At the time of our follow-up, stakeholder comments were being analyzed and additional stakeholder consultations were taking place. The Ministry indicated that the revised guideline would be completed and posted to the Environmental Registry.

The Ministry told us that it was actively addressing the removal of PCBs from the Pottersburg PCB storage site, the largest PCB storage site in Ontario. In February 2009, the Ministry engaged

a contractor to decommission and restore the Pottersburg site. The decommissioning and restoration of the site was expected to be completed by the end of 2010.

Household Hazardous Waste

Recommendation 5

To build on its recent initiatives for the disposal of household hazardous wastes, the Ministry of the Environment should work with Waste Diversion Ontario and municipalities on a province-wide strategy for reducing the impact of household hazardous waste on the environment.

Status

In December 2006, the Ministry directed Waste Diversion Ontario (WDO) to develop an industry-funded diversion program plan, called the Municipal Hazardous or Special Waste (MHSW) Program, to enhance the proper management of MHSW. The program addresses both the collection of unused material as well as consumer education regarding proper handling and use of it. The program was received and posted on the Environmental Registry for a 30-day public comment period on June 11, 2007. At the time of our follow-up, the Ministry indicated that Phase I of the MHSW Program was approved by the Minister in February 2008. The industry has developed and managed the program since July 2008 and it was officially launched in January 2009. The goal of the program is to divert common hazardous consumer products, such as paints and solvents, from being disposed of in landfills or sewers.

We were informed that, at the time of our follow-up, WDO and Stewardship Ontario were developing program plans for phases II and III of the program, and would submit a consolidated program plan for all three phases to the Ministry by the end of July 2009. Phase II is to include additional MHSW materials not included in Phase I. The final phase, Phase III, is to include the remaining MHSW materials that meet the municipal hazardous waste definition. The Minister's approval for the consoli-

dated MHSW program plan will be required before it can commence.

INFORMATION AND REPORTING SYSTEMS

Hazardous Waste Information System

Recommendation 6

To ensure that management and inspection staff have reliable and relevant information for monitoring whether hazardous waste is transported and disposed of in accordance with legislation, the Ministry of the Environment should:

- *identify its key information needs;*
- *consider how other jurisdictions obtain similar information; and*
- *formulate a business case that outlines the cost and benefits of various alternatives to meeting its information requirements.*

Status

To ensure that management and inspection staff have reliable and relevant information to monitor the transportation and disposition of hazardous waste, the Ministry had identified its information needs and, at the time of our follow-up, was developing a multi-year project plan for a new business architecture and system solution to support the hazardous waste program. The project plan is to explore alternative means to improve information management.

The Ministry indicated that it had collected information on how other leading jurisdictions collect and manage hazardous waste information. The research on other jurisdictions revealed that Ontario is a leader in many aspects of its hazardous waste program. Ontario is the only jurisdiction in Canada to require annual registration of hazardous waste generators. Ontario also has the most comprehensive manifesting and verification system and has the first fully electronic information system. The Ministry was intending to update its jurisdictional analysis to include additional jurisdictions by mid-October 2009.

The Ministry reported that it had evaluated the options of enhancing the current system or developing a new system. Upon performing the cost/benefit analysis, the Ministry concluded that the functionality and reliability of a new system would address the public interest and the Ministry's long-term needs. A new system would also be sustained with lower maintenance costs. A new system is to be developed on the current platform with improved reliability, functionality, and flexibility to adapt to regulatory changes.

Measuring and Reporting Program Effectiveness

Recommendation 7

To enhance ministry decision-making and provide the public with information on its success in managing hazardous waste, the Ministry of the Environment should:

- *establish more comprehensive performance measures for hazardous waste management;*
- *review the performance measures for hazardous waste management used by other jurisdictions for applicability to Ontario; and*
- *publicly report on those measures.*

Status

The Ministry informed us at the time of our follow-up that it had identified three performance measures that it was planning to report on publicly in fall 2009. On the basis of the current database, the Ministry was planning to report on the rate of significant non-compliance in the hazardous waste program as determined through inspections, the resolution of exception reports over time, and the number of hazardous waste approvals issued over time.

The Ministry also indicated that a jurisdictional review had been performed to examine the methodology used by other leading jurisdictions to track and report program performance measures. The performance measures that the Ministry was planning to report on are based on a combination of performance measures in other jurisdictions, the Ministry's program and policy, and its ability to

track and report with the information system now in place.

The Ministry told us that it had begun to prepare an annual report on hazardous and liquid industrial waste in Ontario. The report is to be based on the 2008 HWIN data, and is to include performance measures approved for public release. The release of the first annual hazardous and liquid industrial waste report is scheduled for the end of 2009. Further to the annual report, the Spills Action Centre also reports on the number of spills and incidents relating to hazardous waste reported each year. The 2007 Spills Summary Report is publicly available on the Ministry's website.

FINANCIAL ASSURANCE AND REVENUE

Financial Assurance

Recommendation 8

To ensure that the hazardous waste operator, rather than the taxpayer, is responsible for financing cleanup costs from hazardous waste contamination, the Ministry of the Environment should:

- *consider whether all hazardous-waste-management carriers and receivers should be required to provide financial assurance;*
- *collect financial assurance prior to issuing a certificate of approval; and*
- *periodically review whether financial assurance on hand is sufficient to cover potential spills and future costs of cleanup, waste removal, and disposal.*

Status

The Ministry reported that, to ensure that the hazardous waste operator is responsible for financing cleanup costs from hazardous waste contamination, it now requires that every receiver have financial assurance and that every carrier hold $1 million in liability insurance.

The Ministry also indicated that it now collects financial assurance before a certificate of approval is issued for any site that will receive, transfer, store, or dispose of hazardous waste.

To ensure that the financial assurance on hand is sufficient to cover the potential spills and future costs of cleanup, waste removal, and disposal, the Ministry retained a consultant to research and develop alternatives to the delivery of the financial assurance program. In order to determine the appropriate amount of financial assurance required from the receivers, in November 2007, the Ministry completed a guidance document that provides current cost information for landfill site activities.

We were informed that, as of July 2008, all certificates of approval for privately owned hazardous waste sites have a condition requiring that the amount of financial assurance be reassessed on an annual basis. The Ministry indicated that it had enhanced its computer system to make it a more effective compliance tool to track and follow up on financial-assurance requirements by upgrading the link between the certificate-of-approval and financial-assurance databases. The system now tracks whether a company has provided the appropriate amount of financial assurance and identifies when a financial-assurance reassessment is due.

In March 2009, the Ministry completed a new guidance document for waste transfer and processing and transfer sites. This document should provide ministry reviewers with the necessary information to calculate a more accurate financial-assurance amount for the site and to have a more efficient assessment process.

The Ministry reviewed the certificate of approval for every receiver to assess the adequacy of financial assurance for coverage of potential spills and future costs of cleanup and waste removal and disposal. The Ministry indicated that, through this review, it collected an additional $9.7 million in financial assurance.

Hazardous Waste Fees

Recommendation 9

To ensure that hazardous waste fees are sufficient to recover program costs, are accurately recorded, and

are collected on a timely basis, the Ministry of the Environment should:

- *review the objectives of the fee structure to ensure that the original objective of fully recovering program costs is still realistic and, if so, assess the adequacy of fees in offsetting program costs;*
- *establish controls to ensure that the Hazardous Waste Information Network (HWIN) reliably identifies unpaid registration fees;*
- *periodically assess the reasonableness of total fees collected as compared to expected fees based on the number of registrations and manifests and the tonnage of hazardous waste disposals;*
- *implement procedures to ensure that all generators certified for on-site disposal submit fees as required; and*
- *enhance the HWIN system so that it can calculate and identify outstanding debt by generator and track the amount of time debt has been outstanding, so that collection efforts can focus on generators with significant balances that have been outstanding for extended periods of time.*

Status

To ensure that hazardous waste fees are sufficient to recover the program costs, are accurately recorded, and are collected on a timely basis, the Ministry conducted research on other jurisdictions, a cost study, and a study of waste generation rates, and, at the time of our follow-up, was reviewing policy options for revised fees. This review was expected to be completed in 2009/10 with a new fee structure proposed for approval and implementation in 2010/11.

In response to our recommendation on establishing controls to ensure that HWIN reliably identifies unpaid registration fees, the Ministry indicated that HWIN now reliably identifies unpaid registration fees for each generator.

The Ministry informed us that it now compares the total monthly outstanding receivables balance to the number of manifests and tonnage. The amounts receivable are periodically compared to

the actual collections to calculate the collection rate. The reasonableness of the collection rate was assessed by comparison to the average collection rate of other government ministries. The Ministry also indicated that steps were being taken to calculate the HWIN collection rate on an annual basis.

We were informed that generators that are certified for on-site disposal are required to report in accordance to the certificate-of-approval conditions. A procedure is in place to calculate and collect on-site disposal fees from generators at the time of re-registration each year. In addition, the Ministry may identify on-site generators through annual inspections. For generators that are found to be disposing hazardous waste on-site without being registered through HWIN or without a proper certificate of approval, compliance action is to be taken to ensure that they are registered in HWIN, have obtained necessary approvals, and have paid the applicable fees.

The Ministry informed us that a new component had been added to HWIN to provide more information on outstanding receivables. The new component provides a breakdown of total amounts receivable and a report to track the amount of time debt has been outstanding per generator. The Ministry advised us that, at the time of our follow-up, it was validating this new reporting component with historical data and working with the vendor to ensure accuracy.

COMPLIANCE

Selection of Facilities for Inspection

Recommendation 10

To enhance the effectiveness of its inspection process, the Ministry of the Environment should ensure that its facility selection process is based on potential risk to the environment by:

- *using the formalized risk-based selection process already developed for the district offices and selecting facilities for inspection based on documented risks;*

- *updating its risk analysis for the Sector Compliance Branch;*
- *including all potential hazardous waste generators, carriers, and receivers in its risk assessment processes; and*
- *ensuring that district and branch co-ordination efforts result in all high-risk facilities being inspected periodically.*

Status

The Ministry informed us that facilities are now selected for inspection using a risk-based selection process, taking into consideration any potential risk to the environment based on their compliance history, approval type, volume and types of wastes, registration status, and exception report history in addition to local district knowledge.

We were also informed that the Sector Compliance Branch had updated its risk analysis framework. The revised framework uses more up-to-date compliance information from the Integrated Divisional System and a revised set of categories that are now in line with seven consequence categories used across the division. The Sector Compliance Branch also uses additional data sources such as HWIN to select sites for inspection.

The Ministry informed us that it typically finds out about companies that have never been registered through incidents reported to the Spills Action Centre, the use of industry databases to identify sectors that could potentially pose high risk for inspection, and the comparison of the industry database with the HWIN database. The Ministry also informed us that, in developing the 2009/10 inspection plan, it had obtained the industry database and compared it to HWIN data to identify companies that were in the industry database under sectors associated with hazardous waste but not registered with HWIN. A subset of these companies was assigned for inspection.

The Investigations and Enforcement Branch also established an Intelligence Unit that is engaged in the hazardous waste sector. In 2008, it carried out an initiative to determine the registration status of

all companies that had registered in the database used prior to HWIN but had not registered in HWIN at the time of the database conversion in 2001. The Investigations and Enforcement Branch found that the majority of the companies were either no longer in business or were no longer required to be registered. We were informed that the remaining companies were registered and in compliance at the time of our follow-up.

The Ministry informed us that, to ensure that district and branch co-ordination efforts result in all high-risk facilities being inspected periodically, the districts and the Sector Compliance Branch were co-ordinating inspection plans so that high-risk and underperforming facilities would be monitored.

Inspections of Hazardous Waste Facilities

Recommendation 11

To ensure that inspections of hazardous waste generators, carriers, and receivers effectively encourage compliance with legislation and policy, the Ministry of the Environment should:

- *develop a consistent approach to rating the level of compliance found during its inspections;*
- *include surprise visits in its district office inspection process;*
- *apply enforcement methods consistent with the degree of non-compliance;*
- *periodically verify the contents and weight of a sample of vehicles that transport hazardous waste;*
- *implement a formal strategy for timely follow-up of non-compliant facilities; and*
- *review its processes to determine what other corrective actions to take to increase the level of compliance within the hazardous waste industry.*

Status

The Ministry informed us that the compliance assessments of the Sector Compliance Branch and the district offices are now aligned. To ensure that enforcement methods are applied consistently with

the degree of non-compliance, the Ministry put in place an informed-judgment matrix. The matrix guides the reviewer to assess the compliance level, and specific follow-up actions are provided for each compliance level.

The Ministry also informed us that it now ensures that the annual inspection programs include both planned inspections and surprise visits for waste generators, carriers, and receivers. In 2008/09, the Ministry hired additional inspectors to increase the ability of the district offices to conduct surprise visits after normal business hours.

The Ministry advised us that it started a periodic verification of contents by sampling vehicles that transport hazardous waste. The Ministry indicated that it was committed to continue vehicle sampling in 2009/10 to verify whether or not the contents being transported match the waste description provided on the associated manifest. In 2008/09, all samples analyzed matched the description provided on the associated manifest.

We were informed that, in May 2007, the Ministry implemented a formal strategy for timely follow-up of non-compliant facilities. It issued a compliance policy for applying abatement and enforcement tools. This policy provides guidance in the selection of abatement and enforcement tools to address violations of ministry legislation.

The Ministry informed us that, to ensure that corrective actions are in place to increase the level of compliance within the hazardous waste industry, it developed a centralized exception report that identifies common issues of non-compliance for follow-up with corrective action. In addition, in May 2008, the Ministry distributed a letter to all active carriers reminding them that picking up from unregistered generators is a contravention of the regulation and their certificate of approval. The Ministry indicated that, although this letter served as a reminder, it also helped reduce the level of non-compliance significantly. In April 2009, a similar letter was again distributed to all active carriers, along with information on the proper manifesting process for several types of hazardous waste.

Hospitals—Management and Use of Surgical Facilities

Follow-up on VFM Section 3.09, *2007 Annual Report*

Background

Ontario's public hospitals are generally governed by a board of directors that is responsible for the hospital's operations and for determining the hospital's priorities in addressing patient needs in the community. In the 2008/09 fiscal year, the total operating costs of Ontario's more than 150 hospitals were about $22 billion ($19 billion in 2006/07), of which about 85% was funded by the Ministry of Health and Long-Term Care.

According to the Ministry, about 844,000 surgical procedures and 135,000 other diagnostic procedures (such as biopsies and imaging) were performed in hospital operating rooms across Ontario in 2006/07, at a cost of about $1.2 billion. This cost includes nurses' salaries and medical supplies, but excludes most physicians' services, such as surgeons' services, which the Ministry pays for through the Ontario Health Insurance Plan.

In our *2007 Annual Report*, we noted that the Ministry had introduced several good initiatives to help hospitals improve surgical processes, including a pilot project to centralize patient referral and assessment, which provides patients with the option of choosing a surgeon with the shortest wait list and assesses whether surgery is the most appropriate course of action. However, the Ministry did not have information available on the total number of operating rooms in Ontario, the hours operating rooms were in use, the total number of patients waiting for surgery, or the type of surgery they were waiting for.

Our audit focused on the management and use of surgical facilities with respect to meeting patient needs. We conducted work at three hospitals—Toronto East General Hospital, St. Joseph's Healthcare Hamilton, and Sudbury Regional Hospital—that performed about 44,000 surgical procedures in their 42 operating rooms during the 2006/07 fiscal year. We concluded that the hospitals were managing the use of their surgical facilities well in some areas, such as implementing procedures to prioritize urgent surgical cases and screen elective patients prior to surgery. However, the three hospitals needed to better utilize their surgical facilities to reduce patient wait times. Our observations also included the following:

- An average of 12% of operating rooms at the hospitals we visited were not used most weekdays in 2006, and generally were not used for elective surgeries on weekends or statutory

holidays. As well, for approximately nine weeks in summer 2006, only about 60% of operating rooms were used, owing primarily to planned vacation-time closures.

- At the hospitals we visited, each surgeon's operating room time was based primarily on the time allocated to that surgeon in prior years, rather than on other factors such as patients' needs and hospital priorities.

- Most urgent emergency cases had their surgery within hospital-established time frames at the two hospitals we visited that tracked this information, although about 13% of non-emergency but urgent (for example, acute appendicitis) patients did not.

- Despite clinical guidelines indicating that most medically stable patients undergoing low-risk surgeries do not require a pre-operative electrocardiogram (ECG) or chest x-ray, research indicated that the rate of ECGs and chest x-rays conducted in Ontario hospitals prior to surgery varied significantly for patients undergoing low-risk procedures.

- None of the hospitals we visited followed up with the applicable surgeon—as required by the Ministry—to ensure that patients waiting longer than the established 10-month benchmark were reassessed. At one hospital, 67% of low-priority hip-replacement patients waited longer than their targeted time frame for surgery, with some patients still not having had their surgery after three years.

- The timeliness of surgery varied significantly in some cases, depending on the hospital or Local Health Integration Network. For example, some hospitals were able to perform lower-priority cancer surgeries more quickly than other hospitals were able to perform more urgent cancer surgeries.

- At two of the hospitals we visited, about 13% of the in-patient beds were occupied by individuals no longer requiring hospital care but who were waiting for alternative accommodation. This reduced the number of post-operative beds available, sometimes resulting in surgical patients having their surgeries delayed or cancelled.

- The Ministry's Provincial Infectious Diseases Advisory Committee indicates that "flash sterilization" (a quick sterilization process for surgical instruments) should be used only in emergency situations. However, we noted that this was not always the case, as flash sterilization was often used in non-emergency situations, such as when there was a shortage of instruments.

In addition, we acknowledged that there would be challenges—for the hospitals, as well as for the Ministry and Local Health Integration Networks—in addressing the observations and recommendations in our report, especially those that would require the co-operation of all key stakeholders, including fee-for-service physicians who are paid by the Ontario Health Insurance Plan (OHIP), not the hospitals.

We made a number of recommendations for improvement and received commitments from the hospitals we visited and the Ministry that they would take action to address our concerns.

Status of Recommendations

The three hospitals we conducted work at, as well as the Ministry, provided us with information in spring and summer 2009 on the status of our recommendations. According to this information, significant progress has been made in implementing most of the recommendations we made in our *2007 Annual Report*, although it will take several years for some to be fully implemented. For example, it will be a few years before some projects and initiatives—such as those relating to reducing the number of patients who no longer need hospital care but are occupying hospital beds—are completed. The status of the actions taken by the hospitals, and the

Ministry where applicable, is summarized following each recommendation.

ACCESSING SURGERY

Information on Operating Room Availability and Use

Recommendation 1

To better ensure the efficient use of operating rooms to meet patient needs, the Ministry of Health and Long-Term Care, in conjunction with the Local Health Integration Networks and hospitals, should obtain and review information on the number of operating rooms across Ontario and the extent of their use.

Status

The Ministry indicated that, as of March 2009, it was tracking the number of operating rooms for all hospitals through the Ontario Hospitals Reporting System/Management Information System. Furthermore, the Ministry indicated that it was providing the Local Health Integration Networks with training on the system and in how to interpret reports on hospitals' operating room utilization.

As well, the Surgical Efficiencies Target Program, a web-based tool designed to track and monitor predetermined performance indicators, including operating room availability and use, was implemented in all hospitals participating in the Ministry's Wait Time Strategy in 2007/08. Participating hospitals (including the three visited during our audit) enter operating room data into this system. This has enabled them, as of March 2009, to compare their results to provincial targets to identify areas for improvement.

Allocation of Operating Room Time to Surgeons

Recommendation 2

To better ensure the most effective use of surgical resources and that patient needs are met in as timely a manner as possible, hospitals should adopt the recommendations of the Ministry of Health and Long-Term

Care's Surgical Process Analysis and Improvement Expert Panel on allocating surgical operating room time to surgeons, which place more emphasis on patient needs than on the time that each surgeon has historically been allocated.

Status

At the time of our follow-up, the Ministry indicated that it would continue to work with and encourage hospitals to implement the recommendations of the Surgical Process Analysis and Improvement Expert Panel.

One hospital noted that it was working toward allocating operating room time to surgeons on the basis of patient needs, and that its Operating Room Utilization Committee passed a motion in June 2009 to assign all surgeons one block per week of operating room time and allocate all other blocks on the basis of demand. The Committee will meet again in September 2009 to further determine the mechanism for redistributing operating room time on the basis of patient demand as evidenced by surgical wait lists.

Another hospital indicated that the availability of wait list data through the Wait Times Information System (WTIS) was helpful in determining the priority of surgeons' needs for operating room time. This hospital commented that the allocation of operating room time to surgeons is still not a hard science, but that data on patient wait times, as well as data on operating room and surgeon utilization, make objective decisions easier to achieve. Although the hospital noted that funding is still its primary determinant in surgeon access to operating room time, funding from the Local Health Integration Network has enabled the hospital to make more operating room time available for non-cancer general surgeries to surgeons whose patient wait times are longer than established WTIS benchmarks.

The third hospital stated that it was implementing an information management system, which is intended, among other things, to enable the hospital to measure the allocation of operating room time to surgeons, patient wait times, and

access to operating rooms on the basis of patient priority levels, by surgeon and service. The hospital expected to have the system fully implemented by February 2010 and planned to use information provided by this system to modify its operating room schedule on the basis of patient needs and hospital resources, such as instrument availability. The hospital also planned to allow surgeons to keep part of their operating room time unbooked up to 48 hours prior to surgery, which would allow the surgeons to keep a percentage of their scheduled time available for booking more urgent patients. The hospital anticipated that the results of these changes would provide the information required to determine the need for urgent time by service as well as the total overall distribution of operating room time by priority, need, and service.

Scheduling of Patients for Surgery

Elective Surgery

Recommendation 3

Hospitals should periodically compare the actual time taken for surgeries—including operating room set-up and cleanup—with the time estimated for completing those surgeries (as indicated by the time booked for the operating room) and identify any recurring significant deviations, so that adjustments can be made to improve operating room utilization.

Status

The Ministry indicated that, since July 2007, hospitals participating in the wait time initiative have been tracking the accuracy of operating room scheduling by comparing the estimated duration of each surgery with the actual time required to complete the surgery. This enables hospitals to identify any recurring significant deviations so that adjustments can be made to improve operating room utilization.

At the time of our follow-up, one hospital indicated that its operating room committee regularly reviewed information on the estimated versus actual time for surgeries, and adjusted operating room scheduling when indicated. The hospital

noted that, although operating room utilization had improved, there were still some scheduling gaps, because adjustments are not made until 10 of the same surgeries show a mismatch between the estimated and actual time required to complete the surgery.

Another hospital stated that it established a Surgical Utilization Committee in January 2009, whose terms of reference include monitoring whether surgeries start on time; identifying barriers to start times; monitoring time required to complete surgeries; and providing recommendations to improve operating room utilization and access. This hospital uses an automated procedure that calculates the average time taken by each surgeon to complete his or her last 10 cases. This average time is used to book the operating room but can be manually adjusted (for example, for a complex case that requires more time).

The third hospital indicated that it reviews and uses data for determining the appropriate total time for each surgical procedure by surgeon. This information is discussed at its Perioperative Executive meetings. Once the hospital has fully implemented its new information management system, it anticipates that it will be able to base each surgeon's operating room time per surgical case on the actual average time it took the surgeon to complete the past seven similar cases. This will include time to set up and clean the operating room. The hospital anticipates that this will improve the accuracy of its case duration data. In addition, this hospital is reviewing the processes used by its scheduling office and will develop new policies and guidelines as required to enhance the accuracy of its case duration data.

Emergency Surgery

Recommendation 4

To better ensure the equitable and timely treatment of patients requiring urgent surgery, hospitals should:

- *in conjunction with the Ministry of Health and Long-Term Care (Ministry) and Local Health Integration Networks, and considering any*

recommendations from the Ministry's Surgical Process Analysis and Improvement Expert Panel, complete the development of and implement a consistent patient priority classification system across Ontario hospitals for emergency and other urgent surgical cases;

- *review whether urgent patients are being prioritized by all surgeons in accordance with hospital policy, as well as whether these patients are receiving surgery within the established time frames, and take corrective action where necessary; and*

- *review the costs and benefits of dedicating operating room time each day for urgent surgical cases as part of their regular planned activity, in accordance with recommendations from the Ministry's Surgical Process Analysis and Improvement Expert Panel.*

Status

At the time of our follow-up, the Ministry indicated that a consistent patient priority classification system had been implemented for emergency and urgent surgical cases by hospitals participating in its Wait Time Strategy. The finalized patient priority codes and their definitions, as well as examples of procedures that fall under each code, were made available to all hospitals in May 2008. The over 80 hospitals participating in the Ministry's Wait Time Strategy are to use the Surgical Efficiencies Target Program to review whether or not patients are receiving care within these time frames.

All three hospitals confirmed that they had adopted the Ministry's patient priority classification system for emergency and urgent surgical cases, and indicated that they regularly review whether surgeons are complying with the patient prioritization classification system. As well, one hospital implemented a process to address any instances of surgeons who do not adhere to the classification system.

The three hospitals all indicated that they monitored wait lists to ensure that patients received their surgery within the established time frames for each

priority level. One hospital commented that lower-priority cases would be bumped to a higher category if they exceeded the initially targeted wait time.

One hospital stated that it now sets aside operating room time for patients requiring urgent access in order to meet the guidelines for maximum patient waits based on patient priority. For example, the orthopaedic service has urgent and emergency access time built into its daily operating room time, because statistics demonstrate there is a constant demand for emergency orthopaedic surgery. Another hospital allocates operating room time for urgent cases on a daily basis, and the third hospital continues to schedule "trauma blocks" of operating room time.

Pre-operative Patient Screening and Testing

Recommendation 5

To increase the efficiency and cost-effectiveness of pre-operative patient screening, hospitals should:

- *establish policies, based on the patient's needs, on whether the patient's screening prior to surgery should be completed at the hospital or by other means, particularly for healthy, ambulatory patients undergoing elective surgery;*

- *determine specifically which patients, based on their condition, should be required to see an anaesthesiologist as part of the screening process, rather than requiring all such patients to be seen by an anaesthesiologist where this is the current practice of the hospital; and*

- *incorporate into their screening policies guidelines on pre-operative patient tests endorsed by the Guidelines Advisory Committee of the Ontario Ministry of Health and Long-Term Care and Ontario Medical Association.*

Status

At the time of our follow-up, the Ministry indicated that it would continue to work with and encourage hospitals to implement the characteristics of an effective pre-operative patient screening

program as noted by the Surgical Process Analysis and Improvement Expert Panel in its report. For instance, patients who have similar clinical conditions and are scheduled for similar procedures should be screened and tested in a like manner regardless of surgeon, anaesthesiologist, or the surgeon's preferred approach to the procedure. In this regard, the Ministry noted that the patient screening process is one area reviewed by the perioperative coaching teams, which were established by the Ministry and are made up of hospital peers with experience in the effective management of pre-operative resources. Between December 2006 and April 2009, the teams visited 56 hospitals.

One hospital indicated that most pre-admission screening is completed at the hospital, but that it can also be done over the phone for patients living more than a two-hour drive away. As well, the hospital's anaesthesiologists have established clinical criteria to indicate if a patient needs to be screened by an anaesthesiologist prior to surgery. The hospital also noted that it has incorporated the screening policies guidelines on pre-operative patient testing into its practices.

Another hospital indicated that it continues to follow the guidelines endorsed by the Guidelines Advisory Committee and that its Department of Anaesthesia also continues to ensure that pre-operative testing ordered by attending surgeons is performed in accordance with guidelines from the Canadian Society of Anaesthesiologists.

The third hospital indicated that it compared its pre-operative assessment and screening with those of other teaching hospitals and hospitals within its Local Health Integration Network. The results showed that this hospital's practice of having close to 100% of the patients screened by an anaesthesiologist prior to surgery was not consistent with what other hospitals did. However, the hospital's anaesthesiologists stated that their practice ensures a higher standard of care and patient safety. Therefore, the hospital decided not to change its current practice. The hospital also noted that, once it has fully implemented its new information manage-

ment system (targeted for February 2010), it plans to work with its surgeons and anaesthesiologists to streamline and standardize its pre-operative testing requirements.

WAIT TIMES

Recommendation 6

To enable both patients and health-care providers to make informed decisions and to help ensure that patients receive the surgery that meets their needs within an appropriate length of time, the Ministry of Health and Long-Term Care—in conjunction with Local Health Integration Networks, hospitals, and surgeons—should monitor patient wait times by each priority level and by surgeon for all types of surgery. As well, the Ministry should make information on patient wait times by priority level available to the public and reconsider its decision not to report at a future time wait times by surgeon or, as a minimum, make this information available to referring physicians.

Status

At the time of our follow-up, the Ministry was collecting wait time information on certain surgical procedures from hospitals participating in the Wait Time Strategy, through its Wait Time Information System (WTIS). The Ministry noted that hospitals have the capability to generate priority-level and surgeon-level reports from the WTIS, and that public reporting on wait times by each priority level began in April 2008. As well, in October 2008, the Ministry began publicly reporting wait times for all general surgery, ophthalmology, and orthopaedics, which the Ministry indicated represent over 50% of all surgeries in the province. The Ministry anticipated that by fall 2009, the wait times for all surgical procedures at hospitals participating in the Wait Time Strategy would be captured and reported publicly. The Ministry also commented that, at present, there are no plans to report publicly on wait times by surgeon or make this information available to referring physicians because the health

system is moving away from surgeon-specific wait lists. In this regard, the Ministry anticipated that it would have nine pilot projects—primarily for joint replacements—implemented by the end of the 2009/10 fiscal year. These projects centralize patient referral and assessment, which provides patients with the option of choosing a surgeon with the shortest wait list or choosing another surgeon knowing what the wait time will be for that surgeon.

One hospital commented that it publicly reports wait times for certain surgeries on its website. Another hospital indicated that it tracks patients whose waits exceed recommended times for each priority level by individual surgeon, and ensures that alternative options are provided for these patients, such as having the surgery performed by a different surgeon. The third hospital noted that it had made a number of changes to better manage its wait times. For example, patient priority classifications and wait times are now used by the surgeon to schedule patients for surgery, and monthly reports are now provided to each surgeon on his or her wait times and sent to the head of each surgical specialty for review.

Use of the Wait Time Information System by Surgeons and Hospitals

Recommendation 7

To monitor and manage patient wait lists more efficiently, the Ministry of Health and Long-Term Care and hospitals should continue to jointly develop more standardized reports, utilizing data from the new Wait Time Information System, that would readily provide hospitals and surgeons with useful and comparative information on patient wait times. As well, hospitals should periodically test the accuracy of their key data elements in the System.

Status

At the time of our follow-up, the Ministry indicated that many standardized reports are now available on the Wait Time Information System (WTIS),

including reports on patient wait times by priority level and by surgeon, as well as number of surgical cases cancelled. In May 2008, a web-based tool was implemented that enables hospitals to more easily access this information. As well, the Ministry indicated that it had provided all hospitals with training on the WTIS. Furthermore, the Ministry stated that more standardized reports are being developed for the WTIS as users learn how the available information can be used.

One hospital indicated that it reviews all data that appear to be outside of the benchmark wait times or where wait times are increasing to determine the reason and take appropriate follow-up action. Any inaccurate data identified are communicated to the Ministry's Wait Time Information Office. Another hospital indicated that it verifies monthly with the surgeons' offices the accuracy of its patient waiting list. The third hospital commented that it cross-references WTIS data with its operating room data on a daily basis, and contacts surgeons' offices to clarify any discrepancies. As well, two of the hospitals noted that they participate annually in the Wait Time Information Office's data quality validation program, which involves validating a sample of data elements to identify any data quality issues.

OPERATING ROOM EFFICIENCY

Monitoring of Performance Indicators for Operating Room Use

Recommendation 8

To determine if surgical resources are being utilized efficiently and effectively, hospitals should utilize the information provided by the new Surgical Efficiencies Target Program to monitor key performance measures against performance targets (once the targets are established by the Ministry of Health and Long-Term Care), as well as against internal benchmarks and the performance of comparable hospitals.

Status

According to the Ministry, at the time of our follow-up, key performance targets and best practices had

been developed for the Surgical Efficiencies Target Program (Program). These included performance targets for start time accuracy and operating room utilization, as well as best practices for cancellations of surgery, operating room closures, and surgical volumes.

One hospital noted that, at the time of our follow-up, it was monitoring five key items against the Program's benchmarks. The hospital anticipates that monitoring these key indicators will allow a more proactive look at its challenges, as well as enable it to determine the changes required to improve throughput, reduce overtime, improve operating room utilization, and prevent bottlenecks. As well, the hospital completed a review of its patient flow processes in spring 2009 and is developing strategies to improve these processes.

Another hospital informed us that it uses the information provided by the Program to monitor performance by operating room and surgical service. As well, its surgery governance council reviews the indicators quarterly and has policies to address variations. However, the hospital noted that there are occasional bottlenecks that lead to the cancellation of scheduled cases owing to lack of beds, especially critical care beds. Furthermore, additional efforts to reduce emergency room wait times can cause scheduled surgical cases to be cancelled owing to a lack of available beds.

The third hospital compares its information from the Program to its peers' in terms of performance and benchmark thresholds, and indicated that results are reported monthly to its operating room committee.

Surgical Bottlenecks

Availability of Hospital Beds
Recommendation 9
To help ensure that patients receive the care they need and to reduce the cancellation of elective patient surgeries, the Ministry of Health and Long-Term Care, in conjunction with hospitals and Local Health Integration Networks, should develop and implement strat-egies to reduce the number of patients who no longer require hospital care but are occupying hospital beds.

Status
At the time of our follow-up, the Ministry stated that the complex issue of patients who no longer require hospital care but are occupying hospital beds needs to be addressed systematically. This requires the involvement of various groups such as hospitals and long-term-care homes.

The Ministry indicated that it is working with the Local Health Integration Networks (LHINs) on a number of initiatives to address this issue, including:

- increasing home care and community support services;
- placing additional Community Care Access Centre staff in hospitals to allow for faster access to community services for hospital patients;
- funding temporary transitional beds in select communities for patients who are awaiting placement in long-term-care homes or other community-based settings; and
- providing funding for the LHINs to invest in local solutions to address patients requiring an alternative level of care.

As well, the Ministry noted that its Ontario Health Performance Initiative is co-ordinating a quality improvement project focused on improving patient flow in a group of 90 hospitals. The project focuses on a number of areas, including improvements in the discharge planning process, to enable more effective and timely discharge of patients from hospital. The project is expected to be completed by summer 2011. The Ministry also stated that it is developing a system that will, among other things, provide information on how long those patients who no longer require hospital care wait for access to the appropriate level of care, such as a long-term-care home. As well, the Ministry indicated that by winter 2012 it expected to have almost 2,000 new beds in long-term-care homes.

All three hospitals indicated that they have ongoing challenges regarding patients occupying hospital beds who no longer require hospital care.

One hospital stated that this issue has not yet been adequately addressed by its LHIN and the Ministry, which impacts its patients' access to surgery, because the beds are not available for surgical patients. However, the hospital indicated that it was working extensively with its LHIN and community partners to address this issue.

Another hospital stated that it is experiencing an increased risk of cancellation of surgeries resulting from the Ministry's emergency room wait time strategy, which gives emergency patients preferred access to intensive care units. This compounds its persistent issue of decreased bed access that results from patients occupying hospital beds when they require an alternative level of care. Although this hospital indicated that there is a collaborative plan within its LHIN that has decreased historically long waits for patient placements in long-term-care homes, it also stated that the problem of patients waiting for an alternative level of care remains significant and is affecting access to post-operative care for scheduled patients.

The third hospital also noted the challenges that directly related to the flow of patients through its emergency room, but that it had changed its daily bed management structure in November 2008 to ensure that forecasting of the need for surgical beds occurs more proactively, so as to prevent surgical cancellations.

Availability of Anaesthesiologists
Recommendation 10
To help ensure the best utilization of anaesthesiology services, while still ensuring that patients requiring anaesthesia receive it in a safe and efficient manner:

- *the Ministry of Health and Long-Term Care should analyze the results of the anaesthesiology care teams pilot projects and, if warranted, encourage the expansion of this concept to other Ontario hospitals while reviewing current fund-*

ing mechanisms to ensure that they support this initiative; and

- *hospitals, in conjunction with the College of Physicians and Surgeons of Ontario, should determine under what circumstances an anaesthesiologist needs to be present for cataract surgeries.*

Status
The Ministry indicated at the time of our follow-up that the final report from phase one of the anaesthesiology care teams pilot projects was received in spring 2009. The Ministry anticipated that the report evaluation would be completed by the end of 2009. Depending on the results of the evaluation, the Ministry stated that it will consider expanding anaesthesia care teams to other surgical areas at hospitals participating in its Wait Time Strategy.

Two of the hospitals indicated that they are fully staffed with anaesthetists, and the third stated that its anaesthesia human resources has remained stable and has had minimal effect on its ability to offer surgical services.

One hospital further commented that it is participating in the anaesthesiology care teams pilot project, which has been very successful in enabling the hospital to extend the availability of anaesthetists for other surgeries. However, it expressed concerns that, unless there is funding for the program that trains anaesthesia assistants, the expansion of this project would be curtailed. This hospital also stated that hospitals would need financial support to pay anaesthesia assistants, as anaesthesiologists are paid through OHIP, but the assistants must be paid directly by the hospital.

Another hospital indicated that it uses anaesthesia assistants for cataract surgery and is expanding their use to support the hospital's obstetrical practice and its emergency/urgent operating room activity, as well as for other procedures.

The third hospital noted that its practice is to assign an anaesthetist for all cataract procedures unless there is not one readily available.

No additional work has been completed by the hospitals or the Ministry, such as in conjunction with the College of Physicians and Surgeons of Ontario, to determine under what circumstances an anaesthesiologist needs to be present for cataract surgeries.

SURGICAL INSTRUMENTS

Recommendation 11

To better ensure that cleaned and sterilized surgical instruments are available when needed for surgeries, hospitals should:

- *in light of the Provincial Infectious Diseases Advisory Committee's (PIDAC's) best practices guidance, re-examine the practice of using flash sterilization in non-emergency situations;*
- *where flash sterilization is used, ensure that a record is maintained of the instruments that are flash sterilized, including the name of the surgeon who subsequently used the instrument and the name of the patient it was used on, in accordance with PIDAC's recommendations; and*
- *review the costs and benefits of implementing an instrument-management system to track instrument location and status.*

Status

In November 2007, the Ministry, in conjunction with the Ontario Hospital Association, forwarded a letter to all hospitals asking them to review their sterilization procedures in relation to the Provincial Infectious Diseases Advisory Committee (PIDAC) guidelines. Later that month, the Ontario Hospital Association convened a videoconference to discuss the issue of flash sterilization with hospitals, which PIDAC chaired. Furthermore, in January 2008, the Ontario Hospital Association distributed to all hospitals a two-page fact sheet on flash sterilization, which was developed in association with PIDAC and also posted on the Ministry's website. The fact sheet provided further guidance to hospitals on when it is acceptable to use flash sterilization and on the information that must be documented when it is used.

At the time of our follow-up, one hospital noted that it had undertaken an extensive replacement of instruments over the last two years and that duplicate instruments have been purchased to prevent the need to flash sterilize one-of-a-kind instruments. The hospital also indicated that flash sterilization is now used sparingly, and that all instances of use are recorded and tracked, and the data retained in accordance with PIDAC's recommendations. Further, the hospital stated that monthly audits are completed to ensure compliance with PIDAC's recommendations. The hospital also included an instrument tracking system in its capital plan for 2010.

Another hospital stated that it now meets PIDAC's recommendations on the use of flash sterilization. As well, this hospital indicated that it monitors its use of flash sterilization and has reduced its use by 31% from 2007/08 to 2008/09. The hospital also noted that new surgical equipment have been purchased, with a primary focus on reducing flash sterilization. As well, the hospital stated that its new instrument management system will be implemented by February 2010.

The third hospital indicated that it is using flash sterilization strictly in accordance with PIDAC guidelines. To do this, the hospital implemented a policy that reflects the PIDAC standard for the use of flash sterilization, purchased more instruments, improved its documentation, and improved its instrument-tracking methods to consistently monitor flash sterilization. The hospital stated that all instances of flash sterilization are reviewed monthly, and any use outside the PIDAC guidelines is addressed. Furthermore, the hospital noted that since December 2008, it averaged only four instances per month of flash sterilization and that they were in accordance with PIDAC-approved reasons. With respect to an instrument management system, the hospital indicated that it was investigating the cost/benefit of outsourcing instrument reprocessing with a company that has a system that tracks the surgical instruments' tray location and instrument status.

Long-term-care Homes— Medication Management

Follow-up on VFM Section 3.10, *2007 Annual Report*

Background

Long-term-care homes, such as for-profit and not-for-profit nursing homes and charitable homes, provide care, services, and accommodation to individuals unable to live independently and requiring the availability of 24-hour care and supervision in a secure setting. There are more than 600 homes in Ontario caring for about 75,000 residents, most of whom are 65 or older. In the 2008/09 fiscal year, funding by the Ministry of Health and Long-Term Care (Ministry) to long-term-care homes totalled $2.8 billion ($2.8 billion in 2006/07), with residents generally also making a co-payment of between $1,600 and $2,200 (between $1,500 and $2,100 in 2006/07) per month for accommodation.

Residents of long-term-care homes usually have conditions requiring treatment with medication prescribed by a doctor. According to the Ministry, in the 2008/09 fiscal year it paid pharmacies about $359 million ($333 million in 2006/07) for more than 25 million drug prescriptions (19 million in 2006/07) dispensed for residents of long-term-care homes. As well, the Ministry's Ontario Government Pharmaceutical and Medical Supply Service provides certain drugs, such as acetaminophen (generic Tylenol), at no charge to long-term-care

homes. In 2008/09, the cost of such drugs was about $5.2 million ($3.4 million in 2006/07).

In our *2007 Annual Report*, we assessed whether medications for residents were managed in an efficient, safe, and controlled manner, in accordance with applicable legislation and required policies and procedures. Medication management involves physicians, pharmacists, and nurses contracted by the homes (see Figure 1). Our audit indicated that at all of the three long-term-care homes we visited—Hamilton Continuing Care in Hamilton, Leisure-world St. George in Toronto, and Providence Manor in Kingston—there were a number of procedures in place to ensure that the homes obtained physician-prescribed medications and administered them to residents in a safe and timely manner. However, we noted areas where these homes could improve their medication management practices. Some of our more significant observations included the following:

- At all three homes, documentation to indicate that informed consent was obtained from residents or their substitute decision-makers for the use of new medications was either nonexistent or inadequate.
- Two of the homes we visited were not doing an adequate job of reporting all medication errors, and during 2006 reported only 12 and 26 errors respectively. The identification and

Figure 1: Medication Management—Professional Responsibilities

Source of data: Ministry of Health and Long-Term Care

Physicians: Prescribe medications for long-term-care home residents and review the resident's care plan—including medications—on the basis of the physician's knowledge and skill and the clinical situation of an individual resident. Physicians are accountable to their regulatory body, the College of Physicians and Surgeons of Ontario.

Pharmacists: Dispense medications for long-term-care home residents on the basis of physicians' or other recognized health professionals' prescriptions and the pharmacist's knowledge of the resident and the prescribed drug, in accordance with provincial and federal legislation as well as in accordance with the standards of practice of their regulatory body, the Ontario College of Pharmacists.

Nurses: Apply their knowledge of the resident and the medication when assessing residents, administering medications, evaluating residents' reaction to medications, and planning and documenting the medication administration process, as per the Medication Practice Standard of the College of Nurses of Ontario. Nurses act as the liaison between the physician and pharmacist in relation to medication management for each resident, and collaborate with the health-care team in the long-term-care home to maintain safe medication-management processes.

review of medication errors is important in preventing similar errors in the future.

- We obtained and analyzed information on drugs dispensed to residents of all long-term-care homes through the Ministry's Ontario Drug Benefit Program. On the basis of this analysis, we noted that, during 2006, more than 5,700 residents of Ontario long-term-care homes were dispensed at least one of eight high-risk drugs that international experts have concluded are generally more harmful than beneficial to older adults. As well, at least 20% of residents in 30 homes were dispensed these drugs. While we acknowledge that medications are generally prescribed by physicians, we believe there may be situations where a high rate of use of such higher-risk drugs in certain homes may warrant some follow-up by the Ministry in conjunction with the College of Physicians and Surgeons of Ontario.

- Ninety-one percent of the 18,000 level-1 alerts (which warn of a drug combination that is clearly contraindicated and should not be dispensed or administered) generated by pharmacy computers were overridden and the drugs dispensed to residents of 421 long-term-care homes. While pharmacists may have contacted the prescribing physician to discuss these drug interactions prior to overriding the

level-1 alert, we believe some follow-up may be warranted given the high percentage of alert overrides.

- None of the three homes we visited periodically reconciled controlled substances administered to residents with records of drugs received from the pharmacy and those on hand.

- Processes to ensure that medications approaching their expiry date—including those in emergency supplies—are identified and removed from use upon expiry needed to be strengthened.

- Two of the homes did not consistently use environmentally responsible practices to dispose of unneeded medications.

We made a number of recommendations for improvement and received commitments from the three long-term-care homes we visited and the Ministry that they would take action to address our concerns.

Status of Recommendations

In spring and summer 2009, the long-term-care homes, as well as the Ministry of Health and Long-Term Care, where applicable, provided us with information on the status of our *2007 Annual Report*

recommendations. According to this information, the long-term-care homes had made substantial progress on several of our recommendations and at least some progress on most others. Although the Ministry had taken some action on the recommendations directed to it, in a few areas, the Ministry was waiting for recommendations from the Joint Task Force on Medication Management it convened in May 2008 before deciding what action to take. The recommendations were expected by the end of summer 2009. The status of the action taken on each of our recommendations at the time of our follow-up is as follows.

PROVISION OF MEDICATIONS

Recommendation 1

To help promote the safe and efficient provision of medication to residents, long-term-care homes should ensure that:

- *contracts with pharmacies specify the type and frequency of procedures the pharmacy is to perform, as well as the reporting methods to be used, with respect to assessing the home's compliance with medication-related policies; and*
- *consent to treatment with new medication is obtained and documented from either the resident, when capable of giving consent, or from the resident's substitute decision-maker in a timely manner.*

The Ministry of Health and Long-Term Care should review its policy on standing orders (which typically relate to over-the-counter medication) to determine if additional guidance is necessary.

As well, to help promote the health of residents, long-term-care homes, in conjunction with the Ministry of Health and Long-Term Care, should develop a consistent definition of what constitutes a medication error. In addition, long-term-care homes should ensure that medication errors are consistently identified, documented, and reviewed so that appropriate action can be taken on a timely basis to minimize similar occurrences in the future.

Status

At the time of our follow-up, one home had signed a new pharmacy contract when it changed its pharmacy provider in October 2007. Although the new contract now requires the pharmacy to conduct regular audits to review and monitor medication storage, administration, and documentation at the home, it does not specify the type and frequency of procedures the pharmacy was to perform or the reporting methods to be used. Another home indicated that, instead of revising its pharmacy contract, it had developed with its contracted pharmacy an annual plan of activities the pharmacy would perform. The third home commented that it was developing a reporting tool to consistently monitor the home's compliance with medication-related policies and procedures. It anticipated completing the tool in November 2009 and planned to include specific reporting requirements related to this in its next pharmacy contract.

With respect to consent to treatment, one home indicated that it had conducted staff training on the subject and had implemented periodic reviews of resident charts to ensure that consent is being obtained and documented for new medications ordered. Another home stated that it had held discussions on the role of its physicians and staff in obtaining informed consent, which resulted in it reviewing and updating its policy and procedures for processing physician orders for medications. The home also revised its procedures so that medication order sheets receive a stamp within which nurses are to document that the resident or the resident's substitute decision-maker had been notified of a medication change. The third home developed a policy and procedure to ensure that consent for new medications is received in a timely manner. It also included on its record of physician orders for medications a place where staff are to indicate that the resident or his or her family has been notified about the treatment change.

At the time of our follow-up, all three homes had policies that contained a definition of what constitutes a medication error, although these policies

continued to vary among the homes. As well, all of the homes had policies to document and review medication errors. For example, one home indicated its quality council reviews medication errors monthly and its professional advisory committee reviews these quarterly. This home also noted that it takes corrective measures, such as staff education, if its policy on reporting medication errors is not being followed.

In May 2008, the Ministry convened a Joint Task Force on Medication Management including physicians and representatives from long-term-care homes and pharmacies. At the time of our follow-up, the Ministry informed us that the task force was examining larger system issues—which would not specifically include standing orders and medical directives—and would be making recommendations pertaining to the appropriate management of medications from a system perspective. The Ministry also indicated that the task force had examined the definition of medication errors used by selected institutions and jurisdictions, and had reviewed the definition of medication errors that are reportable on the Ministry's new Critical Incident System, which had been implemented in all homes by April 2008. The Ministry told us that the task force might have some recommendations on medication errors in its final report, which was expected by summer 2009.

REACTIONS TO MEDICATIONS

Recommendation 2

To help reduce the risk of adverse medication reactions in residents, long-term-care homes should:

- *ensure that residents more likely to experience adverse reactions—those taking a new higher-risk medication, for example—are monitored more closely than other residents and that results of this monitoring are documented;*
- *develop and implement policies to ensure consistent identification and documentation of adverse drug reactions, so that action can be taken to prevent future occurrences; and*

- *adopt consistent criteria for referring residents to specialized psychogeriatric programs and ensure that sufficient staff are appropriately trained in those criteria.*

In addition, the Ministry of Health and Long-Term Care, in collaboration with the College of Physicians and Surgeons of Ontario (CPSO), should periodically review the use of higher-risk drugs at long-term-care homes, as well as the frequency with which residents receive drugs with unique drug-to-drug interaction alerts, or alternatively provide access to this information to the CPSO and other appropriate regulatory bodies so that appropriate follow-up action can be taken where the use of higher-risk drugs and the frequency of pharmacist overrides of alerts seem unduly high.

Status

At the time of our follow-up, one home indicated that it had developed a psychotropic medication form to monitor the effect of new or changed doses of such medications on residents. According to this home, it documents this monitoring for seven days, during which time it would expect to identify any adverse reactions to medications. Another home stated its contracted pharmacy sends the home monthly a list of all residents receiving high-risk drugs. The home revises the applicable residents' care plans as necessary to identify risks and the interventions necessary to minimize potential adverse effects. The home also noted that its professional advisory committee reviewed high-risk medications in April 2009 and was developing a long-term plan to further address this issue. As well, this home indicated that, in January 2007, its contracted pharmacy began sending an adverse-drug-interaction alert along with a medication if the pharmacy was concerned about a potential adverse reaction. The resident's physician is to review this form, which is placed in front of the resident's medication-administration record so that staff giving medications are aware of the risk. The third home noted that its contracted pharmacist provides recommendations to physicians regarding

the use of high-risk medications and alternatives to their use. The home monitors more closely residents who take new high-risk medications and notes the effect of the medication in the resident's file. As well, the contracted pharmacist performs a medication screening quarterly and may make recommendations to the home's physicians on matters such as drug dose and drug interactions.

One home noted that, in October 2007, it implemented a policy on preventing and detecting adverse consequences of medications. Another home had revised its policy on readily identifying problems associated with newly marketed drugs. The third home also had policies in place to address adverse events. This home told us that it not only documents any adverse drug reactions residents have while in the home, but also any a new resident may have had prior to admission. The home also stated that it records adverse reactions in its incident-management system and notifies the contracted pharmacy.

At the time of our follow-up, one home had implemented a procedure for referring residents to specialized psychogeriatric services. It also indicated that it was continuing to offer opportunities for its registered staff to participate in specialized training provided by psychogeriatric consultants. Another home noted that two staff members were trained in a psychogeriatric program and work with residents who require a specialized program. One registered staff member accompanies the psychiatrist when he or she sees residents and follows up on his or her recommendations. The home also indicated that every second month it conducts "mini mentals"—a short cognitive status test—with residents who have dementia. The third home's revised policy indicated that its nursing management team was to discuss incidents of unacceptable resident behaviour and, when necessary, make referrals to the psychogeriatric resource person and psychogreriatric outreach team.

At the time of our follow-up, the Ministry indicated it expected all long-term-care homes to implement a common assessment tool by 2010. This tool is to provide homes with drug-related quality indicators—such as residents taking nine or more different medications—which will enable care providers to identify for increased monitoring residents with a higher risk of having adverse medication effects. The tool is also expected to generate reports on the impact of certain medications. The Ministry also indicated that over 400 homes had registered to complete the Medication Safety Self-Assessment for Long-Term Care developed by the Institute for Safe Medication Practices Canada. One of the homes we audited noted that it had completed the self-assessment and, at the time of our follow-up, was using the results to further improve its medication management practices.

With respect to periodically reviewing the use of higher-risk drugs in collaboration with the College of Physicians and Surgeons of Ontario, the Ministry indicated that it intended to share information with the appropriate stakeholders once it received the recommendations of the Joint Task Force on Medication Management, expected by end of summer 2009.

SAFEGUARDING MEDICATIONS

Recommendation 3
To better safeguard medications against possible theft or accidental misuse, long-term-care homes should:
- *ensure that staff access to drugs is limited as much as practicable, and in accordance with legislation and standards, regardless of where the medications are stored; and*
- *periodically reconcile records of drugs administered with those received and on hand for narcotics and other drugs that may be more susceptible to theft (such as benzodiazepines), and take immediate follow-up action if the reconciliations indicate unaccounted-for narcotics.*

Status
At the time of our follow-up, one home had implemented a policy stating that registered staff, such as nurses, could only pass their keys, which grant

access to medications, to other registered staff. Keys were not to be given to unregistered staff members, such as personal support workers. This home also told us that it has only two sets of keys available to access the medication carts, which further limits the number of staff with access. Another home noted that, at the time of our follow-up, all of its medication carts required a key to open them, rather than having a combination keypad. The third home stated that its managers periodically verify that medication carts and storage rooms are kept locked when not in use and follow up with the applicable nurse if a problem is noted.

Furthermore, one home noted that, commencing in June 2009, its contracted pharmacy was performing a reconciliation of the narcotics administered with those received and on hand for one resident each month. Another home indicated that it has implemented a reconciliation process for all benzodiazepines so that these are recorded on a benzodiazepine count sheet and counted at shift change along with the narcotics. The third home stated that it decided not to revise its narcotics policy and that it does not periodically reconcile records of drugs administered with drugs received and on hand. It added, however, that its contracted pharmacy completes biannual audits of narcotics.

EXPIRED MEDICATIONS

Recommendation 4

To help ensure that residents receive safe and effective medications, long-term-care homes should implement processes to ensure that medications approaching expiry are identified and removed from use upon expiry.

In addition, to ensure that adequate (but not excessive) levels of medications are available when needed, long-term-care homes should establish minimum reorder levels and maximum order quantities for medications in the emergency drug stock and for medications supplied by the Ontario Government Pharmaceutical and Medical Supply Service in accordance with resident usage.

Status

At the time of our follow-up, one home indicated that its pharmacy was conducting monthly reviews of its emergency drug stock, bi-monthly reviews of medications supplied by the Ontario Government Pharmaceutical and Medical Supply Service, and quarterly reviews of all other medications at the home to identify and remove ones approaching expiry. As well, the director of care was monitoring the home's emergency drug stock and medications supplied by the Ontario Government Pharmaceutical and Medical Supply Service. Another home revised its policies to require staff to check the expiry date on medications prior to administering them. The third home indicated that it trained staff on placing "date opened" stickers on all eye drops, insulin, and other medications, as required. It also told us that its pharmacy monitors its emergency drug stock and replaces medications due to expire. Furthermore, the home noted that it was conducting weekly reviews of its drug carts and medication rooms to ensure the removal of any expired medications. It also indicated that its pharmacy conducts monthly reviews, which, the home noted, had identified no expired medications as of the time of our follow-up.

To help ensure that adequate (but not excessive) levels of medications are available for residents, one home established minimum and maximum amounts for all emergency drug stock medications and medications supplied by the Ontario Government Pharmaceutical and Medical Supply Service. Another home was using the minimum quantities that could be reordered as established by the Ontario Government Pharmaceutical and Medical Supply Service and had established amounts of each drug that should be in its emergency drug stock. It was doing this instead of establishing minimum reorder levels and maximum order quantities in accordance with resident usage. The third home told us that it was conducting periodic audits of supply orders to ensure that excessive amounts of drugs were not being ordered. It noted that it had established maximum quantities to have on hand

of government pharmacy supplies. As well, this home indicated that it was reviewing its inventory of government pharmacy supplies before ordering additional medications, which it noted would also help ensure that there were no thefts. It had also established amounts of each drug that should be in its emergency drug stock, and was reordering drugs to bring the quantity on hand to these levels.

DESTRUCTION OF EXCESS MEDICATION

Recommendation 5

To help minimize medication waste and potential misappropriation, as well as to promote the efficient and environmentally responsible disposal of excess medication, long-term-care homes should:

- *in conjunction with the Ministry of Health and Long-Term Care and the Local Health Integration Networks, review ways to streamline the drug-tracking and -destruction process while retaining sufficient safeguards over this process; and*
- *periodically monitor staff to ensure that they are following accepted policies for disposing of expired and excess medication.*

While developing regulations for Bill 140 (the new act on long-term-care homes), the Ministry of Health and Long-Term Care should also consider the feasibility of alternatives such as those used in other jurisdictions with respect to the destruction of unopened packaged medications that are still usable.

Status

At the time of our follow-up, one home indicated that it was continuing to use a contracted service to ensure the efficient and environmentally responsible disposal of excess medications. As well, this home noted that it was supporting ongoing learning opportunities for registered staff regarding safe medication practices, and that such practices were included in the performance management of registered staff. Another home stated that it had made no changes to assess the extent to which medications are wasted. However, the home indicated that it has held meetings with staff and managers responsible for medication management to remind them of the accepted policies for disposing of expired and excess medications, and it has informed its health and safety committee members of these policies. The third home noted that it had streamlined its drug-tracking and -destruction process and had trained staff on this process. It had also held staff education on environmentally friendly processes for the destruction of narcotics.

At the time of our follow-up, the Ministry indicated that, through its compliance program, it was ensuring that medication disposal was being conducted according to the standards and policies set out in the legislation and regulations that govern long-term-care homes. The Ministry noted that it had consulted its Joint Task Force on Medication Management while developing the regulations for Bill 140. The Ministry posted the first draft regulation for comment in May 2009 and expected to post a second regulation later in the year, which is to cover the area of medication management. However, the Ministry told us that, although it had considered options such as those used in other jurisdictions with respect to the destruction of unopened packaged medications that are still usable, it had concluded that the unopened packaged medications returned from long-term-care homes should be destroyed. It stated this is because the World Health Organization's guidelines indicate that only drugs that have not been previously dispensed are considered acceptable for donation.

Ministry of Community Safety and Correctional Services

Ontario Sex Offender Registry

Follow-up on VFM Section 3.11, *2007 Annual Report*

After the brutal 1988 murder of 11-year-old Christopher Stephenson by a convicted pedophile, the Legislature enacted *Christopher's Law, 2000* (Act). The Act established the Ontario Sex Offender Registry (Registry) in 2001 to track the whereabouts of individuals living in Ontario but convicted anywhere in Canada of one or more designated sexual offences. The Act also applied to every offender residing in Ontario still serving a sentence for such offences at the time the Act came into force. The Ministry of Community and Correctional Services (Ministry) and the Ontario Provincial Police (OPP) developed the Registry, and the Ministry's Sex Offender Registry Unit within the OPP continues to administer it. The OPP and more than 140 municipal and First Nations police services are responsible for registering and monitoring offenders. There were 7,400 registered offenders as of January 2007. At the time of our follow-up, there were 9,142 active registered sex offenders. The federal government also operates a similar registry.

In our *2007 Annual Report*, we concluded that while the Ministry and the OPP had worked diligently and cost-effectively to create the Registry to help police investigate sexual crimes and monitor sex offenders in their communities, the Registry was not yet functioning adequately to serve its intended purpose. Among our specific concerns, we noted the following:

- The Act establishing the Registry requires police services to register offenders only after they have completed jail or prison sentences. Thus, the many offenders who live in the community while serving their sentence, or those awaiting appeal decisions, are not required to register.

- The Registry was incomplete for a number of reasons. We identified 365 provincial offenders who should have been registered but were not. As well, there was no process for registering young offenders who received adult sentences.

- The Ministry never obtained a list of the more than 1,000 sex offenders in federal custody in Ontario at the time of the Registry's inception so that they could be registered on their release. In addition, there was no reliable reporting mechanism to ensure that all offenders living in Ontario were registered on release from federal correctional facilities. We identified 360 offenders released from federal custody who should have been registered but were not because of missing information about the timing of their release.

- There were no ministry guidelines for following up on non-compliant offenders—those who did not register, or who failed to re-register annually—and practices varied at

local police services. Warrants were not consistently issued for offenders in breach of the Act for extended periods. While the overall rate of compliance was high, the rate of non-compliance varied widely across the province.

- The search tools available in the registry application required improvement. Police investigators could not, for example, filter data by gender or age of victim, relationship (if any) between the victim and the offender, or the location of past crimes. In addition, other offender information, such as photographs, employment and educational addresses, or detailed case information was not always captured in the database, thus impairing the Registry's usefulness.

We made a number of recommendations for improvement and received commitments from the Ministry that it would take action to address our concerns.

We also acknowledge the work of the Legislature's Standing Committee on Public Accounts, which held a formal hearing on this audit and issued a report in February 2009.

Status of Recommendations

On the basis of information provided by the Ministry, we concluded that the Ministry and the OPP have made some progress on almost all of our recommendations, with significant progress being made on most of them. We noted that Ontario's Internal Audit Services also undertook an assessment of the actions taken to address our 2007 recommendations. In December 2008, Internal Audit Services concluded that the Ministry and the OPP had made significant progress in implementing our recommendations.

The status of action taken on each of our recommendations is as follows.

Recommendation 1

To help ensure that all convicted sex offenders are registered, the Ministry of Community Safety and Correctional Services should:

- *work with correctional and police services to ensure that the notice of duty to register is served to all convicted sex offenders at the appropriate times;*
- *consider revising existing legislative requirements to ensure that all offenders released from institutions and living in the community must register;*
- *work closely with provincial justice and correctional systems to obtain all offender records on an ongoing basis;*
- *work with the Correctional Service of Canada to obtain data on all offenders in federal custody in Ontario since the Registry's inception; and*
- *consider establishing procedures to identify offenders moving into Ontario, and confirming that those who report moving out of the province have actually done so.*

Status

In our *2007 Annual Report*, we noted that some 400 offenders who had completed their custodial sentences or who had been released on parole were never issued a notice of duty to register (NDR) as a sex offender. At that time, there was no legislative requirement for offenders to receive NDRs. Although most registered of their own accord anyway, 17% did not. On December 5, 2008, *Christopher's Law, 2000* (Act) was amended to, among other things, require that the NDRs be provided. The Ministry informed us that it has since worked with correctional and parole officers on this matter. Correctional institutions now serve NDRs to all applicable sentenced inmates, and probation and parole officers serve NDRs to applicable probationary or paroled offenders. As well, local police services are now required to notify a person charged with a sexual offence of his or her reporting obligations under the Act, and to forward a completed NDR to the Registry once an offender is convicted.

Other amendments to the Act include the following:

- Sex offenders serving intermittent sentences (on weekends, for example), those released on bail pending an appeal for a sexual offence, and those who change their name must register within 15 days of being sentenced, of being released on bail, or of changing their name.
- Police services must notify the Sex Offender Registry Unit within the OPP immediately if they receive notification from a mental-health facility of the unsupervised release of a person found not criminally responsible for a sexual offence by reason of a mental disorder.
- Correctional facilities must notify the Registry 24 hours in advance of the release of any sex offender on an unescorted temporary absence pass.
- Youth custody facilities must provide notice of any unescorted leaves granted to young persons serving adult sentences for a sexual offence.

Regulations under the Act were also amended to require:

- all registered offenders to provide police with their driver's licence number, along with the licence plate number, model, year, description, and colour of any vehicle they own, lease, or regularly drive; and
- all those convicted of voyeurism under the Criminal Code to register.

The Ministry further informed us that it had updated its policing standards and guidelines to reflect these changes, and conducted province-wide training between October and December 2008.

The Ministry also advised us that the OPP has obtained from Correctional Service of Canada (CSC) data on all offenders in federal custody in Ontario since the Registry's inception.

With respect to our recommendation to consider establishing procedures to identify offenders moving into Ontario, and to confirm that those who say they are moving out of the province actually leave, the Ministry informed us that as part of its regula-

tory amendments, all registered offenders who report that they are moving out of Ontario now must provide detailed information about their new place of residence. There is still no procedure in place to help identify offenders from other jurisdictions who move into Ontario. We were informed, however, that informal business practices do exist whereby other provinces advise the Registry of offenders who are known to be moving to Ontario.

Recommendation 2

To ensure that all offender records are deleted only for legitimate reasons, the Ontario Provincial Police should:

- *work with the National Parole Board to obtain updates on pardon revocations and ensure that such offenders re-register on a timely basis; and*
- *track and maintain supporting documentation for all deletion requests.*

Status

The Ministry informed us that it now has an agreement with the National Parole Board for the Board to provide notice to the Registry of any Ontario sex offender who has either been granted a pardon or has had a pardon revoked. A further agreement with the CSC allows the OPP access to relevant data from federal databases maintained by the CSC, the National Parole Board, and the Department of National Defence.

With respect to registry deletions, the Ministry informed us that all offender record deletions are now reviewed by management. The appropriateness of the deletion is verified, and a documented procedure is in place to ensure that supporting documentation is maintained for all deletions.

Recommendation 3

To ensure that Registry records are maintained accurately, the Ministry of Community Safety and Correctional Services should:

- *consider eliminating the right of non-compliant offenders to opt out of the annual mail reminder; and*

- *establish procedures for police services to ensure that reminders returned as undeliverable are followed up on a timely basis.*

Status

The Ministry informed us that it has changed its registration process so that offenders may no longer opt out of receiving the annual registration reminder letter. To address some offender concerns about receiving these letters at their home address, the OPP directive to police services says the envelope should not include any information identifying the sender as police or indicate in any way that it relates to the Sex Offender Registry. Offenders can also register a separate mailing address for the annual reminder letter.

The Ministry further reported that it has established required procedures to deal with any reminder letters returned as undeliverable, which may indicate that the offender has moved without reporting to police. The procedures, which have been distributed to all local police services, require them to initiate a non-compliance investigation, and the Sex Offender Registry Unit offers them support, if required.

Recommendation 4

To ensure that non-compliant offenders are followed up on in a timely manner, the Ministry of Community Safety and Correctional Services should:

- *develop guidelines and procedures for police services regarding follow-ups on offenders in non-compliance, including policies on the issuing of warrants;*
- *work with those local police services having a high rate of offender registration non-compliance in their community; and*
- *consider expanding the inspection scope of the Public Safety Division to include registry-related activities.*

Status

The Ministry informed us that it now has a guideline in place for dealing with non-compliant offenders and the issuing of warrants. A training package

was developed and distributed in November 2008 to ensure that police services are fully aware of the guideline. In addition, the Sex Offender Registry Unit of the OPP requires that all police services provide a monthly report on actions taken with regard to non-compliant offenders. The Ministry's Quality Assurance Unit, which inspects local police services, also receives a quarterly compliance summary report. We were further informed that the OPP has worked with those police services that had the highest non-compliance rates and, as a result, the number of non-compliant offenders was reduced from 490 as of September 2007 to 303 as of September 2008. In our 2007 audit, we noted that the overall compliance rate stood at 95%; the Ministry reported that as of January 2009, the overall compliance rate was over 97%.

With respect to our recommendation to consider expanding the scope of the Public Safety Division's inspections to include registry-related activities, we were informed that the Division will do this in its next cycle of quality assessment inspections, set to begin in 2011.

Recommendation 5

To help improve the Registry's usefulness for quickly identifying potential suspects in an investigation, the Ontario Provincial Police should:

- *create the ability to search or filter data by victim gender, victim age, relationship (if any) to the offender, and the location of past offences;*
- *consider expanding the collection of other useful offender information, such as vehicle information and family-contact data;*
- *ensure that police verify offender information in a timely manner; and*
- *reinforce the requirement for all offenders to provide a residential street address when registering.*

Status

The Ministry informed us that it has upgraded the Registry's system software to enable police to filter data in several new ways to quicken the search process. These upgrades include the ability to filter data by sex of victim, age of victim, relationship (if any)

between victim and offender, offender age, hair colour, skin tone, and the location of past sex offences.

We were further informed that other system enhancements were made to facilitate the new requirements for:

- information about offender driver licences and vehicles, including licence plate numbers;
- police services to input address verification particulars and to identify and track unverified addresses; and
- expanded case narrative information on what the offender did, including a list of designated sex acts, to assist investigative specialists in identifying more quickly persons of interest.

Police services are now responsible for making reasonable efforts to verify a sex offender's address at least once a year. Offenders may no longer provide a post office box instead of a residential address, although they may continue to use a post office box as a mailing address.

The Ministry also informed us that the interface between its Offender Tracking Information System (OTIS) and the Registry has been improved to allow for more data to be transferred automatically between the two systems. As well, the OTIS system itself can now house more information and communicate more readily with correctional facilities and parole offices to identify more quickly offenders being released into the community. The OPP and the Ministry's technology unit continue to work on creating an interface between the Ontario and national sex offender registries to enable the electronic transfer of data between the two.

Recommendation 6

To help improve the usefulness and accountability of the Registry, the Ontario Provincial Police should:

- *ensure that sufficient training and support are provided to local police services;*
- *prioritize outstanding system-change requests and devote sufficient resources to address them in a timely manner;*
- *correct all known system-report errors to ensure that police have access to accurate information*

when accessing the registry database for investigative purposes; and

- *ensure that all funds approved for registry purposes are actually spent on registry activities.*

Status

The Ministry informed us that province-wide training for all police services regarding the legislative and other revisions to the Registry was completed in December 2008. Further training was provided in October 2009. In addition, the OPP was developing an e-learning program for remote training of police services. In addition, we were informed that, in February 2009, the Ontario Association of Chiefs of Police sponsored a workshop on the recent changes to the Registry, with over 50 representatives from various police services attending. A second workshop was planned for the 2009/10 fiscal year.

The Ministry informed us that the OPP and the Ministry's Technology Services Group worked together to prioritize the outstanding system-change requests, and the highest priority requests were implemented between September and December 2008. A second group of priorities was implemented in October 2009.

With respect to the system-report errors, the Ministry informed us that these have been corrected, except for two being addressed as part of a wider justice technology upgrade scheduled for completion during the 2009/10 fiscal year.

The Ministry further reported that the OPP is now allocating to the Registry all ministry funding earmarked for the Registry. The Sex Offender Registry Unit's increased expenditures for each of the last two fiscal years reflect these budget allocations, and the Ministry reported that the additional funding has helped address the gaps in training and the system errors we noted in our *2007 Annual Report*.

Recommendation 7

To ensure that the Registry is always available to the police, the Ministry of Community Safety and Correctional Services should complete the Registry's

disaster recovery plan and test its effectiveness as soon as possible.

Status

The Ministry informed us that the OPP has completed a disaster recovery plan and successfully tested its effectiveness in March 2008 and again in March 2009.

Recommendation 8

To help ensure that confidential information in the Registry is adequately protected from unauthorized access and modification, the Ministry of Community Safety and Correctional Services should:

- *ensure that the Ontario Provincial Police's security reviews are performed regularly in accordance with policy and that recommendations arising from these reviews are implemented on a timely basis; and*
- *regularly review system-access rights to ensure that information in the Registry is available to users strictly on a need-to-know basis and that authorization to make database changes is strictly controlled.*

Status

The Ministry informed us that in October 2008, the OPP hired an external firm to conduct a compliance review of its Public Key Infrastructure (PKI) security system, designed to ensure that all information transmitted to and from the Registry is encrypted to prevent unauthorized access. The firm concluded that the OPP was in compliance with the requirements for PKI certification and all other applicable policies and procedures.

With respect to system-access rights, the OPP further reported that it had developed a process whereby the registry supervisor in each police service is now responsible for monitoring and updating local user access rights. The new process was first tested at one local police service in October 2008, and an associated policy document was completed the following month and communicated to all police services during training sessions provided in the final months of 2008. The new process is scheduled for province-wide implementation in 2009/10 on completion of related system enhancements, which will provide local supervisors with on-line access to a listing of users and their roles at their local police service. Further guidance on the revised process will be provided to all police services at the time of the province-wide implementation.

Recommendation 9

To demonstrate the effectiveness of resources dedicated to the Registry, the Ministry of Community Safety and Correctional Services' Public Safety Division should work to develop appropriate performance measures for the Registry, including evidence that it is proving helpful to police in the resolution of sexual-crime investigations.

Status

The OPP informed us that it has worked with the Ministry's Policy and Strategic Planning Division to develop a set of comprehensive performance measures for the Registry, and a draft of the proposed measures was provided to us. These measures were awaiting ministry approval. In addition, we were provided with a number of case-history summaries where the Registry data was instrumental in resolving police investigations.

Outbreak Preparedness and Management

Follow-up on VFM Section 3.12, *2007 Annual Report*

Background

After sustained human-to-human transmission of the H1N1 influenza-A virus, the World Health Organization declared on June 11, 2009, that the first worldwide influenza pandemic in 41 years— and the first of the new century—was under way. The Ministry of Health and Long-Term Care (Ministry) is responsible for formulating emergency plans for infectious-disease outbreaks such as influenza pandemics. In the 2008/09 fiscal year, the Ministry spent about $44 million to ensure that Ontario will be prepared in the event of such an outbreak.

We reported on our audit of the Ministry's outbreak preparedness and management in our *2007 Annual Report* that a number of measures had been taken since the SARS outbreak of 2003 to improve the province's readiness to respond to outbreaks of infectious disease. However, we also noted that Ontario, like many other jurisdictions, still was not adequately prepared to respond to large-scale outbreaks of infectious disease. In particular, we noted the following:

- The Ministry had no assurance, despite the comprehensive response plan it had developed, that everyone in the health system knew what to do in planning for and during a pandemic. One-third of the public health units had not completed their local pandemic plans and some health-care stakeholders were unsure who should be responsible for stockpiling critical supplies.

- Designers of the critical-care triage tool included in the Ministry's pandemic plan recommended that the tool be tested and submitted for public consultation but neither was ever done. The tool is intended to help physicians in acute-care settings make the difficult decisions about prioritizing critical care during a pandemic.

- The availability of non-hospital sites where a significant number of people could be quarantined or isolated for an extended time was limited. The Ministry had no plans to look for additional isolation sites for future outbreaks despite its experience during the SARS outbreak, when it was unable to find suitable venues.

- Although the Ministry instructed local public health units in 2006 to establish up to 750 temporary influenza-assessment centres to relieve pressure on hospitals and other primary-care providers, this had generally not been done when we completed our audit in mid-2007.

- There were a significant number of public health staffing vacancies, with approximately one-third of public health units being without full-time medical officers of health. In addition, close to 100 public health positions within the Ministry were vacant, including some designated as critical during a human-health emergency.
- We found there were no warehouses for the storage of pandemic supplies west of Toronto. This means the Toronto warehouse, with a capacity equal to the combined capacity of the two warehouses in Northern Ontario, would have to serve a population about eight times the size of that served by the Northern Ontario facilities. In addition, there had been no formal assessment of the potential risk involved in storing all supplies for Southern Ontario in a single location.
- The Ministry could not reach some health-care providers because it had been told that contact information held by the College of Physicians and Surgeons of Ontario could be used only in emergencies. Consequently, the Ministry had to purchase the information from a third party—but the data so acquired was incomplete.

We made a number of recommendations for improvement and received commitments from the Ministry that it would take action to address our concerns.

Status of Recommendations

We concluded that the Ministry has, based on the information it provided to us, made good progress in addressing most of our recommendations, with additional work continuing on others due to the longer-term nature of certain of our recommendations. Further work was needed in such areas as ensuring all local public-health units have the necessary plans and resources in place, addressing staffing shortages in the Ministry's Public Health Division, and ensuring there are sufficient infection-control practitioners available in non-hospital settings.

The status of action taken on each of our recommendations is described below.

PLANNING AND CO-ORDINATION

Recommendation 1

To ensure a consistent and co-ordinated response to infectious-disease outbreaks across the province, the Ministry of Health and Long-Term Care should:

- *review both the Ontario Health Plan for an Influenza Pandemic (OHPIP) and the Ministry Emergency Response Plan regularly to update these documents as necessary;*
- *translate the OHPIP into French as required by legislation;*
- *as recommended by the World Health Organization, periodically conduct simulation exercises to confirm that its response plan on infectious-disease outbreak will work properly;*
- *clarify the responsibilities of all relevant parties so that all parties understand their responsibilities—for example, by providing a summary or checklist of planning activities by pandemic phase and by organization in the next version of the OHPIP; and*
- *develop a template to help public health units complete local pandemic plans.*

Status

The Ministry advised us that it had updated the Ontario Health Plan for an Influenza Pandemic (OHPIP) each year, with release of the 2009 edition set for fall 2009. Although the Ministry last updated its Ministry Emergency Response Plan in 2007, it intended to conduct a review of this plan in fall 2009 to incorporate lessons learned from emergency exercises conducted in 2008 and the H1N1 influenza-A virus outbreak in spring 2009.

The Ministry informed us that it had received an exemption from translating the OHPIP into French

because of its technical and scientific content. However, a number of OHPIP summary-level documents were translated into French and published on the ministry website. As well, the Ministry in August 2008 invited agencies designated and identified under the *French Language Services Act* to join an advisory group to provide advice on ways to further integrate French-language resources into pandemic-planning activities.

Since our last audit, the Ministry told us, it had led and participated in a number of exercises to test the OHPIP and other features of its pandemic-preparedness programs. These included a mass immunization exercise in 2007 and a government-wide full-scale pandemic exercise in 2008. The Ministry was working on preparing lessons-learned reports from these activities at the time of our follow-up.

The Ministry also advised us that it had clarified, documented, and summarized roles and responsibilities for various parties, including elected officials in the government of Ontario, the Chief Medical Officer of Health, municipalities, and most health-service providers. The Ministry was in the process of further clarifying and summarizing roles and responsibilities for community health-service providers and primary-care practitioners for inclusion in the 2009 edition of OHPIP.

With respect to developing a template to help those public health units that had not drawn up their local pandemic plans, the Ministry told us it had pursued other ways to assist the units. At the time of our follow-up, the Ministry indicated that six of the 10 public health units that did not have a finalized plan in place were on their way to completing a plan. The remaining four faced challenges associated with community engagement, and indicated that a template would not be of significant use in resolving these issues. The Ministry reported that it would work with the public health units over summer 2009 to assess their level of pandemic preparedness for a potential H1N1 response.

HEALTH-SYSTEM RESOURCES

Acute Care in Hospitals

Recommendation 2
To ensure that access to acute care in an outbreak is fair and equitable to all Ontarians, the Ministry of Health and Long-Term Care should:
- *consider the need for public consultation, particularly since its recently developed critical-care triage tool may be the first one developed anywhere in the world;*
- *work closely with the medical community to test and refine the critical-care triage tool; and*
- *establish a plan for responding to various levels of surges in patients needing critical care.*

Status
In its initial response to this recommendation, the Ministry said it had launched a pilot study in February 2007 to test the best method for gauging the tool's efficacy and accuracy, and was expecting results by March 2008. However, the Ministry advised us during our follow-up that this study had been delayed due to difficulties in conducting statistical analysis on the generated data. The research team continued to work on the analysis and expected to have results completed by winter 2009, at which time they would be shared with the Ministry. In the meantime, the Ministry advised us that two consultation sessions covering how Ontarians perceived the critical-care triage tool were held in March 2008. The Ministry informed us that it would address the feedback obtained from these consultation sessions in its work on communication planning.

In an effort to refine the critical-care triage tool and to address unique circumstances of the pediatric community, medical experts had devised a separate Pediatric Critical Care Triage Protocol, which was included in the 2008 version of the OHPIP. The Ministry informed us that it would look to conduct further testing and consultation on both the adult and pediatric tools by summer 2010.

The Ministry reported that a project to integrate and co-ordinate approaches to manage surges in outbreaks was tested and introduced to all hospitals in March 2009, with implementation slated for spring 2010. Subsequently, the Ministry planned to take part in a simulation exercise in January 2010 with participating hospitals and Local Health Integration Networks to test the efficacy of the program in responding to large-scale outbreaks. In addition, the Ministry had provided more resources in the OHPIP to guide the acute-care sector in developing a phased approach to surge-capacity management during an influenza pandemic.

Isolation and Quarantine; Transfer of Patients with Infectious Diseases; and Influenza Assessment, Treatment, and Referral Centres

Recommendation 3

To ease the burden on hospitals during an infectious-disease outbreak, the Ministry of Health and Long-Term Care should:

- *ensure that local public health units identify suitable non-hospital quarantine sites for individuals not requiring hospital care and determine if they are properly equipped or how they are to be equipped, so that they will be available when they are needed;*
- *give due consideration to making participation in the Provincial Transfer Authorization Centre compulsory to help prevent the spread of infectious diseases between facilities;*
- *resolve the legal, licensing, scope-of-practice, and funding aspects of community-based influenza assessment, treatment, and referral centres, and monitor their establishment by public health units; and*
- *make alternative arrangements in advance if it is likely that certain local public health units will not have established the required assessment centres.*

Status

The Ontario Agency for Health Protection and Promotion, a new arm's-length agency of the government, advised the Ministry in April 2009 that although there may be a need for quarantine in outbreaks of certain known or unknown diseases, there is no such need in an influenza pandemic. The Agency recommended that, to facilitate care for infected individuals who don't require hospital admission but who lack access to home isolation, and to mitigate community spread of illness during an infectious-disease outbreak, the Ministry should:

- consider non-hospital treatment sites for symptomatic individuals who don't require hospital care;
- develop criteria for these sites, including location, capacity, equipment, supplies, and recommended staffing; and
- develop guidelines and a template agreement that could be used by local public health units in their negotiations with owners of potential treatment sites to facilitate procurement and optimize consistency of this process.

The Ministry indicated it needed to further examine the Agency's recommendations.

While participation in the Provincial Transfer Authorization Centre had not yet been made compulsory for health-care facilities at the time of our follow-up, the Ministry advised us that data from the Centre as of January 2009 indicated substantial participation and compliance rates. In any case, the Ministry said, the Chief Medical Officer of Health has the statutory authority to order health-care providers to use the Centre in the event of an outbreak of immediate risk to the health of people anywhere in Ontario. The Ministry indicated to us that it would further consider making participation in the Centre compulsory as statutory and program opportunities arose.

The Ministry informed us that the resolution of many legal, licensing, scope-of-practice, and funding issues of community-based influenza assessment, treatment, and referral centres would

occur only when an influenza pandemic strikes Ontario. Consistent with our recommendation, the Standing Committee on Public Accounts also recommended that the Ministry monitor public health units' establishment of these centres. At the time of our follow-up, the Ministry was continuing to identify processes required in advance of opening such centres, and to monitor progress made in the development of local pandemic co-ordination plans, including preparations for referral centres.

The Ministry advised us that it had in 2008 revised its strategy on assessment centres, making available a range of alternative arrangements for local planners to consider when preparing for influenza assessment, treatment, and referral, which might reduce the need for these centres. We were told that the Ministry would include further resources, such as tools and guidelines, for these alternative arrangements in the 2009 edition of the OHPIP.

Human Resources in Public Health, and Human Resources in the Health-care Sector

Recommendation 4

To enhance the availability of human resources during an infectious-disease outbreak, the Ministry of Health and Long-Term Care should:

- *take effective measures to fill the large number of vacancies of medical officers of health in the public health units and of other positions in the Ministry's Public Health Division and public health laboratories;*
- *in conjunction with professional associations and regulatory colleges, maintain up-to-date registries of volunteer health-care providers who would be available to assist during outbreaks; and*
- *monitor the success of local public health units in recruiting health-care retirees and other volunteers who could help in an outbreak situation.*

Status

At the time of our *2007 Annual Report*, we reported that one-third of public health units were without a full-time medical officer of health (MOH). By the time of our follow-up, the Ministry informed us that 22 of Ontario's 36 public health units had full-time MOHs while the remaining 14 employed physicians as acting MOHs. The Ministry reported it had taken a number of steps to help fill the MOH vacancies, including:

- allocating more funds for additional infection-prevention and -control practitioners to support MOHs;
- supporting the Physician Re-entry Program, which enables doctors to obtain the educational requirements for MOH positions;
- funding the MOH-in-Training Program, which helps acting MOHs obtain MOH qualifications;
- raising the salaries of MOHs and associate MOHs through the Physician Services Agreement, effective April 1, 2009; and
- ensuring that boards of health appoint acting MOHs to provide coverage and appropriate services in public health units where the MOH position is vacant.

In addition, the Ministry advised us that the Ontario Public Health Laboratories are now part of the Ontario Agency for Health Protection and Promotion, the new arm's-length government agency mentioned earlier. As of April 2009, the Laboratories had recruited 14 specialized staff, including microbiologists, scientists, epidemiologists, and a dedicated outbreak response co-ordinator. Nonetheless, the Ministry noted that it was still addressing Public Health Division vacancies at the time of our follow-up and could not fill all vacancies in the short-term.

The Ministry said it had determined there would be significant challenges in maintaining registries of volunteer health-care providers available to assist during outbreaks. Instead, it had worked with the Federation of Health Regulatory

Colleges to determine a potential role for the health regulatory colleges in notifying health professionals in an emergency and disseminating requests for assistance. In addition, the Ministry had identified newly created resources, such as infection-control resource teams of the Ontario Agency for Health Protection and Promotion, which could be deployed by the Chief Medical Officer of Health to provide such on-site assistance as investigating and managing an outbreak of hospital-acquired infections. As well, the medical colleges of Quebec and Ontario reached agreement in 2009 to recognize the professional qualifications of each other's physicians and to allow certain physicians to practise on both sides of the Quebec–Ontario border. Canada's health ministers also signed a memorandum of understanding in 2009 on the provision of mutual aid in the form of health resources during a public health emergency.

The Ministry indicated that in 2008 it had assessed the current status of local efforts in recruiting health-care retirees and other volunteers who could help in an outbreak, and learned that approximately half of the public health units had initiated this type of planning. The Ministry noted that it would work with the remaining public health units to improve overall preparedness.

MEDICAL INTERVENTION

Recommendation 5

To ensure that vaccines, antiviral drugs, medical supplies, and personal protective equipment for health-care workers can be made available in sufficient quantities and on a timely basis, the Ministry of Health and Long-Term Care should:

- *store, distribute, monitor, and administer antivirals, vaccines, and personal protective equipment so that they are accessible to people when needed; and*
- *emphasize to the broader health-care sector the importance of local stockpiling of personal protective equipment.*

It should also ensure that it recovers the money owed to it by the federal government for its share of the cost of the national antiviral stockpile.

Status

The Ministry said it had taken some steps, and was working on others, to develop strategies to ensure antivirals, vaccines, and personal protective equipment were accessible to people when needed.

In the case of antivirals, the Ministry established a working group to formulate a strategy to ensure antivirals are accessible to the health system within 12 to 24 hours of when patients require treatment (antiviral therapy is ineffective in most patients if administered more than 48 hours after the onset of symptoms).

In the case of vaccines, the Ministry cited the following initiatives since our *2007 Annual Report*:

- The Ministry enumerated and mapped workers in the province's critical infrastructure sectors for the purposes of health-emergency preparedness.
- While the federal government would co-ordinate security arrangements for the inter-provincial transport of vaccines, the Ministry would work through existing structures in the Provincial Emergency Operations Centre to marshal provincial and local security services to ensure safe transport of vaccines within Ontario.
- In a 2007 exercise, the Ministry analyzed the effect of a pandemic on the warehousing and distribution capabilities of the government pharmacy. The exercise found that the government pharmacy was able to significantly reduce its delivery time to public health units and to identify contingencies needed to address the impact of a pandemic.
- To address the risk of a general breakdown of public order at dispensing sites during mass vaccinations, public health units had developed plans that include security measures to ensure public order. Typically, these plans included roles for local police or other security-service providers. The 2007 exercise

cited above also included a scenario involving a breakdown of public order.

- As Ontario is currently the only province with a universal program for seasonal influenza immunization, the Ministry possesses proven experience in planning and delivering mass immunization campaigns. The established immunization program mechanisms also include policies and procedures necessary to track adverse reactions.

With respect to personal protective equipment, the Ministry had at the time of our follow-up obtained almost all of the required quantities of medical supplies and equipment, including N95 respirators, and expected to have all required items stockpiled by fall 2009. To that end, the Ministry informed us that it was finalizing a distribution strategy for the deployment of such supplies and equipment from the provincial stockpile to health-service providers across the province. Such a strategy would include a streamlined order and entry system for health-service providers to access needed supplies and equipment, as well as appropriate audit and monitoring controls.

To emphasize to the broader health-care sector the importance of local stockpiling of personal protective equipment, the Ministry advised us that it had taken several measures, including:

- a section in the OHPIP that communicates an expectation regarding such stockpiles;
- presentations to health stakeholders; and
- a monthly newsletter from the Ministry on emergency preparedness.

As of April 2009, the Ministry had also provided the health and broader public sectors with access to preferred pricing agreements for personal protective equipment and infection control supplies. This extends the competitive prices negotiated by the Ministry to the health and broader public sectors to encourage stockpiling of these products.

The Ministry also informed us that it had recovered the money owed by the federal government for its share of the cost of the national anti-viral stockpile in 2008.

SITUATION MONITORING AND ASSESSMENT

Recommendation 6

To allow efficient and effective disease surveillance at the provincial level so that the extent and seriousness of any outbreaks can be analyzed and the most appropriate action can be taken, the Ministry of Health and Long-Term Care should:

- *expedite its setting of standards for the timely reporting of diseases and for the completeness and integrity of disease data that public health units enter in the integrated Public Health Information System; and*
- *make plans to ensure that any new surveillance system is implemented only after proper quality assurance—such as improving the accuracy and completeness of the disease data in the existing system before conversion—and after sufficient consultation with and training for users.*

Status

We were informed that the Ministry had implemented two policies since our *2007 Annual Report* related to the timeliness of data entry for both routine surveillance and urgent case reporting. According to the Ministry, these policies had as of April 2009 reduced average time between initial case notification at the public health unit, and entry into the disease surveillance system, as follows:

- to 11 days from the two to three weeks reported in our 2007 audit for routine surveillance; and
- to two days from 10 for urgent cases.

The Ministry also indicated that it had taken a number of steps since 2007 to address completeness and integrity of data. These included:

- production of disease-specific user guides, which outlined the standardized definition of each data field, and specified system-mandatory fields, along with those required for surveillance purposes;
- carrying out data-cleaning initiatives that required health units to enter key information

that was missing to ensure availability of complete and high quality data; and

- sharing outbreak-data reports with public health units weekly, resulting in a better quality of outbreak data entered into the disease-surveillance system.

The Ministry advised us that implementation of a new surveillance system was expected to begin in spring 2009 for immunization and inventory management, while the modules for communicable disease and outbreak management were to be completed in winter 2011, pending funding approval. The Ministry had established a quality assurance team that works with various government partners and public heath units to standardize processes and data within the new system. As the system progresses through implementation, national and international vocabulary standards for data quality will be implemented. A training working group was also established to identify training requirements, such as adherence to standards, protocols, and surveillance and reporting requirements contained in the Ontario Public Health Standards. The Ministry also established another working group, with representatives from public health units and the Ministry, to advise on implementation of the new surveillance system.

PREVENTION AND REDUCTION IN TRANSMISSION

Recommendation 7
To help minimize the public's exposure during a disease outbreak, the Ministry of Health and Long-Term Care should:

- *collect and analyze data on the sufficiency of infection-control resources in all health-care settings;*
- *establish standards for the infection-control resources required in all health-care settings and follow up to ensure that these standards are being complied with; and*

- *finalize the protocols for surveillance and management of infectious diseases at the public health units.*

Status
In our *2007 Annual Report*, we noted that the Ministry had no data on, and sometimes no standards for, the quantity of infection-prevention and infection-control resources, including people and materials. At the time of our follow-up, we concluded that the Ministry had made improvements in this area but that further work was required. The Ministry advised us that:

- Since our 2007 audit, the Provincial Infectious Diseases Advisory Committee (PIDAC) had released Best Practices for Infection Prevention and Control Programs in Ontario. This document applies to a range of health-care settings, including long-term-care facilities, and identifies best practices on the use of infection-control resources. As well, Regional Infection Control Networks, which existed at the time of our audit, and Infection Control Resource Teams, which were recently created with the Ontario Agency for Health Protection and Promotion, supplement these infection-control materials and resources.

- With respect to human infection-control resources, the Ministry had collected and analyzed the ratio of infection control practitioners (ICPs) to beds in the acute-care sector, but not other health-care settings. The Ministry advised us that the PIDAC best practices document above outlined that minimum recommendations for staffing should not be based exclusively on bed numbers. The ratio of ICPs will vary according to the health-care setting, and to the volume and complexity of the ICP's work. Accordingly, while standards for ICP resources in the acute sector and long-term-care homes were available, there were still no standards that indicated the number of ICPs needed to support other health-care services. In addition, while the Ministry

concluded that, as of September 2008, the ICP-to-beds ratio for hospitals was at 1:100, which surpassed the 1:115 national standard, it did not record the actual ICP-to-beds ratio for long-term-care homes (the standard was 1:150 to 1:250).

- The Ministry sets eligibility criteria for, and funds the recruitment of, infection control practitioners (ICPs). Successful ICP recruits who don't have the appropriate certification commit to obtain it within three years of beginning employment. In 2007, we noted that 30% of ICPs in the acute-care sector were certified. At the time of our follow-up, the Ministry informed us that it did not record the professional designations of ICPs in the province, expecting that to be done by the agencies employing them.

- Although compliance to new standards and indicators for hospitals on hand hygiene and patient safety was reported publicly as of April 2009, the hand-hygiene program would not be rolled out to long-term-care home settings until fall 2009.

In the area of finalizing the protocols for surveillance and management of infectious diseases at the public heath units, the Ministry advised us that the Ontario Public Health Standards and incorporated protocols were released in October 2008 and came into effect in January 2009. To support application of these standards and protocols, the Ministry informed us that it was working on developing best practices and an infectious-diseases manual with evidence-based information on surveillance, case and contact management, and other public health interventions. These are expected to be released in one to two years.

COMMUNICATION

Recommendation 8

To help ensure timely and coherent information-sharing at various stages of a disease outbreak, the Ministry of Health and Long-Term Care should test its

public communication strategy with all members of the health-care system and the media.

Status

In our *2007 Annual Report*, we noted that the Ministry had established a steering committee to provide supervision and advice in the redesign and implementation of a new public health call system just prior to the end of our audit fieldwork, and that we would review the status of this matter in 2009. The Ministry advised us that, as a result of the steering committee's work, it had reconfigured the public health on-call system for after-hours coverage. The system utilizes existing managers of key branches within the Ministry's public health division to support the Public Health Call Centre and Chief Medical Officer of Health in addressing significant public-health events that occur at night or on weekends. Due to ongoing restructuring of the public health division, the Ministry expected to see a redesign of the current call system in winter 2009.

The Ministry indicated that it had utilized and tested the Health Emergency Information Cycle teleconference system during the provincial response to the new H1N1 influenza virus outbreak. In addition, the Ministry had tested, practised, and implemented communication strategies in response to a number of past actual public health events, including listeriosis, tuberculosis, *E-coli*, and others. Further, the Ministry organized and hosted a risk communication workshop in March 2009 with medical officers of health and public health unit communication leads to share expertise and best practices as they relate to crisis communications for public health events.

PERFORMANCE REPORTING

Recommendation 9

To help enhance its ability to report publicly on outbreak preparedness and management in a transparent and timely manner, the Ministry of Health and Long-Term Care should:

- *collect data and establish reasonable bench-marks for relevant performance measures of outbreak preparedness and management activities; and*
- *report regularly to the public on these performance indicators.*

Status

The Ministry told us that, since our *2007 Annual Report*, it had taken a number of initiatives to enhance its ability to report publicly on outbreak preparedness and management. Among them:

- It planned to release an initial report of public health in Ontario in summer 2009 that examined all of the province's public health units using more than 30 indicators to facilitate understanding of progress by public health units of similar profile.
- In 2007 and 2008, the Ministry made public its compliance results in the area of emergency management concerning human health, disease, and epidemics under its obligations as set out in the *Emergency Management and Civil Protection Act* and the related Order-in-Council.
- All Ontario hospitals publicly reported patient-safety indicators and standards as of April 2009.

Retail Sales Tax Program

Follow-up on VFM Section 3.13, *2007 Annual Report*

Background

The Ministry of Revenue (Ministry) administers the *Retail Sales Tax Act*, which imposes a general sales tax of 8% on the retail price of most goods and services sold to final consumers in Ontario. As of March 31, 2009, approximately 427,000 vendors (420,000 in 2007) were registered to collect and remit retail sales tax (RST) to the province. RST receipts for the 2008/09 fiscal year totalled approximately $17.3 billion, net of $192 million in refunds ($16.2 billion in 2006/07), which represents about 28% of the province's total tax revenue. Over the last decade, RST revenues have increased by an average of about 5% to 6% annually.

In our *2007 Annual Report*, we concluded that the enhanced information that ongoing technology developments can provide, along with certain improvements in the audit and collection processes, would all be necessary before the Ministry could be assured that all the RST owing was being collected. Some of our more significant observations were:

- While the Ministry had implemented certain measures to identify non-registered vendors at their place of business or at points of sale, procedures were not yet adequate to ensure that all Ontario vendors—particularly new vendors—selling taxable goods and services were registered with the Ministry.

- The audit selection process was suffering from several deficiencies, including the following:
  - The auditable tax roll used for selecting vendors for audit excluded many vendors registered in Ontario, such as those vendors registered for less than two years and those that designated themselves to be part-time.
  - No standardized province-wide criteria had been developed for selecting vendors for audit on the basis of the risk of non-compliance, despite the Ministry's previous commitments to do so.
  - While audit coverage had increased since our last audit in 2000, the Ministry's coverage of each of its three categories of vendors based on level of sales and amount of tax remitted was still below its targets.

- Outstanding accounts receivable had increased to $967 million as of December 31, 2006, from $587 million at the time of our last audit in 1999/2000, an increase of approximately 65%. In contrast, in the same period, RST revenues had increased to approximately $16.2 billion from $12.6 billion, an increase of 29%.

- The Ministry's information system did not have the ability to prioritize accounts-receivable for collection. Our review of a sample of open collection files found that it often took a number of months for a collector to initiate contact on a file, and approximately one-quarter of the files had no collection activity for periods exceeding two years.

- At the time of our audit, approximately 35,000 vendors with active accounts had been in default in filing their returns. Of those we reviewed, over eight months had elapsed, on average, between the referral of the account to the Ministry's Non-Filer Unit and the compliance officer's attempt to contact the vendor. After the initial contact, many files continued to have an extended period of inactivity.

We made a number of recommendations for improvement and received commitments from the Ministry that it would take action to address our concerns.

Status of Recommendations

According to information received from the Ministry of Revenue, significant progress has been made towards implementing many of the recommendations we made in our *2007 Annual Report*. However, in 2009, the government announced that a single, federally administered sales tax—the Harmonized Sales Tax—was to be implemented in July 2010. As noted throughout this follow-up, transition plans need to ensure that improvements made in addressing the recommendations we made in our *2007 Annual Report* are not lost in the transition to the federal government.

The status of action taken on each of our recommendations is as follows.

OVERVIEW OF PROGRAM

Tax Roll Maintenance

Recommendation 1

To help ensure that the tax roll for vendors that sell taxable goods and services is complete and accurate and that the appropriate amount of tax is remitted, the Ministry of Revenue should:

- *ensure that it can match the government's business names registry with its new management*

- *information system—which would allow it to follow up with businesses that are on the names registry but not the RST vendor database; and*
- *at future meetings relating to interprovincial taxation, raise the possibility of reciprocal tax collection agreements with other provinces whereby all provincial sales taxes are collected at the point of sale and remitted to the province where the taxable goods are ultimately shipped and consumed.*

Status

The Ministry has made some progress in the area of tax roll maintenance. The Ministry informed us that it had signed a Memorandum of Understanding with the Companies and Personal Property Security Branch of the Ministry of Government Services in April 2008, agreeing to receive semi-annually information relating to businesses under the *Business Names Act* and the *Limited Partnership Act*. The Ministry plans to review and match this information to that in its database so it can determine which vendors are not registered for RST purposes. The most recent information received covered the period ending October 2008. We understand that, subsequent to our follow-up, the Ministry matched that information to its own database and found a high degree of correlation. The Ministry also relies on audit referrals, matching of federal data, and referrals from the Ministry of Labour for this purpose.

In addition, the Ministry established an Interprovincial Best Practices Committee in 2008 to discuss common areas of interest, including interprovincial reciprocal tax collection. The Ministry has also conducted a review of all existing agreements with other provinces to determine their effectiveness and any potential enhancements. In 2009, the government announced that Ontario would be participating in the federally administered Harmonized Sales Tax. After this transition takes place, reciprocal tax collection is to be negotiated with the Canada Revenue Agency.

ENFORCEMENT: RST AUDITS

Auditable Tax Roll

Recommendation 2

In order to ensure that potentially high-risk vendors are not systematically excluded from audit selection, we encourage the Ministry of Revenue to revise its audit selection process to include both newly registered and part-time vendors.

Status

The Ministry informed us that it had acted on this recommendation by creating an automated audit-selection system called Flexible and Integrated Risk Systems (FAIRS), which was implemented in March 2009. The Ministry uses the system to ensure that no vendors are excluded from the auditable tax roll for audit-selection purposes.

The Ministry also demonstrated to us that it has included new registrants and part-time vendors in the audit-selection process.

Audit Selection

Recommendation 3

To help ensure that it meets its goals of ensuring that the correct amount of tax is remitted to the province and of encouraging voluntary compliance in the broader vendor community, the Ministry of Revenue should:

- *complete the development of an automated, centralized evidence-based risk-assessment system for selecting vendors for audit and implement it as soon as possible; and*
- *specify the approximate number or percentage of higher-risk refunds issued subject to audit that are to be audited each year and ensure that the audits are carried out.*

Status

As mentioned above, the Ministry implemented the automated risk-assessment and audit-selection system (FAIRS) in March 2009. This system is to include an enhancement, expected to be rolled out

in October 2009, for the selection of refunds subject to audit.

The Ministry has not specified what percentage of higher-risk refunds issued subject to audit is to be audited each year, as we recommended. However, the Ministry advised us that, in light of the RST program's move to the federally administered Harmonized Sales Tax, all refunds issued by the Ministry subject to audit will be considered for review. In that regard, it has recently performed a manual risk assessment on all refunds issued subject to audit to determine their potential tax exposure and to assist in ensuring that audits are selected appropriately.

Audit Coverage

Recommendation 4

To ensure that all vendors are given due consideration for audit selection and to encourage voluntary compliance through an adequate and representative level of audit coverage, the Ministry of Revenue should:

- *continuously monitor its audit coverage for all three vendor categories and endeavour to meet its audit coverage goals for each as soon as possible;*
- *select audits from all segments of the vendor population; and*
- *facilitate the audit selection and results assessment process by reducing and more clearly defining the number of different vendor profile codes it uses.*

Status

To support the wind-down of the RST program, the Ministry developed a strategy for audit selection. This strategy focused on high-risk areas. In particular, the main focus was on large vendors, which account for 75% of the total tax remitted, and on those small and medium vendors that are considered to be high risk.

To facilitate audit selection, the Ministry used the new system, FAIRS, to generate information on all of the large vendors (10,000 in total), review and assess the risk of each one, and select and prioritize

audits accordingly. The Ministry also used FAIRS to identify small and medium vendors that are high risk; audits will be selected from those identified.

The Ministry has not determined when it will conclude its audits of the RST program because the Canada Revenue Agency has not yet committed to performing audits after the transition.

We were informed that the Ministry had completed the transition from profile codes to North American Industry Classification System (NAICS) codes, which are consistent with the codes used by the Canada Revenue Agency. Although we recommended that the number of codes used be reduced, the new system has resulted in an increase from 255 to 790 codes. The Ministry told us this approach was necessary to classify businesses more specifically and was also a requirement of their new tax administration and audit software, ONT-TAXS. It has grouped similar codes into peer codes to facilitate better audit selection and risk evaluation.

Audit Working Papers

Recommendation 5

To help ensure that the confidentiality of taxpayer information is maintained and provide evidence that audits have been adequately planned and conducted, the Ministry of Revenue should ensure that:

- *all audit working paper files are securely stored and available for review; and*
- *audit working paper files contain the documentation necessary to demonstrate that all required work has been adequately planned and completed, and reviewed and approved by an audit manager.*

Status

The Ministry informed us that it has made the following improvements with regard to our recommendations on audit working papers:

- In one location, the Ministry piloted an electronic working-paper process for all "no change" audits. The pilot was deemed a success and the process was subsequently

implemented at all locations. The Ministry then began to look for other types of audits for which working papers could be stored electronically.

- The Ministry migrated to new tax administration and audit software, ONT-TAXS, which allows all supporting documents to be scanned and attached to the file electronically. This permits complete electronic storage of the audit working papers.
- It strengthened the policy on audit documentation, which is contained in the risk-based Integrated Audit Handbook released in June 2009. It also developed training, which is to be delivered in October 2009, to help managers and auditors increase their awareness of the documentation requirements of an audit file.
- It established in April 2009 an Audit Review unit, comprised of an audit manager and two senior operations officers, which is responsible for reviewing a sample of files after assessments have been issued for compliance with documentation standards and reporting to the Ministry's senior management. The unit plans to begin these reviews in the third quarter of 2009/10.

At the time of our follow-up, the Ministry had not yet addressed our concerns regarding the security of hardcopy audit working papers nor had it improved its processes around the review and approval of this information by an audit manager. However, subsequent to our follow-up, the Ministry informed us that it intends to add a module to its electronic files to record the audit managers' review and approval of the working papers.

Penalties

Recommendation 6

In order to deter taxpayers from remitting an incorrect amount of tax, the Ministry of Revenue should comply with its policy that penalties be imposed in all cases where an assessment was issued due to the taxpayer's

neglect, carelessness, wilful default, or fraud, unless the reasons for not doing so are clearly documented and approved by the audit manager.

In addition, in cases involving the potential imposition of a significant penalty (that is, exceeding a predetermined threshold amount), the Ministry should assess the merits of having more senior staff review the case and decide whether or not to impose the penalty.

Status

The Ministry indicated that it has fully implemented our recommendations on penalties. In June 2009, it released the risk-based Integrated Audit Handbook, which includes policies on penalty application and proper documentation and approval. An Audit Handbook Advisory Committee, comprised of managers and auditors from all program areas, was also established and has been meeting regularly to discuss these policies.

The Audit Review unit that the Ministry established in March 2009 in response to the above recommendation is to include a review of penalties as part of their documentation-standards review to ensure their consistent application and compliance with legislation and will report results to the Ministry's senior management.

Monitoring of Audit Staff

Recommendation 7

In order to maximize productive audit hours and resultant audit assessments, the Ministry should:

- *investigate the reasons for relatively high absenteeism rates among auditors and take the necessary corrective action;*
- *ensure that auditors comply with the Ministry's flextime policy and limit time-banking deficits to no more than 14½ hours at any point in time;*
- *continue to monitor auditors' time charged to travel, with a view to further reducing time charged to travel; and*
- *identify best practices and other strategies used by those auditors who consistently have high audit recovery rates.*

Status

The Ministry informed us that it had made the following improvements to the monitoring of audit staff since our *2007 Annual Report*:

- It committed to ensuring that all staff who exceed the Ministry's absence threshold enter the Attendance Support Program and has been monitoring this process.
- Since January 2008, it has been sending monthly reports on absenteeism to senior managers to follow up on.
- It has required that managers track absenteeism through the government's information system (WIN) and review timesheets on a monthly basis to ensure that the 14.5-hour time-banking limit has not been exceeded.
- It has updated the ministry policy on time-reporting, including flextime and its limits. This policy is reiterated in the Integrated Audit Handbook to encourage compliance.
- In March 2009, it established an Audit Handbook Advisory Committee, comprised of managers and auditors from all program areas, which meets regularly to identify and share best practices in audit methodologies to maximize revenue recovery.

We reviewed an attendance report on short-term sickness absences provided by the Ministry for January to March of 2009 and noted that it included what actions were taken to address absences. The Ministry informed us that, although managers have been reviewing and monitoring travel time to identify staff with above-average time charged to travel, no significant reduction in the amount of hours charged to travel has been noted.

COLLECTION FUNCTION

Outstanding Accounts Receivable

Recommendation 8

To address the increase in outstanding accounts receivable, the Ministry of Revenue should be more proactive in taking prompt and rigorous collection action

and ensure that all collection activity is adequately documented.

Status

The Ministry has made some progress in implementing our recommendations on collection efforts. Its new tax administration and audit software (ONT-TAXS) includes a collections function, which the Ministry began to use in November 2008. As a result, the Ministry now prioritizes its tax collectors' workloads on the basis of a risk-scoring methodology. The Ministry informed us that it expected the new methodology to move the right account to the right collector, facilitating prompt and consistent collection action, and that its collection staff have been acting on 85% of accounts within a 90-day period. However, the outstanding accounts receivable balance had increased to $1.05 billion as of March 31, 2009, from $967 million at the time of our audit, and a further $273 million had been written off.

With regard to documentation, ONT-TAXS includes a function for documenting each stage of the collection process. This should help ensure that all activities performed by the collector are consistently and effectively noted in the system, including the results achieved.

Overdue Returns and Non-filers

Recommendation 9

To give it the best chance of receiving outstanding RST returns and the required remittances, the Ministry of Revenue should ensure that:
- *initial contact with defaulting vendors is made on a more timely basis; and*
- *after initial contact, follow-up with defaulting vendors is made on a continuous and timely basis until the matter is resolved.*

Status

In January 2009, the Ministry began issuing automated estimated tax assessments to Retail Sales Tax vendors that had not filed their RST returns on time. Any vendor in default is immediately issued an automated estimated tax assessment, and this process continues on a monthly basis.

The Ministry informed us that, from January to June 2009, it had issued approximately 83,000 estimated assessments to approximately 63,000 vendors, which resulted in $34 million in RST recoveries. The Ministry expects that the number of new RST referrals to the Collections branch as a result of returns in default will decrease over time as vendors become more educated about the requirement to file on time.

SPECIAL INVESTIGATIONS

Recommendation 10

In order to ensure that all cases that warrant investigation are in fact investigated, and that the results of the investigations and any prosecutions are considered during future audits, the Ministry of Revenue should:
- *obtain the level of staff required to ensure that all referrals that warrant investigation are in fact investigated; and*
- *analyze and, where warranted, communicate the results of investigations and prosecutions to all auditors and audit managers for consideration in their work.*

Status

The Ministry informed us that its Special Investigations branch had hired two additional staff members earlier this year to assist with investigations for the RST program. However, at the time of this follow-up, these resources were being redirected to higher priority or more pressing areas. As the RST program began winding down in anticipation of the new Harmonized Sales Tax, the investigators were to complete the RST investigations they have been assigned and only in extreme circumstances were they to take on any additional RST cases.

The Ministry has also implemented a procedure to communicate the results of investigations and prosecutions to all auditors and audit managers. A memo with the results of each court case is issued within two weeks of receiving the notification from the Ministry's prosecutors at the Legal Services Branch.

Universities— Management of Facilities

Follow-up on VFM Section 3.14, *2007 Annual Report*

Background

Ontario has 19 publicly funded universities (18 in 2006), with full- and part-time enrolment in fall 2008 totalling 448,000 (436,000 in 2006) and ranging from 1,000 to 74,000 students (3,400 to 72,000 in 2006) per institution. In the year ended April 30, 2008, their operating revenues totalled about $6.3 billion, comprising $3.1 billion in provincial grants, $2.4 billion in tuition fees, and the balance from donations, investments, and miscellaneous sources. Total operating expenditures were about $5.8 billion.

Ontario universities own most of their facilities. A report published by the Council of Ontario Universities in 2007 stated that universities in this province managed a portfolio of 918 buildings with 5.6 million square metres of space, excluding student residences. The estimated replacement value of these facilities was $14.4 billion as of March 2007, while the value of associated infrastructure, such as boilers and power systems, was an estimated $2.2 billion. The average age of the buildings was over 30 years as of March 2007.

As owners of their facilities, universities are responsible for utility costs and day-to-day cleaning, repairs, and security services. The Ministry of Training, Colleges and Universities expects these

costs to be funded out of the universities' operating revenues. In addition to daily operating costs, universities are also responsible for maintaining the facilities in good condition. The Ministry assists universities with these costs through its Facilities Renewal Program grants of $26.7 million per year.

Recognizing the increasing backlog of capital projects required to maintain university facilities in good condition and the need to have good information for decision-making, universities purchased a common capital-asset-management system in 2001. The system indicated that the backlog of deferred maintenance was estimated to be $1.6 billion as of March 2007.

The objective of our 2007 audit was to assess whether universities had adequate processes in place to manage and maintain their academic and administrative facilities cost effectively. We examined the facility-management practices at three universities—Carleton University, McMaster University, and the University of Guelph. The other 15 universities and the Ontario College of Art and Design completed a questionnaire about their policies and practices.

We found that the three universities would benefit from having better information about space utilization and about their physical-plant operations.

At the three universities, we also found the following:

- In the 2005/06 fiscal year, the combined capital renewal projects at the three universities totalled $18.3 million—less than 5% of their combined deferred-maintenance amount, which was not sufficient to reduce the backlog of deferred maintenance.
- The usefulness of the universities' capital-asset-management system for prioritizing capital renewal projects could be enhanced by implementing procedures to update the system for completed renewal projects in a more timely manner and, for a sample of facilities, checking the reliability of the deferred maintenance forecasts made by the system.
- Procedures to ensure that academic and administrative space was used efficiently needed to be improved. A new scheduling system at one university was expected to achieve a 30% improvement in the utilization of academic space.
- There was a need for additional analysis to compare the operating costs of each facility to those of similar facilities at the university or to those at other universities in order to identify and take action on opportunities to reduce costs.
- With respect to purchasing, we were pleased to note that the universities' policies promoted open and competitive purchasing practices, and that the policies were generally being complied with for the purchases relating to the physical-plant operations that we examined.

We made a number of recommendations for improvement and received commitments from the Ministry and the three universities that they would take action to address our concerns.

Status of Recommendations

The three universities we visited and the Ministry provided us with information, as of spring 2009, on the status of the implementation of the recommendations in our *2007 Annual Report*. The information provided indicated that, especially given the amount of work involved to fully address our recommendations, good progress was being made. The status of actions taken on each of our recommendations is as follows.

RENEWAL OF FACILITIES

Deferred Maintenance

Recommendation 1
To help ensure that decisions dealing with the maintenance of university facilities are based on adequate information, universities should:

- *periodically verify that the renewal models used by their capital-asset-management system are generating reliable deferred-maintenance forecasts;*
- *establish programs to periodically re-inspect the condition of their facilities;*
- *institute periodic, independent reviews to verify that their procedures meet the intent of the Facilities Condition Assessment Program; and*
- *maintain facility-condition information in their capital-asset-management database at a level of detail that is consistent with the way in which renewal projects are undertaken, and update the database as projects are completed.*

To help ensure that university facilities provide effective work and learning environments, the Ministry of Training, Colleges and Universities should work with universities to develop a plan to reduce the extent of deferred maintenance.

Status
The Ministry stated that in June 2008 it had asked universities (and colleges) to submit campus facility

information to assist the Ministry in making capital funding decisions. The information requested included space utilization ratios, the value of deferred maintenance on and current replacement cost of their buildings, and capital projects priorities. The Ministry also advised us that, with the support of the Ministry of Energy and Infrastructure, it was developing a comprehensive long-term capital plan and project evaluation methodology to address the ongoing capital investment requirements, including deferred maintenance needs, of Ontario's post-secondary institutions. This initiative includes engaging consultants to work with the management at post-secondary institutions to identify and prioritize capital investment requirements and share best practices. The Ministry expected to complete this initiative in 2009.

The Ministry had also provided universities with significant funding in addition to the $26.7 million annual facility renewal program grant—a one-time grant of $335 million in 2008 to reduce the deferred maintenance backlog and $427 million for 2009/10 and 2010/11 in connection with the Knowledge Infrastructure Program, which can be used for both new buildings and renovation of old buildings.

The three universities we visited had each taken action to implement some of the recommendations as follows:

- As discussed in our 2007 report, Ontario's universities jointly purchased the same capital-asset-management system, which provides them with estimates of the cost of their deferred maintenance backlogs and forecasts of the timing of required capital renewal expenditures. One of the universities we visited advised us that it reviewed the system's estimates of the cost and timing of various types of maintenance needs and found them to be accurate. The other two universities had begun to implement procedures to periodically check system accuracy.
- We were advised that all Ontario universities have agreed that building-condition databases on the capital-asset-management system will

be updated, at a minimum, on a seven-year cycle. One of the universities we visited is updating its building-condition database on a five-year cycle, at a rate of 20% per year. The other two have reported that they are moving to the same system (one was completely re-auditing its entire building portfolio over the next two years, before moving to the five-year cycle).

- At the time of our follow-up, the three universities we visited were in the process of inputting building-condition data at a level of detail sufficient to enable them to update the database as each renewal project is completed, as opposed to waiting until the overall condition of the buildings concerned is periodically reassessed. In addition, Ontario universities have established an infrastructure committee to work with the vendor of the capital-asset-management system to enhance the system so that condition data on campus infrastructure such as water mains, sewers, sidewalks, roads, and street lighting can be input and used to generate estimates of deferred maintenance backlogs and to forecast required capital renewal expenditures for these assets as well.
- We were also advised that the universities have recently completed a request-for-proposal process to select a single facility-assessment firm to provide a consistent and cost-effective facility-audit and data-entry service for the Ontario University System. Over the next 12 months, approximately 25 million square feet of space are to be audited. The proposal included pricing for the standard system-level audit and a modified comprehensive audit that will respond to the recommendation that each institution collect data that is consistent with the way in which renewal projects are generally undertaken. If effectively implemented, it will also help ensure that procedures meet the intent of the Facilities Condition Assessment Program. Six of the participating institutions, totalling 14

million square feet, have committed to the modified comprehensive audit.

Prioritization of Renewal Projects

Recommendation 2

To help better ensure that capital-renewal funds are allocated to the highest-priority projects, universities should take steps to ensure that they have accurate and complete schedules of renewal projects due in each year and, where there are insufficient funds to complete all projects that are due, implement formal project-ranking procedures.

Status

As mentioned earlier, the universities we visited were in the process of inputting data to their building-condition databases at a level of detail sufficient to enable them to update their databases as each renewal project is completed. They informed us that, as progress is made, this project would enable them to use one of their capital-asset-management system's tools that is designed to support formal project-ranking processes. In addition, one of the universities plans to test a system modification that is intended to enable building-condition assessors to input risk factors as they conduct their assessments and thereby make the project-ranking tool more effective.

UTILIZATION OF FACILITIES

Recommendation 3

To help ensure that they minimize their space needs and the associated facility costs, universities should:
- *ensure that they have adequate systems and procedures to measure, analyze, and report on hours of use versus available hours, and space needed versus space used; and*
- *set space utilization objectives to be achieved over a three- to five-year time frame.*

Status

The three universities we visited have made varying degrees of progress in implementing these recommendations, as follows:

- One of the universities already had a management position responsible for space management at the time of our audit in 2007. This manager is responsible for maintaining its database inventory of classroom and laboratory space and continuing to co-ordinate annual space reviews and space-requirement studies. The university was continuing to work toward space-utilization objectives previously recommended by consultants it had engaged to review this area.

- Another university hired a manager of space and capital planning and a space-planning technician to maintain the inventory of classroom and laboratory space and implement a space-management software system. The system is designed to enable the university to prepare a space-management report that compares the space used by each faculty to the space standards published by the Council of Ontario Universities. Starting in the fall of 2009, space audits that will include analyses such as hours of use versus available hours are to be performed for each faculty. A Space Planning Committee has also been established to use this information as the basis for setting space-management policies that encompass utilization, allocation, and management issues.

- The other university has included responsibility for utilization of classroom space in the duties of a new senior management position. This position will be responsible for overseeing a project to re-inventory classroom space and develop a space-utilization plan.

INFORMATION FOR CONTROLLING COSTS

Recommendation 4

To help manage facility costs, universities should implement systems and procedures to provide management with the information required to:

- *enable them to take facility costs into account when making decisions, including those regarding the design and approval of new educational programs and research projects; and*
- *perform both the internal- and external-cost comparisons required to identify poor and good practices, and take action to correct or promote them respectively.*

Status

All three universities were participating in broad-based surveys of building costs and comparing their total operating costs by category to the published averages. Such comparisons are useful in identifying instances of above-average costs for the university as a whole in certain categories and may provide a basis for taking corrective action.

We were advised that the Canadian Association of University Business Officers has initiated a joint project with the Association of Higher Education Facilities Officers (known as APPA) to establish a Canadian version of the APPA Facilities Performance Indicators benchmarking system. The system is set up to collect facilities-operations data related to administration, construction, energy, maintenance, custodial and grounds services, the condition of facilities, and customer satisfaction. The Canadian version is intended to support comprehensive facilities-operations benchmarking across Canada, and Ontario universities have endorsed participation in the initiative. The universities were also participating in an energy benchmarking initiative with the Ontario Power Authority, the results of which were expected in fall 2009.

The universities we visited had different levels of information about the operating costs of individual buildings. Two universities had custodial and maintenance costs by building; one did not have a rigorous system for allocating these costs. Two had utility costs by building through extensive use of sub-metering; one had such information only for newer and renovated buildings. Such information is used to identify opportunities for savings by analyzing and comparing costs. For example, one university reported that analyzing power consumption has allowed them to plan energy conservation projects in a more strategic and focused way.

Implementing our recommendations requires detailed analyses of the operating cost and utilization data of individual buildings to determine the impact on operating costs of various factors—such as hours of use, intensity of use, building design, and the type of finishing materials used in construction—and thereby identify poor and good practices. The universities we visited did not have plans to perform such analyses. While we recognize that it may be practical to collect the necessary information only for newer and renovated buildings, some of the findings that result from analyzing data from these buildings may also help to control operating costs in older buildings.

MONITORING PERFORMANCE AND QUALITY CONTROL

Recommendation 5

To help ensure that they receive value for the money they spend and that work is properly completed, universities should:

- *consider establishing service-level objectives and require that their physical-plant and security departments report on the achievement of these objectives;*
- *implement supervisory inspections of the work of staff and contractors for quality and completeness, and document the results of these inspections; and*
- *use survey results and complaint information to help evaluate departmental and staff performance.*

Status

The physical-plant departments of the universities we visited had expanded or initiated the measurement of the service levels they provided with respect to building custodial and maintenance services, and in one case groundskeeping. They measured themselves against the five levels of service that the Association of Higher Education Facilities Officers has defined for each category.

Although the initiatives of the physical-plant departments are useful, implementing our recommendation requires that the available information on service levels and related costs be used by universities to set service-level objectives that best balance a safe and productive working and learning environment against available funding. One university indicated that, although it is not yet setting service-level objectives for its physical-plant department, the most recent budget decisions ensured that the minimum custodial-service levels that the university believed to be necessary to provide acceptable learning and working environments were maintained. This is a step toward relating expenditures to particular service levels.

The three universities we visited also advised us that they were developing or expanding procedures to:

- perform and document inspections to verify that expected or contracted levels of service are being achieved—for example, one of the universities was equipping its custodial service managers with hand-held equipment to monitor and record performance; and
- use survey information to help evaluate departmental performance—at one of the universities, the faculty and students at one of the faculties designed and administered an extensive survey of satisfaction with the upkeep and cleanliness of all of the university's facilities.

One university indicated that it had also trained maintenance staff to use its management information system to more effectively manage work orders. It stated that its backlog of work orders older than 90 days had dropped by 75% as a result. It also implemented a more efficient way of transporting trades staff around campus that it believed would result in substantial cost savings.

Review of Government Advertising

INTRODUCTION

In reviewing my Office's activities this past year in regard to the *Government Advertising Act, 2004* (Act), I recalled the words spoken in December 2004 by the then Chair of Management Board, who said, when the Bill was being passed into law: "Every dollar spent on partisan advertising is a dollar wasted—a dollar that doesn't get spent on providing textbooks for students or reducing waiting times in emergency wards." He also stated: "The bottom line is that any advertisement deemed by the Auditor General's Office to promote partisan interests will never see the light of day." This chapter, which satisfies the legislative requirements in the Act as well as in the *Auditor General Act* to report annually to the Legislative Assembly, outlines the work we have done over the past year to ensure that the principles enunciated by the Chair five years ago are adhered to.

HISTORY

The Act was introduced as Bill 25 at the end of 2003, passed into law the following year, and took effect in December 2005—but was years in the making. As early as the mid-1990s, legislators had expressed concern about the appropriateness of a government's use of public funds for advertising that could be considered to further partisan inter-ests. In our *1999 Annual Report*, we raised questions about government advertising of a "party-political nature" and about the appropriateness of the then-government's use of public funds for certain advertising and communications campaigns. The report noted that Ontario had no "criteria to help distinguish between informative government advertising and party-political advertising." We suggested that it would be "in the interest of improving public accountability for the government and/or the Legislature as a whole to consider the establishment of principles, guidelines, and criteria that clearly define the nature and characteristics of taxpayer-funded advertising."

Between 1999 and 2003, four private members' bills were introduced, each seeking to provide a legislative framework for government advertising. In late 2004, the Legislative Assembly enacted the *Government Advertising Act, 2004* (Act). Its main intent is to prohibit government advertising that may be viewed as promoting the governing party's political interests by fostering a positive impression of the government or a negative impression of any group or person critical of the government. Under the Act, which can be found at **www.e-laws.gov.on.ca**, most government advertisements must be submitted to and approved by the Auditor General before they can be used.

Overview of the Advertising Review Function

Under the Act, the Auditor General is responsible for reviewing specified types of government advertising to ensure that they meet legislated standards and that, above all, they do not contain anything that is, or may be interpreted as being, primarily partisan in nature. The Act outlines various standards each advertisement must meet and states that "an item is partisan if, in the opinion of the Auditor General, a primary objective of the item is to promote the partisan political interests of the governing party." The Act also provides the Auditor General with the discretionary authority to consider additional factors in determining whether a primary objective of an item is to promote the partisan political interests of the governing party (see "Other Factors").

WHAT FALLS UNDER THE ACT

The Act currently applies to advertisements authorized by government offices—specifically, government ministries, Cabinet Office, and the Office of the Premier. These offices must submit proposed advertising that is subject to the Act to my Office for review and approval before it can be used.

The Act applies to advertisements that government offices will be paying to have published in a newspaper or magazine, displayed on a billboard, or broadcast on radio or television; and to printed matter that a government office proposes to pay to have distributed to households in Ontario either by bulk mail or by another method of bulk delivery. Advertisements meeting any of these definitions—no matter the language—are known as "reviewable" items.

The Act specifically excludes from review any advertisement or printed matter that is a job advertisement or a notice to the public required by law.

Also excluded are advertisements concerning the provision of goods and services to a government office and those regarding an urgent matter affecting public health or safety.

Although the following are not specifically excluded by the Act, we have come to a mutual understanding with the government that they are not subject to the Act:

- electronic advertising on government websites or any public site, except for web pages identified and promoted in a reviewable item (see the Websites subsection later in this chapter); and
- brochures, pamphlets, newsletters, news releases, consultation documents, reports, and other similar printed matter, materials, or publications.

SUBMISSION AND USE OF ADVERTISING ITEMS

Sections 2, 3, 4, and 8 of the Act require that government offices submit every reviewable item to the Auditor General's Office for review approval. The government office cannot publish, display, broadcast, distribute, or disseminate the submitted item until the head of that office (that is, the deputy minister) receives notice, or is deemed to have received notice, that the advertisement has been approved.

The Auditor General's Office, by regulation, has seven business days within which to render its decision. If we do not give notice within this time frame, the government office is deemed to have received notice that the item meets the standards of the Act, and it may run the advertisement.

If the head receives notice from my Office that the item does not meet the Act's standards, the item may not be used. However, the government office may submit a revised version of the rejected item for a further review. As with the first submission, my Office has seven days to render its decision.

Once an item has been approved, a government office may use it for the next 12 months. Under the Act, all decisions of the Auditor General are final.

STANDARDS FOR PROPOSED ADVERTISEMENTS

In conducting its review, the Auditor General's Office first determines whether the proposed advertisement—a reviewable item—meets the standards of the Act, as follows:

- The item must be a reasonable means of achieving one or more of the following objectives:
  - to inform the public of current or proposed government policies, programs, or services;
  - to inform the public of its 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 the province, as a good place to live, work, invest, study, or visit, or to promote any economic activity or sector of Ontario's economy.
- The item must include a statement that it is paid for by the government of Ontario.
- The item must not include the name, voice, or image of a member of the Executive Council (cabinet) or a member of the Legislative Assembly (unless the primary target audience is located outside Ontario, in which case the item is exempt from this requirement).
- The item must not have as a primary objective the fostering of a positive impression of the governing party, or a negative impression of a person or entity critical of the government.
- The item must not be partisan; that is, in the opinion of the Auditor General, it cannot have as a primary objective the promotion of the partisan political interests of the governing party.

OTHER FACTORS

In addition to the specific statutory standards above, the Act allows the Auditor General to consider additional factors to determine whether a primary objective of an item is to promote the partisan political interests of the governing party [subsection 6(4)]. In general, the additional factors that we consider relate to the general impression conveyed by the message and how it is likely to be received or perceived. In determining whether an item may be perceived or received as partisan, consideration is given to whether it includes certain desirable characteristics and avoids certain undesirable ones, as follows:

- Each item should:
  - contain subject matter relevant to government responsibilities (that is, the government should have direct and substantial responsibilities for the specific matters dealt with in the item);
  - present information objectively, in tone and content, with facts expressed clearly and accurately, using unbiased and objective language;
  - emphasize facts and/or explanations, not the political merits of proposals; and
  - enable the audience to distinguish between fact on the one hand and comment, opinion, or analysis on the other.
- Items should not:
  - use colours, logos, and/or slogans commonly associated with any recognized political party in the Legislative Assembly of Ontario;
  - inappropriately personalize (for instance, by attacking opponents or critics);
  - directly or indirectly attack, ridicule, or criticize the views, policies, or actions of those critical of the government;
  - be aimed primarily at rebutting the arguments of others;
  - intentionally promote, or be perceived as promoting, political-party interests (to

this end, consideration is also given to such matters as timing of the message, the audience it is aimed at, and the overall environment in which the message will be communicated);

- deliver self-congratulatory or political-party image-building messages;
- deal with matters such as a policy proposal where no decision has yet been made, unless the item provides a balanced explanation of both the benefits and the disadvantages;
- present pre-existing policies, products, services, or activities as if they were new; or
- use a uniform resource locator (URL) to direct readers, viewers, or listeners to a "first click" web page with content that may not meet the standards required by the Act (see Websites).

OTHER REVIEW PROTOCOLS

Since taking on responsibility for reviewing government advertising, my Office has endeavoured to clarify, in co-operation with government offices, areas where the Act is silent. What follows is a brief discussion of the main areas that have required clarification over the years.

Websites

Although websites are not specifically designated as reviewable under the Act, we believe that a website mentioned in an advertisement should be seen as an extension of the ad. Following discussions about this with the government, we came to an agreement that the first page or "click" of a website accessed by using the URL featured in a reviewable item would be included in our review. We agreed not to consider web pages beyond the first click. However, we review the first-click page for any information or messages that may not meet the standards of the Act. For example, the first-click

web page must not include a minister's name, voice, or photograph, nor deliver self-congratulatory, party image-building messages, or messages that attack the policies, opinions, or actions of others.

Event/Conference Program Advertisements and Payments in Kind

Government advertisements sometimes appear in programs and other materials distributed at public events such as conferences, trade shows and exhibitions. In considering this type of advertisement, we concluded that it should be subject to the Act because the programs usually follow the same format and serve a similar purpose as magazines and other print media. In other words, advertisements are interspersed with content even though such ad space is at times provided to a government office free of charge. On the issue of payment for the advertisement, government offices often make in-kind or financial contributions to an event, including paid sponsorship. Therefore, we consider the "free" advertisement to have been indirectly paid for.

Our rationale was based on the fact that the free advertisement would typically not have been granted if the government office had not made a financial contribution or sponsored the event. Government officials have agreed with our approach to advertisements in programs distributed at public events. Consequently, items in these programs must be submitted for review.

Third-party Advertising

Government funds provided to third parties are sometimes used for the purpose of advertising. The government and my Office have agreed that, for third-party advertising, the advertising must be submitted for review if it meets all of the three following criteria:

- a government office provides the third party with funds intended to pay part or all of the

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cost of publishing, displaying, broadcasting, or distributing the item;

- the government grants the third party permission to use the Ontario logo or another official provincial visual identifier in the item; and
- the government office approves the content of the item.

Government Recruitment Advertisements

As previously noted, the Act specifically excludes job advertisements from review. We have interpreted this exemption to apply to advertising for specific government jobs, but not to broad-ranging generic recruitment campaigns, such as ads for the recruitment of medical professionals in Ontario. The government has agreed with our interpretation. As a result, generic recruitment campaigns must be submitted to my Office for review.

Environmental Assessment Notices

The Act exempts from review any government notices required by law. Nevertheless, the Ministry of Natural Resources used to routinely submit for review and approval advertisements for certain classes of environmental assessment notices for provincial parks and conservation reserves. We discussed this with ministry representatives and came to an agreement that, because of the statutory nature of these advertisements, they do not require clearance through my Office.

Pre-reviews and Consultations

A pre-review is available to government offices wishing to have us examine an early version of an item. This can be a script or storyboard, provided that it reasonably and accurately reflects the item as it is intended to appear when completed. Pre-reviews help limit the investment of time and money spent to develop items containing material that could be deemed objectionable under the Act.

If material submitted for pre-review appears to violate the Act, we provide explanatory comments to the government office. If it appears to meet the standards of the Act, we so advise the government office. However, before the item can be published, displayed, broadcast, printed, or otherwise disseminated, the government office must submit the finished item for review to ensure that it still meets the standards of the Act.

A pre-review is strictly voluntary on our part and is outside the statutory requirements of the Act.

External Advisers

Under the *Auditor General Act*, the Auditor General can appoint an Advertising Commissioner to assist in fulfilling the requirements of the *Government Advertising Act, 2004*. However, instead of appointing an Advertising Commissioner, my Office has engaged external advisers to provide assistance and advice in the ongoing review of items submitted for review. The following advisers have been engaged at various times by my Office during the 2008/09 fiscal year:

- Rafe Engle is a Toronto lawyer who specializes in advertising, marketing, communications, and entertainment law. He is also the outside legal counsel for Advertising Standards Canada. Before studying law, Mr. Engle acquired a comprehensive background in media and communications while working in the advertising industry.
- Jonathan Rose is Associate Professor of Political Studies at Queen's University. He is a leading Canadian academic with interests in political advertising and Canadian politics. Professor Rose has written a book on government advertising in Canada and a number of articles on the way in which political parties and governments use advertising.

- Joel Ruimy is a Toronto communications consultant with many years of experience as a journalist, editor, and producer covering Ontario politics in print and television.

These advisers provided invaluable assistance in our review of government advertising this past fiscal year.

Advertising Review Activity, 2008/09

RESULTS OF OUR REVIEWS

During the 2008/09 fiscal year, we reviewed 889 individual advertising items, with a total value of more than $52 million. We provided our decision in all cases within the required seven-day period. The length of time required for a review and decision can vary, depending on the complexity of the message and on the other work priorities of our review panel. Nevertheless, our average turnaround time during the past fiscal year was 3.5 business days.

We also received and reviewed 14 pre-review submissions that were at a preliminary stage of development, most often at the script or storyboard level. Because pre-reviews are strictly voluntary on our part and outside the statutory requirements of the Act, they are second in priority to finished items. Nonetheless, we make every effort to complete the pre-reviews within a reasonable length of time. The average turnaround time for pre-review submissions in the 2008/09 fiscal year was about four business days.

Of all the submissions reviewed, we rejected five submissions, comprising 15 advertisements, because they did not meet the Act's standards, some of which fostered a positive impression of the governing party. All but one of these advertisements were subsequently revised, resubmitted, and approved.

Although we did not note any contraventions of the Act—advertisements that ran without having been submitted to us for review—we noted a few instances of third-party advertising that seemed problematic. Such advertisements fell into two main categories: ads issued by a third party that receives funding and/or direction from a government office and that communicated a strong Ontario government brand in that they made prominent use of the Ontario logo or mentioned the support or sponsorship of the Ontario government; and ads issued by a third party receiving taxpayer funds that communicated a congratulatory message to the government.

All advertisements in the first category would have been granted approval had our ad panel reviewed them. However, we were still concerned that ads communicating a strong government of Ontario brand will be mistaken as government of Ontario ads, and there is a risk that a similar type of ad that does not meet the standards could run in the future. Therefore, we have initiated discussions with the government offices involved and hope such ads will in future be submitted for review.

As for the second category, we were concerned about one transit advertisement, given its congratulatory message to the government for a recent infrastructure investment together with the prominent use of the Ontario logo. During our inquiries into this issue, we were told that the third party that initiated the ad provided staff in the Premier's office with advance copies of the ad. Our inquiries also revealed that there was no concern expressed about the congratulatory partisan message being delivered by the third party because the ad was not subject to the Act. Although we agreed that this ad falls outside the scope of the Act, we were still concerned that no attempt was made to discourage the third party from the partisan message in the ad. We recommend that the government consider instituting a prohibition on congratulatory partisan advertising by third parties that receive Ontario government funding directly or indirectly.

We were also concerned that use of the Ontario logo in this ad could leave the impression that the ad was somehow sanctioned or endorsed by the government. We were told that neither the funding ministry nor the agency responsible for the government's visual identity program were aware of the ad in question. When we first brought the ad to their attention, we would have expected the government to have expressed concern to the third party about the use of the Ontario logo, given that government policy requires that the use of the logo be authorized by the government. Since then, the government has indicated that, in future, it will endeavour to more rigourously enforce its policy on the use of the Ontario logo.

EXPENDITURES ON ADVERTISEMENTS AND PRINTED MATTER

The *Auditor General Act* requires that the Auditor General report annually to the Legislative Assembly on expenditures for advertisements, printed matter, and messages that are reviewable under the *Government Advertising Act, 2004*.

Figure 1 contains expenditure details of individual advertising campaigns reported to us by each ministry for media-buy costs; agency creative costs; third-party production, talent, and distribution costs; and other third-party costs, such as translation.

In order to test the completeness and accuracy of the reported advertising expenditures, my Office reviewed randomly selected payments to suppliers of advertising and creative services and their supporting documentation at selected ministries. We also performed certain compliance procedures with respect to the requirements of sections 2, 3, 4, and 8 of the *Government Advertising Act, 2004*, which pertain to submission requirements and prohibition on the use of items pending the Auditor General's review. We found no matters of concern in our review work.

Other Matter

PROPOSED AMENDMENTS TO THE *GOVERNMENT ADVERTISING ACT, 2004*

On March 26, 2009, the government introduced Bill 162, the Budget Measures Act, 2009, which contained, among other things, proposed amendments to the *Government Advertising Act, 2004* (Act). Some of the proposed amendments would have marginally widened the scope of advertising items covered by the Act to include cinema ads; others, however, would have rewritten section 6 of the Act to eliminate some of the existing standards for government advertising and to revoke the Auditor General's discretionary powers to consider additional factors in determining whether an ad is partisan. The proposed amendments also included a more narrow and limited definition of what could be considered partisan.

I acted immediately to express my Office's concerns about the amendments to the Minister of Finance. The most significant of my concerns was that my Office would no longer be able to exercise discretion or use professional judgment on the issue of partisanship. The government responded quickly, and a number of meetings and discussions were held between my staff and senior government officials. These meetings established that our concerns and the proposed amendments were irreconcilable in the short term. As a result, the government decided to postpone amendments until such time as further consultation and discussion could take place. On May 14, 2009, the government withdrew the proposed amendments during debate of Bill 162 in the Standing Committee on Finance and Economic Affairs.

Over the course of the discussions that took place about the amendments, my Office maintained that the Act is effective in its current form and that it contributes to ensuring that taxpayer dollars are

not used to fund partisan government advertising. In fact, my Office has hosted several visiting legislators from Australia who wished to discuss the workings of the Act because there was great interest in their jurisdictions to possibly enact similar legislation. According to our research and conversations with legislators in other jurisdictions, the Act in its current form is regarded as the international gold standard for government-advertising legislation. That said, we would welcome the opportunity to continue discussions on possible future amendments to the Act to make it even more effective and transparent.

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Figure 1: Expenditures for Reviewable Advertisements and Printed Matter under the
Government Advertising Act, 2004, April 1, 2008–March 31, 2009

Source of data: Ontario government offices

Ministry/Campaign Title	# of Submissions	# of Items	Agency Costs ($)	Third-party Costs ($)	
				Production	**Talent**
Agriculture, Food and Rural Affairs					
Event Program Messages	5	6	–	–	–
Foodland Ontario	3	56	–	–	18,342
Foodland Ontario [1]	–	–	–	–	–
Foodland Ontario [2]	1	62	–	–	–
Pick Ontario Freshness	5	14	–	–	127,748
Pick Ontario Freshness [2]	1	4	–	644,349	178,651
Public Information Sessions	1	1	–	–	–
Children and Youth Services (Women's Issues)					
Ontario Child Benefit	3	14	67,176	173,606	24,810
Ontario Child Benefit [1]	–	–	–	–	–
Roy McMurtry Youth Centre	1	4	1,972	551	–
Citizenship and Immigration					
Amethyst Awards [3]	1	1	–	–	–
Global Experience Ontario	1	1	–	–	–
Global Experience Ontario [1]	–	–	–	–	–
Order of Ontario	1	2	750	1,333	–
Remembrance Day	1	2	75	45	–
Community and Social Services (Francophone Affairs)					
Accessibility Standards	1	1	–	5,911	–
Accessibility Standards [1]	–	–	–	–	–
Adoption Disclosure Legislation Change	1	2	151,875	109,116	–
Adoption Disclosure Legislation Change [2]	1	2	–	80,768	–
Community Safety and Correctional Services					
Forensic Services and Coroner's Complex	1	2	–	2,370	–
Public Information Sessions	3	6	–	5,258	–
RIDE	1	1	–	–	–
Economic Development					
Economy	1	10	170,659	63,450	13,774
Economy [1]	–	–	–	–	18,598
Economy [3]	2	10	–	–	–
Education					
Student Success Program	6	33	279,018	439,400	–
Student Success Program [3]	1	1	–	–	–

1. ad submission from 2007/08, with (more) expenditures in 2008/09
2. ad submission from 2008/09, with (more) expenditures to be reported in 2009/10
3. violation—ad was reviewed and did not meet the required standards

Third-party Costs ($) cont'd		Media Costs ($)				Ad Value**	Campaign
Bulk Mail	Other	TV	Radio	Print	Out-of-Home*	($)	Total ($)
–	–	–	–	25,485	4,866	–	30,351
–	–	1,720,863	365,701	–	3,483	–	2,108,389
–	–	–	–	–	20,500	–	20,500
–	–	–	–	–	–	–	–
		2,536,795	692,021	72,999	222,837	–	3,652,400
–	24,000	–	–	–	–	–	847,000
–	–	–	–	–	–	1,350	1,350
	3,289	51,011	–	–	461,798	–	781,690
–	–	734,279	–	–	–	–	734,279
1,086	324	–	–	1,804	–	–	5,737
–	–	–	–	–	–	–	–
–	–	–	–	–	–	996	996
–	–	–	–	–5,831	–	–	–5,831
–	–	–	–	97,555	–	–	99,638
–	–	–	–	27,720	–	–	27,840
–	–	–	–	–	–	–	5,911
–	–	–	–	–260	–	–	–260
–	–	–	–	2,182,901	–	–	2,443,892
–	–	–	–	–	–	–	80,768
2,262	–	–	–	1,803	–	–	6,435
2,416	2,400	–	–	2,493	–	–	12,567
–	–	263,012	–	–	–	–	263,012
–	3,064	–	225,241	394,227	–	–	870,415
–	–	1,922,454	–	–	–	–	1,941,052
–	–	–	–	–	–	–	–
–	–	1,032,658	–	891,465	–	16,100	2,658,641
–	–	–	–	–	–	–	–

 * Out-of-Home advertising includes, for example, billboards and transit posters.
** Ad Value denotes the value of an ad space provided to government offices at no cost,
    often where the government has provided funding for a related event/publication.

Ministry/Campaign Title	# of Submissions	# of Items	Agency Costs ($)	Third-party Costs ($) Production	Talent
Energy and Infrastructure					
Ontario Home Energy Savings Program	2	2	58,280	15,975	500
Ontario Solar Thermal Heating Incentive [1]	–	–	–	–	–
PowerWISE Phase IV [1]	–	–	–	–	–
Environment					
Additup	4	78	199,195	441,030	35,809
Additup [2]	1	2	4,500	13,954	–
Drinking Water Ontario	2	2	–	400	–
Lake Simcoe Protection Plan	2	5	–	4,092	–
Ontario Environment Leaders	1	1	–	–	–
Finance					
Ontario Budget [1]	–	–	45,965	–	–
Ontario Savings Bonds	1	32	275,890	112,768	32,379
PST Exemption	1	21	2,975	20,497	–
Government Services					
Discover the Ontario Public Service	1	1	–	1,485	–
Newborn Registration Service	1	1	–	–	–
ServiceOntario	1	2	–	–	–
ServiceOntario [2]	1	1	–	–	–
Health and Long-Term Care					
ColonCancerCheck	5	25	120,800	8,104	–
Flu	4	36	168,174	468,570	135,835
Flu [1]	–	–	–	–	–
Health Care Options	3	10	58,800	624,501	89,662
HealthForce Ontario	3	9	58,990	41,450	–
HealthForce Ontario [1]	–	–	–	–	–
Hepatitis C [1]	–	–	–	–	–
HIV Anonymous Testing Sites [1]	–	–	16,480	5,722	–
HPV	5	12	101,625	22,033	5,956
Mumps	3	7	26,738	10,338	–
Notice to Solicitors	2	2	–	–	–
Nurse Practitioner-led Clinics	2	6	–	975	–
Ontario Citizens' Council	1	1	–	6,209	–
Ontario Health Card	1	4	–	94	–
Organ Donation	2	2	–	8,550	–
Public Notice	1	2	–	975	–
West Nile Virus [1]	–	–	–	–	–
Health Promotion					
Diabetes Prevention	1	1	6,631	–	–
Diabetes Prevention [2]	2	21	19,125	–	–

1. ad submission from 2007/08, with (more) expenditures in 2008/09
2. ad submission from 2008/09, with (more) expenditures to be reported in 2009/10

Third-party Costs ($) cont'd		Media Costs ($)				Ad Value**	Campaign
Bulk Mail	Other	TV	Radio	Print	Out-of-Home*	($)	Total ($)
–	–	–	–	280,744	–	–	355,499
–	–	–	–	19,874	–	–	19,874
–	–	–	–	–3,611	–	–	–3,611
–	18,475	1,059,007	385,666	173,436	–	–	2,312,618
–	–	–	–	–	–	–	18,454
–	–	–	–	–	–	1,000	1,400
–	–	–	–	77,099	–	–	81,191
–	–	–	–	–	–	500	500
–	5,065	–	–	–1,174	–	–	49,856
19,131	5,940	746,109	84,762	766,011	59,934	–	2,102,924
–	7,235	–	–	328,748	–	–	359,455
–	–	–	–	16,564	–	–	18,049
–	–	–	–	–	–	150	150
–	57	–	–	25,000	–	–	25,057
–	–	–	–	3,448	–	–	3,448
–	2,000	2,185,781	–	17,364	–	–	2,334,049
–	17,957	1,039,839	393,105	–	118,360	–	2,341,840
–	–	–	–	–627	–	–	–627
–	3,204	1,383,867	–	–	–	–	2,160,034
–	786	71,476	–	325,002	751,156	2,050	1,250,910
–	–	–	587	–1,304	–	2,050	1,333
–	–	–	–	–400	–	–	–400
–	–	–	–	57,598	322,189	–	401,989
–	3,433	–	642,095	102,493	124,555	–	1,002,190
–	–	–	39,859	24,253	54,585	–	155,773
–	–	–	–	4,631	–	–	4,631
–	334	–	–	8,389	–	–	9,698
–	25	–	–	264,601	–	–	270,835
–	–	–	–	1,399	–	–	1,493
–	–	–	–	345,283	–	–	353,833
–	334	–	–	16,598	–	–	17,907
–	–	–	4,750	–	–	–	4,750
–	–	–	–	448,205	–	–	454,836
–	15,120	–	–	–	–	–	34,245

* Out-of-Home advertising includes, for example, billboards and transit posters.
** Ad Value denotes the value of an ad space provided to government offices at no cost, often where the government has provided funding for a related event/publication.

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Ministry/Campaign Title	# of Submissions	# of Items	Agency Costs ($)	Third-party Costs ($)	
				Production	Talent
Health Promotion (continued)					
EatRight Ontario	3	47	2,711	6,287	–
EatRight Ontario [1]	–	–	–	–	–
EatRight Ontario [2]	2	4	2,975	–	–
Event Program Messages	2	6	–	–	–
Event Program Messages [3]	1	3	–	–	–
Smoke-free Ontario	7	55	380,653	315,406	–
Smoke-free Ontario [1]	–	–	–	–	29,519
International Trade and Investment					
Business Immigration	11	110	835,434	75,469	–
Next Generation of Jobs Fund	3	5	17,255	6,946	–
Next Generation of Jobs Fund [1]	–	–	–	–	–
Trade (Domestic)	1	1	–	616	–
Labour					
Minimum Wage Increase	1	12	2,951	–	–
Safe at Work Ontario	1	1	1,728	–	–
Municipal Affairs and Housing					
Greenbelt Expansion Criteria Consultations [1]	–	–	–	350	–
Homeownership Program	1	2	–	–	–
Ontario West Municipal Conference	1	1	–	–	–
Natural Resources					
50 Million Trees	5	6	–	1,088	–
Bear Wise	1	8	–	10,866	–
Family Fishing Weekend [1]	–	–	–	162	–
FireSmart Wildfire Prevention	1	12	–	540	–
Fisheries Management Plan	2	2	–	–	–
Fishing Regulation Changes	2	2	–	–	–
Kirkland Lake Management Strategy	1	1	–	–	–
Land Information Ontario	1	1	–	–	–
Land Information Ontario [1]	–	–	–	–	–
Land Management Plan	1	1	–	–	–
Local Citizens Committee	2	3	–	–	–
Local Citizens Committee [2]	1	1	–	–	–
Management Advisory Committee	1	1	–	–	–
Ontario Parks	14	17	–	1,353	–
Ontario Parks [1]	–	–	–	167	–
Ontario Parks [2]	1	1	–	–	–
Outdoors Card Renewal	1	1	–	138	–
Saugeen Shores Visitor Guide	1	1	–	–	–
Seasonal Leasing of Campsites	4	6	–	–	–

1. ad submission from 2007/08, with (more) expenditures in 2008/09
2. ad submission from 2008/09, with (more) expenditures to be reported in 2009/10
3. violation—ad was reviewed and did not meet the required standards

| Third-party Costs ($) cont'd | | Media Costs ($) | | | | Ad Value** | Campaign |
Bulk Mail	Other	TV	Radio	Print	Out-of-Home*	($)	Total ($)
–	5,907	–	–	353,700	–	275	368,880
–	–	211,071	–	211,387	10,012	–	432,470
–	4,200	–	–	–	–	–	7,175
–	–	–	–	–	–	665,000	665,000
–	–	–	–	–	–	–	–
15,000	6,400	–	–	1,356,139	119,187	–	2,192,785
–	–	163,512	2,371	6,644	–746	–	201,300
–	6,238	–	–	6,691,124	–	10,950	7,619,215
–	1,615	–	–	259,305	–	3,750	288,871
–	–	–	–	159,860	–	–	159,860
–	–	–	–	–	–	5,500	6,116
–	6,000	–	–	138,052	–	–	147,003
–	–	–	–	–	–	5,160	6,888
–	–	–	–	3,727	–	–	4,077
–	–	–	–	–	–	12,377	12,377
–	–	–	–	–	–	1,195	1,195
–	–	–	5,979	6,015	–	30,376	43,458
–	182	–	–	199,675	–	–	210,723
–	–	–	–	–	–	10,400	10,562
–	–	–	–	6,247	–	–	6,787
–	–	–	–	3,999	–	–	3,999
–	–	–	–	1,691	–	–	1,691
–	–	–	–	250	–	–	250
–	–	–	–	–	–	1,590	1,590
–	–	–	–	1,890	–	–	1,890
–	–	–	–	326	–	–	326
–	56	–	–	1,061	–	–	1,117
–	–	–	–	–	–	–	–
–	–	–	–	894	–	–	894
–	90	–	–	39,185	–	18,989	59,617
–	–	–	–	–	–	16,305	16,472
–	–	–	–	–	–	–	–
–	–	–	–	–	–	7,300	7,438
–	–	–	–	855	–	–	855
–	103	–	–	2,691	–	–	2,794

* Out-of-Home advertising includes, for example, billboards and transit posters.
** Ad Value denotes the value of an ad space provided to government offices at no cost, often where the government has provided funding for a related event/publication.

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Ministry/Campaign Title	# of Submissions	# of Items	Agency Costs ($)	Third-party Costs ($) Production	Talent
Natural Resources (continued)					
Seasonal Leasing of Campsites [1]	–	–	–	–	–
Tag Draw Application Deadline Change	1	1	–	229	–
Water Management Plan	4	4	–	–	–
Water Management Plan [4]	–	1	–	–	–
Youth Programs	1	1	–	–	–
Northern Development and Mines					
Mining Act Consultations	1	2	4,271	–	–
Northern Ontario Heritage Fund	1	2	–	–	–
Northern Ontario Heritage Fund [2]	1	1	–	–	–
Research and Innovation					
Economy [5]	–	–	–	–	–
Invest Ontario	1	1	–	–	–
Invest Ontario [2]	1	1	–	–	–
Next Generation of Jobs Fund [1]	–	–	–	–	–
Revenue					
If You Sell Tobacco	1	1	–	1,385	–
Small Business and Consumer Service					
Summer Company	1	1	14,355	18,540	4,100
Summer Company [1]	–	–	–	–	–
Training, Colleges and Universities					
Employment Ontario	4	13	291,640	911,621	51,876
Skills to Jobs	5	23	319,087	570,201	78,648
Study in Ontario	1	3	6,000	4,335	–
Transportation					
Veterans Licence Plates	2	2	–	21,952	3,903
Veterans Licence Plates [1]	–	–	9,000	10,707	3,578
Total	**193**	**889**	**3,723,753**	**5,292,237**	**853,688**

1. ad submission from 2007/08, with (more) expenditures in 2008/09
2. ad submission from 2008/09, with (more) expenditures to be reported in 2009/10
4. ad cancelled or did not run
5. ad developed by another ministry, but used here

| Third-party Costs ($) cont'd | | Media Costs ($) | | | | Ad Value** | Campaign |
Bulk Mail	Other	TV	Radio	Print	Out-of-Home*	($)	Total ($)
–	–	–	–	536	–	–	536
–	–	–	–	12,300	–	–	12,529
–	–	–	–	3,370	–	–	3,370
–	–	–	–	–	–	–	–
–	–	–	–	–	–	7,295	7,295
–	–	–	–	1,467	–	–	5,738
–	–	–	–	25,463	–	–	25,463
–	–	–	–	–	–	–	–
–	–	–	–	–	–	1,195	1,195
–	–	–	–	–	–	1,500	1,500
–	–	–	–	–	–	–	–
–	–	–	–	–	–	1,500	1,500
3,800	–	–	–	–	–	–	5,185
–	–	–	–	70,150	–	–	107,145
–	–	–	28,142	–	–	–	28,142
–	201,424	1,292,568	–	–	–	29,250	2,778,379
–	121,452	2,079,186	238,319	554,157	–	–	3,961,050
–	–	–	–	–	–	–	10,335
–	–	–	–	290,111	–	–	315,966
–	–	–	–	561	–	–	23,846
43,695	466,709	18,493,488	3,108,598	17,394,817	2,272,716	854,103	52,503,801

 * Out-of-Home advertising includes, for example, billboards and transit posters.
** Ad Value denotes the value of an ad space provided to government offices at no cost,
   often where the government has provided funding for a related event/publication.

Chapter 6

The Standing Committee on Public Accounts

Appointment and Composition of the Committee

The Standing Orders of the Legislative Assembly provide for the appointment of an all-party Standing Committee on Public Accounts. The Committee is appointed for the duration of the Parliament (that is, the period from the opening of the first session immediately following a general election to the end of a government's term and the next general election).

The membership of the Committee reflects proportionately the representation of parties in the Legislative Assembly. All members except the Chair are entitled to vote on motions; the Chair may vote only to break a tie.

In accordance with the Standing Orders, a Standing Committee on Public Accounts was appointed on December 10, 2007, for the duration of the 39th Parliament. The membership of the Committee when the House adjourned for the summer recess on June 4, 2009, was as follows:

Norm Sterling, Chair, Progressive Conservative
Jerry Ouellette, Vice-chair, Progressive
    Conservative
Laura Albanese, Liberal
France Gélinas, New Democrat
Ernie Hardeman, Progressive Conservative
Phil McNeely, Liberal

Liz Sandals, Liberal
Maria Van Bommel, Liberal
David Zimmer, Liberal

Role of the Committee

The Committee examines, assesses, and reports to the Legislative Assembly on a number of issues, including the economy and efficiency of government operations; the effectiveness of programs in achieving their objectives; controls over assets, expenditures, and the assessment and collection of revenues; and the reliability and appropriateness of information in the Public Accounts.

In fulfilling this role, pursuant to its terms of reference in the Standing Orders of the Assembly, the Committee reviews the Auditor General's Annual Report and the Public Accounts, holds a number of hearings throughout the year, and reports to the Legislative Assembly its observations, opinions, and recommendations. Under the Standing Orders, the Auditor General's Annual Reports and the Public Accounts are deemed to have been permanently referred to the Committee as they become available.

In addition, under sections 16 and 17 of the *Auditor General Act*, the Committee may request the Auditor General to undertake a special assignment in an area of interest to the Committee.

AUDITOR GENERAL'S ADVISORY ROLE WITH THE COMMITTEE

In accordance with section 16 of the *Auditor General Act*, the Auditor General and senior staff attend committee meetings to assist the Committee in its review and hearings related to the Auditor General's Annual Report and the Public Accounts.

Committee Procedures and Operations

GENERAL

The Committee meets weekly when the Legislative Assembly is sitting. With the approval of the House, it may also meet at any time when the Legislative Assembly is not sitting. All meetings are open to the public with the exception of those dealing with the setting of the Committee's agenda and the preparation of committee reports. All public committee proceedings are recorded in Hansard (the official verbatim report of debates in the House, speeches, other proceedings in the Legislative Assembly, and all open-session sittings of standing and select committees).

The Committee selects matters from the Auditor General's Annual Report for hearings. These matters typically relate to the Auditor General's value-for-money audit work. The Auditor General, along with the Committee's researcher, briefs the Committee on these matters, and the Committee then requests senior officials from the auditee to appear and respond to questions at the hearings. Since the Auditor General's Annual Report deals with operational, administrative, and financial rather than policy matters, ministers rarely attend. Once the hearings are completed, the Committee reports its comments and recommendations to the Legislative Assembly.

The Committee also follows up on when and how the ministries, Crown agencies, and organiza-

tions in the broader public sector not selected for hearings will address the concerns raised in the Auditor General's Annual Report. This process enables each auditee to update the Committee on what it has done in response to the Auditor General's recommendations since the completion of the audit.

MEETINGS HELD

The Committee met 22 times during the October 2008–June 2009 period to review the special report on *Prevention and Control of Hospital-acquired Infections* issued in September 2008 and the following sections from the Auditor General's *2008 Annual Report,* and to write reports, where warranted, for subsequent tabling in the Legislative Assembly:

- Adult Institutional Services;
- Brampton Civic Hospital Public–private Partnership Project;
- Child and Youth Mental Health Agencies;
- Community Mental Health;
- Employment and Training Division;
- Gasoline, Diesel-fuel, and Tobacco Tax;
- Ontario Clean Water Agency;
- Special Education; and
- School Boards—Acquisition of Goods and Services (follow-up of 2006 audit).

REPORTS OF THE COMMITTEE

The Committee issues its reports to the Legislative Assembly. These reports summarize the information reviewed by the Committee during its meetings, as well as make comments and recommendations.

All committee reports are available through the Clerk of the Committee (or online at **www.ontla.on.ca**), thus providing the public with full access to the findings and recommendations of the Committee.

After the Committee tables a report in the Legislative Assembly, it requests that ministries or agencies respond to each recommendation either

within 120 days or within a time frame stipulated by the Committee.

During the period from September 2008 to July 2009, the Committee submitted the following reports to the Legislative Assembly:

- *Archives of Ontario and Information Storage and Retrieval Services;*
- *Fish and Wildlife Program;*
- *Hazardous Waste Management;*
- *Hospitals—Management and Use of Surgical Facilities;*
- *Ontario Sex Offender Registry;*
- *Outbreak Preparedness and Management;*
- *Prevention and Control of Hospital-acquired Infections;* and
- *Universities—Management of Facilities.*

FOLLOW-UP ON RECOMMENDATIONS MADE BY THE COMMITTEE

The Clerk of the Committee is responsible for following up on the actions taken by ministries, agencies, and organizations in the broader public sector in response to the Committee's recommendations. The Office of the Auditor General reviews responses from ministries and agencies and, in subsequent audits, follows up on the actions reported.

COMMITTEE MOTION TO CONSIDER ISSUING SPECIAL REPORT

On June 3, 2009, the Committee passed the following motion:

That, following the Auditor General's completion of his value-for-money audit of eHealth Ontario, the Standing Committee on Public Accounts of the Legislative Assembly of Ontario calls on the Auditor General to release that chapter of his Annual Report in a special report to the Speaker; and that, prior to the tabling of this report, the Auditor General may inform the Deputy Ministry of Health and Long-Term Care of his opinions, observations, or recommendations.

Because of this motion by the Committee, as well as a similar request by the Minister of Health and Long-Term Care on June 2, 2009, the Auditor General submitted a special report entitled *Ontario's Electronic Health Records Initiative* to the Speaker of the House in early fall 2009.

OTHER COMMITTEE ACTIVITIES

Canadian Council of Public Accounts Committees

The Canadian Council of Public Accounts Committees (CCPAC) consists of delegates from federal, provincial, and territorial public accounts committees from across Canada. CCPAC meets at the same time and place as the Canadian Council of Legislative Auditors (CCOLA) so that issues of mutual interest can be discussed. The 30th annual meeting of CCPAC was hosted by Alberta and was held in Edmonton from September 13 to 15, 2009.

The Office of the Auditor General of Ontario

The Office of the Auditor General of Ontario (Office) serves the Legislative Assembly and the citizens of Ontario by conducting value-for-money and financial audits and reviews and reporting on them. By doing this, the Office helps the Legislative Assembly hold the government, its administrators, and grant recipients accountable for how prudently they spend public funds and for the value they obtain, on behalf of Ontario taxpayers, for the money spent.

The work of the Office is performed under the authority of the *Auditor General Act*. In addition, under the *Government Advertising Act, 2004*, the Auditor General is responsible for reviewing and deciding whether or not to approve certain types of proposed government advertising (see Chapter 5 for more details on the Office's advertising review function). Both acts can be found at **www.e-laws. gov.on.ca.**

General Overview

VALUE-FOR-MONEY AUDITS IN THE ANNUAL REPORT

About two-thirds of the Office's work relates to value-for-money auditing. The Office's value-for-money audits are assessments of how well a given "auditee" (the entity that we audit) manages and administers its programs or activities. The auditees

that the Office has the authority to conduct value-for-money audits of are:

- Ontario government ministries;
- Crown agencies;
- Crown-controlled corporations; and
- organizations in the broader public sector that receive government grants (for example, agencies that provide mental-health services, children's aid societies, community colleges, hospitals, long-term-care homes, school boards, and universities).

The *Auditor General Act* (Act) [in subclauses 12(2)(f)(iv) and (v)] identifies the criteria to be considered in this assessment:

- Money should be spent with due regard for economy.
- Money should be spent with due regard for efficiency.
- Appropriate procedures should be in place to measure and report on the effectiveness of programs.

Note that we assess whether or not the *auditee's* management is evaluating—using appropriate performance measures—the effectiveness of programs and reporting on its findings. It is not part of our mandate to do these things. Rather, our mandate dictates that we report instances where we have noted that the auditee has not satisfactorily done its job in this area.

The Act requires that, if the Auditor General observes instances where the three value-for-money

criteria have not been met, he or she report on them. The Act also requires that he or she report on instances where the following was observed:

- Accounts were not properly kept or public money was not fully accounted for.
- Essential records were not maintained or the rules and procedures applied were not sufficient to:
  - safeguard and control public property;
  - check effectively the assessment, collection, and proper allocation of revenue; or
  - ensure that expenditures were made only as authorized.
- Money was expended other than for the purposes for which it was appropriated.

Assessing the extent to which the auditee was controlling against these risks is technically "compliance" audit work but is generally incorporated into both value-for-money audits and "attest" audits (discussed in a later section). Other compliance work that is typically included in our value-for-money audits is:

- identifying the key provisions in legislation and the authorities that govern the auditee or the auditee's programs and activities as well as those that the auditee's management is responsible for administering; and
- performing the tests and procedures we deem necessary to obtain reasonable assurance that the auditee's management has complied with these key legislation and authority requirements.

Government programs and activities are the result of government policy decisions. Thus, we could say that our value-for-money audits focus on how well management is administering and executing government policy decisions. It is important to note, however, that in doing so we do not comment on the merits of government policy. Rather, it is the Legislative Assembly that holds the government accountable for policy matters. The Legislative Assembly continually monitors and challenges government policies through questions during legisla-tive sessions and through reviews of legislation and expenditure estimates.

In planning, performing, and reporting on our value-for-money work, we follow the relevant professional standards established by the Canadian Institute of Chartered Accountants. These standards require that we have processes for ensuring the quality, integrity, and value of our work. Some of the processes we use are described below.

Selecting What to Audit

The Office audits major ministry programs and activities at approximately five- to seven-year intervals. We do not audit organizations in the broader public sector and Crown-controlled corporations on the same cycle because there are such a great number of them and their activities are so numerous and diverse. Since our mandate expanded in 2004 to allow us to audit these auditees, our audits have covered a wide range of topics in several sectors, including health (hospitals, long-term-care homes, and mental-health service providers), education (school boards, universities, and colleges), and social services (Children's aid societies and social service agencies), as well as several large Crown-controlled corporations.

In selecting what program, activity, or organization to audit each year, we consider how great the risk is that an auditee is not meeting the three value-for-money criteria and therefore incurring potential negative consequences for the public it serves. To help us choose higher-risk audits, we consider factors such as:

- the results of previous audits and related follow-ups;
- the total revenues or expenditures involved;
- the impact of the program, activity, or organization on the public;
- the complexity and diversity of the auditee's operations;
- recent significant changes in the auditee's operations; and

- the significance of the issues an audit might identify.

We also consider whether the benefits of conducting the audit justify the costs of the audit.

Another factor we take into account in the selection process is what work the auditee's internal auditors have completed or planned. Depending on what that work consists of, we may defer an audit or change our audit's scope to avoid duplication of effort. In other cases, we do not diminish the scope of our audit but rely on and present the results of internal audit work in our audit report.

Setting Audit Objectives, Audit Criteria, and Assurance Levels

When we begin an audit, we set an objective for what we want to achieve. We then develop suitable audit criteria that cover the key systems, policies, and procedures that should be in place and operating effectively. Developing criteria involves extensively researching sources such as recognized bodies of experts; other bodies or jurisdictions delivering similar programs and services; management's own policies and procedures; applicable criteria successfully applied in other audits or reviews; and applicable laws, regulations, and other authorities.

To further ensure their suitability, the criteria we develop are discussed with the senior management responsible for the program or activity at the planning stage of the audit.

The next step is designing and conducting tests and procedures to address our audit objective and criteria, so that we can reach a conclusion regarding our audit objective and make observations and recommendations. Each audit report has a section entitled "Audit Objective and Scope," in which the audit objective is stated.

Conducting tests and procedures to gather information has its limitations. We therefore cannot provide what is called an "absolute level of assurance" that our audit work identifies all significant

matters. Other factors also contribute to this. For example, we may conclude that the auditee had a control system in place for a process or procedure that was working effectively to prevent a particular problem from occurring; but auditee management or staff are often able to circumvent such control systems—so we cannot guarantee that the problem will never arise. Also, much of the evidence available for concluding on our objective is more persuasive than it is conclusive, and we must rely on professional judgment in much of our work—for example, in interpreting information.

For all these reasons, the assurance that we plan for our work to provide is at an "audit level"—the highest reasonable level of assurance that we can obtain using our regular audit procedures. Specifically, an audit level of assurance is obtained by interviewing management and analyzing the information it provides; examining and testing systems, procedures, and transactions; confirming facts with independent sources; and, where necessary because we are examining a highly technical area, obtaining expert assistance and advice.

With respect to the information that management provides, under the Act we are entitled to have access to all relevant information and records necessary to the performance of our duties. Out of respect for the principle of Cabinet privilege, we do not seek access to the deliberations of Cabinet. However, the Office can access virtually all other information contained in Cabinet submissions or decisions that we deem necessary to fulfill our responsibilities under the Act.

Infrequently, the Office will perform a review rather than an audit. A review provides a moderate level of assurance, obtained primarily through inquiries and discussions with management; analyses of information management provides; and only limited examination and testing of systems, procedures, and transactions. We perform reviews when, for example, providing a higher level of assurance has prohibitive costs, the *Auditor General Act* does not allow for a certain program or activity

to be audited, or other factors relating to the nature of the program or activity make a review more appropriate than an audit.

Communicating with Management

To help ensure the factual accuracy of our observations and conclusions, staff from our Office communicate with the auditee's senior management throughout the value-for-money audit or review. Before beginning the work, our staff meet with management to discuss the objective and criteria and the focus of our work in general terms. During the audit or review, our staff meet with management to review progress and ensure open lines of communication. At the conclusion of on-site work, management is briefed on the preliminary results of the work. A draft report is then prepared and discussed with the auditee's senior management. The auditee's management provides written responses to our recommendations, and these are discussed and incorporated into the draft report. The Auditor General finalizes the draft report (on which the Chapter 3 section of the Annual Report will be based) with the deputy minister or head of the agency, corporation, or grant-recipient organization, after which the report is published in the Annual Report.

SPECIAL REPORTS

As required by the Act, the Office reports on its audits in an Annual Report to the Legislative Assembly. In addition, the Office may make a special report to the Legislative Assembly at any time, on any matter that, in the opinion of the Auditor General, should not be deferred until the Annual Report.

Two sections of the Act authorize the Auditor General to undertake additional special work. Under section 16, the Standing Committee on Public Accounts may resolve that the Auditor General must examine and report on any matter respecting the Public Accounts. Under section 17, the Legisla-

tive Assembly, the Standing Committee on Public Accounts, or a minister of the Crown may request that the Auditor General undertake a special assignment. However, these special assignments are not to take precedence over the Auditor General's other duties, and the Auditor General can decline such an assignment requested by a minister if he or she believes it conflicts with other duties.

In recent years when we have received a special request under section 16 or 17, our normal practice has been to obtain the requester's agreement that the special report will be tabled in the Legislature on completion and made public at that time.

Our audit of eHealth, which began in fall 2008, was originally planned for inclusion in this Annual Report and was part of a collaborative initiative involving several Canadian auditors general to examine spending and progress on eHealth initiatives federally and in several provinces. However, because public concerns were raised about spending and the use of consultants at the eHealth Ontario agency, the Minister of Health and Long-Term Care requested that we expedite our audit and report it separately under section 17 of the Act.

Accordingly, the Auditor General reported the results of the audit of eHealth to the Minister of Health and Long-Term Care and to the Legislature in early fall 2009.

On August 31, 2009, the Minister of Energy and Infrastructure requested the Auditor General to examine expenses incurred by employees of the Ontario Lottery and Gaming Corporation. The results of this audit will similarly be reported to the Minister and to the Legislature on completion.

ATTEST AUDITS

Attest audits are examinations of an auditee's financial statements. In such audits, the auditor expresses his or her opinion on whether the financial statements present information on the auditee's operations and financial position in a way that is fair and that complies with certain accounting

policies (in most cases, with Canadian generally accepted accounting principles). As mentioned in the overview of value-for-money audits, compliance audit work is often incorporated into attest audit work. Specifically, we assess the controls for managing risks relating to improperly kept accounts; unaccounted-for public money; lack of recordkeeping; inadequate safeguarding of public property; deficient procedures for assessing, collecting, and properly allocating revenue; unauthorized expenditures; and not spending money on what it is intended for.

The Auditees

Every year, we audit the financial statements of the province and the accounts of many agencies of the Crown. Specifically, the Act [in subsections 9(1), (2), and (3)] requires that:

- the Auditor General audit the accounts and records of the receipt and disbursement of public money forming part of the province's Consolidated Revenue Fund, whether held in trust or otherwise;
- the Auditor General audit the financial statements of those agencies of the Crown that are not audited by another auditor;
- public accounting firms that are appointed auditors of certain agencies of the Crown perform their audits under the direction of the Auditor General and report their results to the Auditor General; and
- public accounting firms auditing Crown-controlled corporations deliver to the Auditor General a copy of the audited financial statements of the corporation and a copy of the accounting firm's report of its findings and recommendations to management (typically contained in a management letter).

Chapter 2 discusses this year's attest audit of the province's consolidated financial statements.

We do not discuss the results of attest audits of agency and Crown-controlled corporations in this report. Agency legislation normally stipulates that the Auditor General's reporting responsibilities are to the agency's board and the minister(s) responsible for the agency. Our Office also provides copies of the audit opinions and of the related agency financial statements to the deputy minister of the associated ministry, as well as to the Secretary of the Treasury Board.

Where an agency attest audit notes areas where management must make improvements, the auditor prepares a draft management letter and discusses it with senior management. The letter is revised to reflect the results of that discussion. After the draft management letter is cleared and the agency's senior management responds to it in writing, the auditor prepares a final management letter, which is usually discussed with the agency's audit committee. If a matter were so significant that we felt it should be brought to the attention of the Legislature, we would include it in an annual report.

Exhibit 1, Part 1 lists the agencies that were audited during the 2008/09 audit year. The Office currently contracts with public accounting firms to audit a number of these agencies on the Office's behalf. Exhibit 1, Part 2, and Exhibit 2 list the agencies of the Crown and the Crown-controlled corporations, respectively, that public accounting firms audited during the 2008/09 audit year.

OTHER STIPULATIONS OF THE *AUDITOR GENERAL ACT*

The *Auditor General Act* came about with the passage, on November 22, 2004, of Bill 18, the *Audit Statute Law Amendment Act*, which received Royal Assent on November 30, 2004. The purpose of Bill 18 was to make certain amendments to the *Audit Act* to enhance the ability of the Office to serve the Legislative Assembly. The most significant amendment contained in Bill 18 was the expansion of the Office's value-for-money audit mandate to organizations in the broader public sector that receive government grants. This *2009 Annual Report* marks the fourth year of our expanded audit mandate.

Chapter 7

Appointment of Auditor General

Under the Act, the Auditor General is appointed as an officer of the Legislative Assembly by the Lieutenant Governor in Council—that is, the Lieutenant Governor appoints the Auditor General on and with the advice of the Executive Council (the Cabinet). The appointment is made "on the address of the Assembly," meaning that the appointee must be approved by the Legislative Assembly. The Act also requires that the Chair of the Standing Committee on Public Accounts—who, under the Standing Orders of the Legislative Assembly, is a member of the official opposition—be consulted before the appointment is made (for more information on the Committee, see Chapter 6).

Independence

The Auditor General and staff of the Office are independent of the government and its administration. This independence is an essential safeguard that enables the Office to fulfill its auditing and reporting responsibilities objectively and fairly.

The Auditor General is appointed to a 10-year, non-renewable term, and can be dismissed only for cause by the Legislative Assembly. Consequently, the Auditor General maintains an arm's-length distance from the government and the political parties in the Legislative Assembly and is thus free to fulfill the Office's legislated mandate without political pressure.

The Board of Internal Economy—an all-party legislative committee that is independent of the government's administrative process—reviews and approves the Office's budget, which is subsequently laid before the Legislative Assembly. As required by the Act, the Office's expenditures relating to the 2008/09 fiscal year have been audited by a firm of chartered accountants, and the audited financial statements of the Office are submitted to the Board and subsequently must be tabled in the Legislative Assembly. The audited statements and related discussion of expenditures for the year are presented at the end of this chapter.

CONFIDENTIALITY OF WORKING PAPERS

In the course of our reporting activities, we prepare draft audit reports and management letters that are considered to be an integral part of our audit working papers. It should be noted that these working papers, according to section 19 of the *Auditor General Act*, do not have to be laid before the Legislative Assembly or any of its committees. As well, because our Office is exempt from the *Freedom of Information and Protection of Privacy Act*, our draft reports and audit working papers, which include all information obtained during the course of an audit from the auditee, cannot be accessed from our Office, thus further ensuring confidentiality.

CODE OF PROFESSIONAL CONDUCT

The Office has a Code of Professional Conduct to encourage staff to maintain high professional standards and ensure a professional work environment. The Code is intended to be a general statement of philosophy, principles, and rules regarding conduct for employees of the Office, who have a duty to conduct themselves in a professional manner and to strive to achieve the highest standards of behaviour, competence, and integrity in their work.

The Code explains why these expectations exist and further describes the Office's responsibilities to the Legislative Assembly, the public, and our auditees. The Code also provides guidance on disclosure requirements and the steps to be taken to avoid conflict-of-interest situations. All employees are required to complete an annual conflict-of-interest declaration.

Office Organization and Personnel

The Office is organized into portfolio teams—a framework that attempts to align related audit entities and to foster expertise in the various areas

of audit activity. The portfolios, which are loosely based on the government's own ministry organization, are each headed by a Director, who oversees and is responsible for the audits within the assigned portfolio. Assisting the Directors and rounding out the teams are a number of audit Managers and various other audit staff (see Figure 1).

The Auditor General, the Deputy Auditor General, the Directors, and the Manager of Human Resources make up the Office's Senior Management Committee.

Canadian Council of Legislative Auditors

This year, Alberta hosted the 37th annual meeting of the Canadian Council of Legislative Auditors (CCOLA) in Edmonton, from September 13 to 15, 2009. This annual gathering has, for a number of years, been held jointly with the annual conference of the Canadian Council of Public Accounts Committees. It brings together legislative auditors and members of the Standing Committees on Public Accounts from the federal government and the provinces and territories, and provides a useful forum for sharing ideas and exchanging information.

International Visitors

As an acknowledged leader in value-for-money auditing, the Office periodically receives requests to meet with visitors and delegations from abroad to discuss the roles and responsibilities of the Office and to share our value-for-money and other audit experiences with them. During the audit year covered by this report, the Office met with legislators/public servants/auditors from China, Ghana, Kenya, the Republic of Serbia, and the Russian Federation, as well as a delegation from the Commonwealth nations.

Results Produced by the Office This Year

The 2008/09 fiscal year was a challenging but successful year for the Office.

In total, we conducted 14 value-for-money and special audits this year, together with a review of the status of the unfunded liability of the Workplace Safety and Insurance Board. Our value-for-money audits examined a wide range of services of importance to Ontarians. They included bridge safety, telehealth, eHealth, consumer protection, research funding, and efforts to measure and raise student literacy and numeracy. We also examined programs that serve some of Ontario's most vulnerable citizens, such as infection control in long-term-care homes, assistive devices, two major income support programs (the Ontario Disability Support Program and Ontario Works), and social housing. Also—for the first time—we looked at the whole issue of government user fees.

Several of the value-for-money audits we carried out this year explored how the province oversees services that it partially pays for but that municipalities provide. The delivery of Ontario Works assistance, the provision and maintenance of social housing, and the safety and maintenance of municipal bridges are examples. Our work in the broader public sector included examining the infection-control practices in three long-term-care homes, visiting several school boards to discuss efforts to improve student achievement by them and the Ministry of Education's Literacy and Numeracy Secretariat, and auditing the administration of student testing conducted by the Education Quality and Accountability Office. We also spoke with several educational institutions about research funding and had discussions with both educational institutions and hospitals on the OntarioBuys program.

As mentioned in the earlier Special Reports section, we issued a special report on Ontario's Electronic Health Records Initiative in early fall 2009.

Figure 1: Office Organization, September 30, 2009

Auditor General
Jim McCarter

Human Resources
Annemarie Wiebe, Manager
Shayna Whiteford

Operations
John Sciarra, Director
Administration
Shanta Persaud
Maureen Bissonnette
Sohani Myers
Christine Wu
Communications and Government Advertising Review
Andréa Vanasse, Manager
Shirley Falkner
Mariana Green
Tiina Randoja
Information Technology
Peter Lee
Shams Ali

Deputy Auditor General
Gary Peall

Professional Practices
Michael Brennan, Manager

Audit Porfolios and Staff

Community and Social Services, and Revenue	
Walter Bordne, Director	
Wendy Cumbo, Manager	
Nick Stavropoulos, Manager	
Vishal Baloria	Inna Guelfand
Johan Boer	Aldora Harrison
Stephanie Chen	Li-Lian Koh
Constantino De Sousa	Maria Zuyev
Katrina Exaltacion	

Crown Agencies
John McDowell, Director
Walter Allan, Manager
Tom Chatzidimos
Kandy Fletcher
Mary Romano
Megan Sim

Economic Development, Environment, Natural Resources, and Education and Training	
Gerard Fitzmaurice, Director	
Fraser Rogers, Manager	
Tony Tersigni, Manager	
Tino Bove	Mark Smith
Maggie Dong	Zhenya Stekovic
Zahra Jaffer	Ellen Tepelenas
Mythili Kandasamy	Dora Ulisse
Joane Mui	Brian Wanchuk
Roger Munroe	Jing Wang

Health and Health Promotion	
Rudolph Chiu, Director	
Sandy Chan, Manager	
Denise Young, Manager	
Ariane Chan	Oscar Rodriguez
Frederick Chan	Pasha Sidhu
Anita Cheung	Alla Volodina
Suzanne Darmanin	Celia Yeung
Lisa Li	Gigi Yip

Health and Long-term-care Providers	
Susan Klein, Director	
Laura Bell, Manager	
Vanna Gotsis, Manager	
Naomi Herberg, Manager	
Emanuel Tsikritsis, Manager	
Kevin Aro	Justin Hansis
Matthew Brikis	Veronica Ho
Jennifer Fung	Linde Qiu
Ingrid Goh	Gloria Tsang

Justice and Regulatory	
Vince Mazzone, Director	
Rick MacNeil, Manager	
Vivian Sin, Manager	
Helen Chow	Cynthia Lau
Howard Davy	Sarah Noble
Rashmeet Gill	Alice Nowak
Mark Hancock	Ruchir Patel
Alfred Kiang	Janet Wan

Public Accounts, Finance, and Information Technology
Paul Amodeo, Director
Bill Pelow, Manager
Tanmay Gupta
Shariq Saeed
Joyce Yip

Transportation, Infrastructure, and Municipal Affairs	
Andrew Cheung, Director	
Teresa Carello, Manager	
Gus Chagani, Manager	
Kim Achoy	Marcia DeSouza
Bartosz Amerski	Isabella Ho
Izabela Beben	Gajalini Ramachandran
Kim Cho	Alexander Truong

Chapter 7

Our decision to issue this audit report as a special report was prompted by a request by the Minister of Health and Long-term Care under Section 17 of our Act.

As mentioned in the earlier Attest Audits section, we are responsible for auditing the province's consolidated financial statements (further discussed in Chapter 2), as well as the statements of more than 40 Crown agencies. We again met all of our key financial-statement audit deadlines while continuing our investment in training to successfully implement ongoing revisions to accounting and assurance standards and methodology for conducting our financial-statement audits. A practice inspection by the Institute of Chartered Accountants of Ontario confirmed that we were meeting the new standards in all significant respects.

We successfully met our review responsibilities under the *Government Advertising Act, 2004*, as further discussed in Chapter 5.

The results produced by the Office this year would clearly not have been possible without the hard work and dedication of our staff, as well as the assistance of our contract staff and expert advisors. With a number of senior staff retiring or on parental leave, contract staff were particularly important to us this year, and they filled in admirably.

Financial Accountability

The following discussion and our financial statements outline the Office's financial results for the 2008/09 fiscal year.

Figure 2 provides a comparison of our approved budget and expenditures over the last five years. Figure 3 presents the major components of our spending and shows that nearly 71% (also 71% in 2007/08) related to salary and benefit costs for our staff, while professional and other services and rent comprised most of the remainder. The proportions in Figure 3 have remained relatively constant in recent years, with the possible exception of contracted professional services. These services increased significantly again this year to help us manage the volume, timing, and complexity of our work and to temporarily replace retiring staff and new parents on leave.

Overall, our expenses increased 3.8% (13.8% in 2007/08) and were again significantly under budget. Over the five-year period presented in Figure 2, we have returned unspent appropriations totalling almost $7.7 million. The main reason for this is that we have historically faced challenges in hiring and retaining qualified professional staff in

Chapter 7

Figure 2: Five-year Comparison of Spending (Accrual Basis) ($ 000)

Prepared by the Office of the Auditor General of Ontario

	2004/05	2005/06	2006/07	2007/08	2008/09
Approved budget	**10,914**	**12,552**	**13,992**	**15,308**	**16,245**
Actual expenses					
salaries and benefits	7,261	8,047	8,760	9,999	10,279
professional and other services	877	951	1,264	1,525	1,776
rent	891	962	985	1,048	1,051
travel and communications	290	324	363	397	332
other	533	756	930	1,033	1,096
Total	**9,852**	**11,040**	**12,302**	**14,002**	**14,534**
Returned to province*	**1,201**	**1,609**	**1,730**	**1,608**	**1,561**

* These amounts are typically slightly higher than the excess of revenue over expenses as a result of non-cash expenses (such as amortization of capital assets).

Figure 3: Spending by Major Expenditure Category, 2007/08

Prepared by the Office of the Auditor General of Ontario

- travel and communications (2.3%)
- other (7.5%)
- rent (7.2%)
- professional and other services (12.2%)
- salaries and benefits (70.7%)
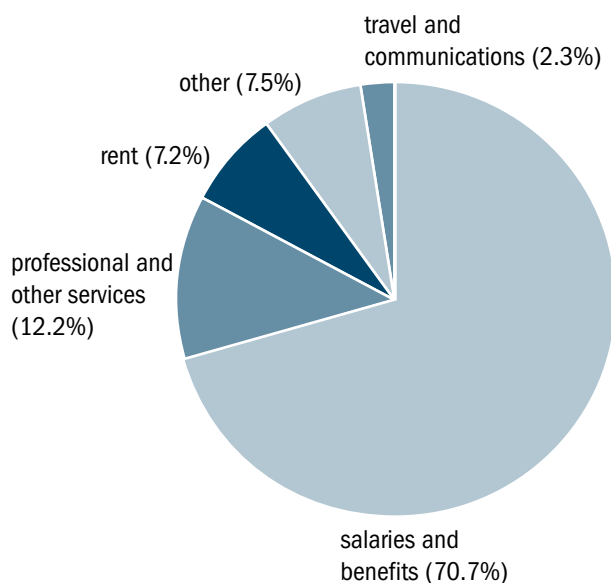
the competitive Toronto job market—our public-service salary ranges have simply not kept pace with compensation increases for such professionals in the private sector. A more detailed discussion of the changes in our expenses and some of the challenges we are facing follows.

SALARIES AND BENEFITS

Our salary and benefit costs rose just 2.8% this year. Salary and performance pay increases (in line with those approved for Ontario public servants), together with benefit cost increases (such as higher pension and health benefit contribution rates), were partially offset by a decrease in the number of staff employed compared to last year and a decrease in our future benefit obligations (owing to the retirement of several senior staff and the payout of our previously expensed obligation in respect of these employees).

Following a gradual increase in approved complement over the last several years—to 117 from 90 (see Figure 4)—we were able to gradually increase the average number of staff we employ to 110. By

early in the year our staffing actually peaked at 115 but with turnover and retirements declined to just 106 by the end of 2008/09—about the same number we began the previous year with. With the economic uncertainty and need for cost containment through much of this year, we were reluctant to staff up when staff departed and instead made more extensive use of contract professionals. As a result, our average staffing over the course of this year was about the same as last year. However, our hiring continues to be primarily at more junior levels, given that our salaries and benefits are competitive at these levels. We quickly fall behind private- and broader-public-sector salary scales for more experienced professional accountants. This is one reason that, as Figure 4 shows, we still have a number of unfilled positions. The growing complexity of our audits demands that we use highly qualified, experienced staff as much as possible. The challenge of maintaining and enhancing our capacity to perform these audits will only increase as more of our most experienced staff retire over the next few years.

Under the Act, our salary levels must be comparable to the salary ranges of similar positions in the government. These ranges remain uncompetitive with the salaries that both the not-for-profit and the private sectors offer. According to the most recent survey by the Canadian Institute of Chartered Accountants published in 2009, average salaries for CAs in government ($117,700) are 15% lower

Figure 4: Staffing, 2004/05–2008/09

Prepared by the Office of the Auditor General of Ontario
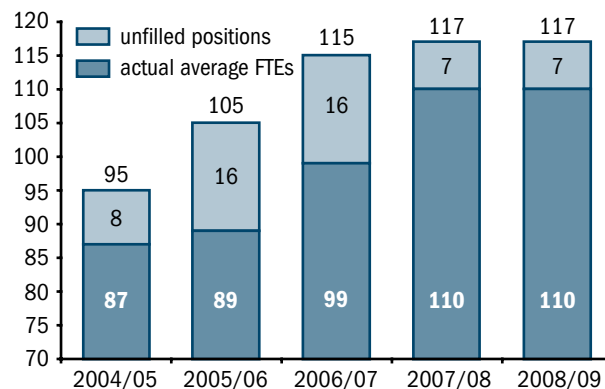
than those in the not-for-profit sector ($138,400) and, most importantly, 27% lower than those working for professional service CA firms ($160,600), which are our primary competitors for professional accountants. This gap has narrowed only slightly since the previous survey in 2007.

The salaries of our highest-paid staff in the 2008 calendar year are disclosed in Note 6 to our financial statements.

RENT

Our costs for accommodation were virtually the same as last year, increasing just 0.4% (owing primarily to rising building operating costs, particularly taxes and utilities). Accommodation costs continue to decline as a percentage of total spending.

PROFESSIONAL AND OTHER SERVICES

These services represent our most significant cost pressure—they have increased $251,000, or more than 16%, from last year and have more than doubled since 2004/05. The largest component of the increase is the costs for, first, contract professionals, and second, contract CA firms.

We continue to have to rely more on contract professionals to meet our legislated responsibilities. It continues to be difficult for us to reach our approved full complement given our uncompetitive salary levels, more complex work, and tighter deadlines for finalizing the financial-statement audits of Crown agencies and the province. As mentioned earlier, this year we had a number of staff on parental leave, as well as several retirements, which further increased our reliance on contract staff. We also believe that using more contract staff to fill temporary needs is a prudent approach to staffing, particularly during uncertain economic times, in that it provides more flexibility and less disruption if significant in-year cuts to our budget are requested.

We continue to incur higher contract costs for CA firms we work with because of the higher

salaries they pay their staff and the additional hours required to implement ongoing changes to accounting and assurance standards. The full-year impact of the cost of contracting out two additional financial-statement audits last year also contributed to the increase in professional services costs.

TRAVEL AND COMMUNICATIONS

With less value-for-money audit work in broader-public-sector organizations, particularly hospitals, than last year, our travel costs actually declined by 16% this year. About half of our work last year focused on several different broader-public-sector service providers, including hospitals, children's aid societies, mental-health agencies, and employment agencies. We also did a special audit of AgriCorp in Guelph. Consequently, our travel expenditures were quite high last year. Although we are incurring significantly more travel costs than in the past because of the expansion of our mandate to audit broader-public-sector organizations, this year our audits focused more on ministry oversight of service providers and less on the providers themselves. This means that our teams made shorter visits to service providers. Staff also made greater use of technology to reduce travel requirements and costs.

OTHER

Other costs include asset amortization, supplies and equipment maintenance, training, and statutory expenses. Such costs increased by $63,000, or by 6%, over last year. Some of the increase ($22,000) relates to higher equipment amortization owing to prior investments in computer and leasehold improvements, and a further $16,000 relates to statutory salary and performance pay increases for the Auditor General that were in line with increases provided to senior deputy ministers in the government. About $13,000 of the increase relates to higher costs for software support licences and maintenance associated with our exchange server upgrade, including data encryption and

Chapter 7

wireless security software licensing, as well as for toner cost and usage. We had greater need for expert assistance to meet our responsibilities under the *Government Advertising Act, 2004,* including the cost of independent research into how closely our judgments about partisanship in the advertising we review mirror public opinion. This increase was somewhat offset by lower statutory costs for other expert assistance on our VFM audits, resulting in a net increase of about $9,000. Our training costs increased by a modest 1.6% this year, or by $3,000, but have risen by 55% over the last two years. These increased expenditures on training have helped to ensure that our staff are able to adhere to the many recent changes in standards and have increased their level of subject expertise to handle complex value-for-money audits.

FINANCIAL STATEMENTS

Office of the Auditor General of Ontario
Bureau du vérificateur général de l'Ontario

MANAGEMENT'S RESPONSIBILITY FOR FINANCIAL STATEMENTS

The accompanying financial statements of the Office of the Auditor General for the year ended March 31, 2009 are the responsibility of management of the Office. Management has prepared the financial statements to comply with the *Auditor General Act* and with Canadian generally accepted accounting principles.

To ensure the integrity and objectivity of the financial data, management maintains a system of internal controls that provide reasonable assurance that transactions are appropriately authorized, assets are adequately safeguarded, appropriations are not exceeded and financial information is reliable and accurate.

The financial statements have been audited by the firm of Adams & Miles LLP, Chartered Accountants. Their report to the Board of Internal Economy, stating the scope of their examination and opinion on the financial statements, appears on the following page.

Jim McCarter, FCA
Auditor General

Gary R. Peall, CA
Deputy Auditor General

Box 105, 15th Floor
20 Dundas Street West
Toronto, Ontario
M5G 2C2
416-327-2381
fax 416-326-3812

B.P. 105, 15ᵉ étage
20, rue Dundas ouest
Toronto (Ontario)
M5G 2C2
416-327-2381
télécopieur 416-326-3812

www.auditor.on.ca

ADAMS & MILES LLP
Chartered Accountants

501-2550 Victoria Park Ave.
Toronto, ON M2J 5A9
Tel 416 502.2201
Fax 416 502.2210

200-195 County Court Blvd.
Brampton, ON L6W 4P7
Tel 905 459.5605
Fax 905 459.2893

AUDITOR'S REPORT

To the Board of Internal Economy
of The Legislative Assembly of Ontario

We have audited the statement of financial position of the Office of the Auditor General
of Ontario as at March 31, 2009 and the statements of operations and accumulated
deficit and cash flows for the year then ended. These financial statements are the
responsibility of the management of the Office of the Auditor General of Ontario. Our
responsibility is to express an opinion on these financial statements based on our audit.

We conducted our audit in accordance with Canadian generally accepted auditing
standards. Those standards require that we plan and perform an audit to obtain
reasonable assurance whether the financial statements are free of material
misstatement. An audit includes examining, on a test basis, evidence supporting the
amounts and disclosures in the financial statements. An audit also includes assessing
the accounting principles used and significant estimates made by management, as well
as evaluating the overall financial statement presentation.

In our opinion, these financial statements present fairly, in all material respects, the
financial position of the Office of the Auditor General of Ontario as at March 31, 2009
and the results of its operations and its cash flows for the year then ended in
accordance with Canadian generally accepted accounting principles.

The budget information is unaudited and not considered as part of the financial
statements on which we have expressed our opinion.

Adams & Miles LLP

Chartered Accountants
Licensed Public Accountants

Toronto, Canada
July 16, 2009

www.adamsmiles.com

An independent firm associated
with AGN International Ltd.

Office of the Auditor General of Ontario

Statement of Financial Position
As at March 31, 2009

	2009 $	2008 $
Assets		
Current		
Cash	293,306	521,868
Due from Consolidated Revenue Fund	663,149	374,144
	956,455	896,012
Capital Assets (Note 3)	581,060	598,271
Total assets	1,537,515	1,494,283
Liabilities		
Accounts payables and accrued liabilities	1,590,455	1,680,012
Accrued employee benefits obligation [Note 4(B)]	1,997,000	2,014,000
Net assets (Accumulated deficit)		
Investment in capital assets (Note 3)	581,060	598,271
Accumulated deficit [Note 2(B)]	(2,631,000)	(2,798,000)
	(2,049,940)	(2,199,729)
Total liabilities and accumulated deficit	1,537,515	1,494,283
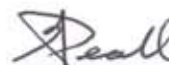
Commitment (Note 5)

See accompanying notes to financial statements.

Approved by the Office of the Auditor General of Ontario:

Jim McCarter
Auditor General

Gary Peall
Deputy Auditor General

Office of the Auditor General of Ontario

Statement of Operations and Accumulated Deficit
For the Year Ended March 31, 2009

	2009 Budget $	2009 Actual $	2008 Actual $
Revenue			
Consolidated Revenue Fund – Voted appropriation	16,244,700	16,244,700	15,307,600
Expenses			
Salaries and wages	9,588,200	8,434,594	8,088,057
Employee benefits (Note 4)	2,272,300	1,844,038	1,910,786
Office rent	1,053,400	1,051,024	1,047,624
Professional and other services	1,640,700	1,775,885	1,525,747
Amortization of capital assets	–	298,550	276,514
Travel and communication	418,800	332,043	397,196
Training and development	387,700	205,077	201,882
Supplies and equipment	474,200	173,326	159,485
Transfer payment: CCAF-FCVI Inc.	50,000	50,000	50,000
Statutory expenses: *Auditor General Act*	219,400	245,438	228,936
Government Advertising Act	50,000	35,209	21,770
Statutory services	90,000	88,850	93,513
Total expenses (Note 7)	16,244,700	14,534,034	14,001,510
Excess of revenue over expenses		1,710,666	1,306,090
Less: returned to the Province		(1,560,877)	(1,607,695)
Net deficiency/(excess) of revenue over expenses (Note 2B)		(149,789)	301,605
Accumulated deficit, beginning of year		2,199,729	1,898,124
Accumulated deficit, end of year		2,049,940	2,199,729

See accompanying notes to financial statements.

Office of the Auditor General of Ontario

Statement of Cash Flows
For the Year Ended March 31, 2009

	2009 $	2008 $
NET INFLOW (OUTFLOW) OF CASH RELATED TO THE FOLLOWING ACTIVITIES		
Cash flows from operating activities		
Net excess/(deficiency) of revenue over expenses	149,789	(301,605)
Amortization of capital assets	298,550	276,514
Accrued employee benefits obligation	(17,000)	19,000
	431,339	(6,091)
Changes in non-cash working capital		
Increase in due from Consolidated Revenue Fund	(289,005)	(8,175)
Increase (decrease) in accounts payable and accrued liabilities	(89,557)	508,314
	(378,562)	500,039
Investing activities		
Purchase of capital assets	(281,339)	(309,909)
Net increase (decrease) in cash position	(228,562)	184,039
Cash position, beginning of year	521,868	337,829
Cash position, end of year	293,306	521,868

See accompanying notes to financial statements.

Chapter 7

Office of the Auditor General of Ontario
Notes to Financial Statements
March 31, 2009

1. Nature of Operations

In accordance with the provisions of the *Auditor General Act* and various other statutes and authorities, the Auditor General conducts independent audits of government programs, of institutions in the broader public sector that receive government grants, and of the fairness of the financial statements of the Province and numerous agencies of the Crown. In doing so, the Office of the Auditor General promotes accountability and value-for-money in government operations and in broader public sector organizations.

In addition, under the *Government Advertising Act, 2004*, the Auditor General is required to review specified types of advertising, printed matter or reviewable messages proposed by government offices to determine whether they meet the standards required by the Act.

Under both Acts, the Auditor General reports directly to the Legislative Assembly.

As required by the *Fiscal Transparency and Accountability Act, 2004*, the Auditor General was also required to review and report on the reasonableness of the 2007 Pre-Election Report prepared by the Ministry of Finance.

2. Significant Accounting Policies

The financial statements have been prepared in accordance with Canadian generally accepted accounting principles. The significant accounting policies are as follows:

(A) ACCRUAL BASIS

These financial statements are prepared on the accrual basis whereby expenses are recognized in the fiscal year that the events giving rise to the expense occur and resources are consumed.

(B) VOTED APPROPRIATIONS

The Office is funded through annual voted appropriations from the Province of Ontario. Unspent appropriations are returned to the Province's Consolidated Revenue Fund each year. As the voted appropriation is on a modified cash basis, an excess or deficiency of revenue over expenses arises from the application of accrual accounting, including the capitalization and amortization of capital assets and the recognition of employee benefit costs earned to date that will be funded from future appropriations.

(C) CAPITAL ASSETS

Capital assets are recorded at historical cost less accumulated amortization. Amortization of capital assets is recorded on the straight-line method over the estimated useful lives of the assets as follows:

Computer hardware	3 years
Computer software	3 years
Furniture and fixtures	5 years
Leasehold improvements	The remaining term of the lease

Office of the Auditor General of Ontario

Notes to Financial Statements
March 31, 2009

2. Significant Accounting Policies (Continued)

(D) FINANCIAL INSTRUMENTS

The Office's financial instruments consist of cash, due from Consolidated Revenue Fund, accounts payable and accrued liabilities, and accrued employee benefits obligation. Under Canadian generally accepted accounting principles, financial instruments are classified into one of five categories – available-for-sale, held-for-trading, held-to-maturity, loans and receivables, or other financial liabilities. The Office classifies its financial assets and liabilities as follows:

- Cash is classified as held for trading and is recorded at fair value.

- Due from Consolidated Revenue Fund is classified as loans and receivables and is valued at cost which approximates fair value given its short term nature.

- Accounts payable and accrued liabilities are classified as other financial liabilities and are recorded at cost which approximate fair value given their short term maturities.

- The accrued employee benefits obligation is classified as another financial liability and is recorded at cost based on the entitlements earned by employees up to March 31, 2009. A fair value estimate based on actuarial assumptions about when these benefits will actually be paid has not been made as it is not expected that there would be a significant difference from the recorded amount.

It is management's opinion that the Office is not exposed to any interest rate, currency, liquidity or credit risk arising from its financial instruments due to their nature.

(E) USE OF ESTIMATES

The preparation of financial statements in accordance with Canadian generally accepted accounting principles requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities at the date of the financial statements, and the reported amounts of revenue and expenses during the reporting period. Actual results could differ from management's best estimates as additional information becomes available in the future.

Office of the Auditor General of Ontario

Notes to Financial Statements
March 31, 2009

3. Capital Assets

	2009			2008
	Cost	Accumulated Amortization	Net Book Value	Net Book Value
	$	$	$	$
Computer hardware	586,793	349,057	237,736	202,863
Computer software	210,058	133,670	76,388	73,837
Furniture and fixtures	312,846	169,747	143,099	157,114
Leasehold improvements	235,868	112,031	123,837	164,457
	1,345,565	764,505	581,060	598,271

Investment in capital assets represents the accumulated cost of capital assets less accumulated amortization and disposals.

4. Obligation for Future Employee Benefits

Although the Office's employees are not members of the Ontario Public Service, under provisions in the *Auditor General Act*, the Office's employees are entitled to the same benefits as Ontario Public Service employees. The future liability for benefits earned by the Office's employees is included in the estimated liability for all provincial employees that have earned these benefits and is recognized in the Province's consolidated financial statements. These benefits are accounted for as follows:

(A) PENSION BENEFITS

The Office's employees participate in the Public Service Pension Fund (PSPF) which is a defined benefit pension plan for employees of the Province and many provincial agencies. The Province of Ontario, which is the sole sponsor of the PSPF, determines the Office's annual payments to the fund. As the sponsor is responsible for ensuring that the pension funds are financially viable, any surpluses or unfunded liabilities arising from statutory actuarial funding valuations are not assets or obligations of the Office. The Office's required annual payments of $625,585 (2008 - $599,451), are included in employee benefits expense in the Statement of Operations and Accumulated Deficit.

Office of the Auditor General of Ontario

Notes to Financial Statements
March 31, 2009

4. Obligation for Future Employee Benefits (Continued)

(B) ACCRUED EMPLOYEE BENEFITS OBLIGATION

Although the costs of any legislated severance and unused vacation entitlements earned by employees are recognized by the Province when earned by eligible employees, these costs are also recognized in these financial statements. These costs for the year amounted to $108,000 (2008 – $346,000) and are included in employee benefits in the Statement of Operations and Accumulated Deficit. The total liability for these costs is reflected in the accrued employee benefits obligation, less any amounts payable within one year, which are included in accounts payable and accrued liabilities, as follows:

	2009	2008
	$	$
Total liability for severance and vacation	2,631,000	2,798,000
Less: Due within one year and included in accounts payable and accrued liabilities	(634,000)	(784,000)
Accrued employee benefits obligation	1,997,000	2,014,000

(C) OTHER NON-PENSION POST-EMPLOYMENT BENEFITS

The cost of other non-pension post-retirement benefits is determined and funded on an ongoing basis by the Ontario Ministry of Government Services and accordingly is not included in these financial statements.

5. Commitment

The Office has an operating lease to rent premises for an 11-year period, which commenced November 1, 2000. The minimum rental commitment for the remaining term of the lease is as follows:

	$
2009–10	525,369
2010–11	525,369
2011–12	306,465

Chapter 7

Office of the Auditor General of Ontario

Notes to Financial Statements
March 31, 2009

6. Public Sector Salary Disclosure Act, 1996

Section 3(5) of this Act requires disclosure of Ontario public-sector employees paid an annual salary in excess of $100,000 in calendar year 2008.

Name	Position	Salary $	Taxable Benefits $
McCarter, Jim	Auditor General	242,772	384
Peall, Gary	Deputy Auditor General	178,672	295
Amodeo, Paul	Director	136,789	231
Cheung, Andrew	Director	136,789	231
Chiu, Rudolph	Director	120,375	214
Fitzmaurice, Gerard	Director	134,588	231
Klein, Susan	Director	136,350	231
Mazzone, Vince	Director	122,549	218
McDowell, John	Director	134,588	231
Mishchenko, Nicholas	Director	136,789	231
Sciarra, John	Director of Operations	120,375	214
Bell, Laura	Audit Manager	105,467	186
Brennan, Michael	Audit Manager	108,573	186
Chagani, Hassnain	Audit Manager	108,573	186
Cumbo, Wendy	Audit Manager	108,573	186
Gotsis, Ioanna	Audit Manager	108,573	186
MacNeil, Richard	Audit Manager	107,509	186
Mok, Rita	Audit Manager	108,573	186
Pelow, William	Audit Manager	104,607	182
Rogers, Fraser	Audit Manager	110,349	186
Tersigni, Anthony	Audit Manager	108,573	186
Young, Denise	Audit Manager	108,573	186
Wiebe, Annemarie	Manager, Human Resources	108,573	186

7. Reconciliation to Public Accounts Volume 1 Basis of Presentation

The Office's Statement of Expenses presented in Volume 1 of the Public Accounts of Ontario was prepared on a basis consistent with the accounting policies followed for the Province's financial statements, under which purchases of computers and software and of leasehold improvements are expensed in the year of acquisition rather than being capitalized and amortized over their useful lives. Volume 1 also excludes the accrued employee future benefit costs recognized in these financial statements as well as in the Province's summary financial statements. A reconciliation of total expenses reported in volume 1 to the total expenses reported in these financial statements is as follows:

Office of the Auditor General of Ontario

Notes to Financial Statements
March 31, 2009

7. Reconciliation to Public Accounts Volume 1 Basis of Presentation (Continued)

	2009	2008
	$	$
Total expenses per Public Accounts Volume 1	14,683,823	13,699,905
purchase of capital assets	(281,339)	(309,909)
amortization of capital assets	298,550	276,514
change in accrued future employee benefit costs	(167,000)	335,000
Total expenses per audited financial statements	14,534,034	14,001,510

8. Management of Capital

The Office's capital consists of cash. In managing cash the Office maintains sufficient funds to meet estimated cash requirements each month and requisitions the necessary amount from the Ministry of Finance on a monthly basis. The Office's bank account is pooled with other government accounts for cash management purposes in order to reduce the province's borrowing requirements and/or to earn interest. Accordingly, the Office's capital is not at risk.

9. Comparative Figures

Certain of the 2007/08 figures have been reclassified to conform to the presentation adopted for the 2008/09 fiscal year.

Chapter 7

Exhibit 1

Exhibit 1

Agencies of the Crown

Exhibit 1

1. Agencies whose accounts are audited by the Auditor General

AgriCorp

Algonquin Forestry Authority

Cancer Care Ontario

Centennial Centre of Science and Technology

Chief Electoral Officer, *Election Finances Act*

Election Fees and Expenses, *Election Act*

Financial Services Commission of Ontario

Grain Financial Protection Board, Funds for Producers of Grain Corn, Soybeans, Wheat, and Canola

Investor Education Fund, Ontario Securities Commission

Legal Aid Ontario

Liquor Control Board of Ontario

Livestock Financial Protection Board, Fund for Livestock Producers

Northern Ontario Heritage Fund Corporation

North Pickering Development Corporation

Office of the Assembly

Office of the Children's Lawyer

Office of the Environmental Commissioner

Office of the Information and Privacy Commissioner

Office of the Ombudsman

Ontario Clean Water Agency (December 31)*

Ontario Development Corporation

Ontario Educational Communications Authority

Ontario Electricity Financial Corporation

Ontario Energy Board

Ontario Financing Authority

Ontario Food Terminal Board

Ontario Heritage Trust

Ontario Immigrant Investor Corporation

Ontario Media Development Corporation

Ontario Mortgage and Housing Corporation

Ontario Northland Transportation Commission

Ontario Place Corporation

Ontario Racing Commission

Ontario Realty Corporation

Ontario Securities Commission

Owen Sound Transportation Company Limited

Pension Benefits Guarantee Fund, Financial Services Commission of Ontario

Province of Ontario Council for the Arts

Provincial Advocate for Children and Youth

Provincial Judges Pension Fund, Provincial Judges Pension Board

Public Guardian and Trustee for the Province of Ontario

Toronto Area Transit Operating Authority

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* Dates in parentheses indicate fiscal periods ending on a date other than March 31.

Exhibit 1   485

2. Agencies whose accounts are audited by another auditor under the direction of the Auditor General

Motor Vehicle Accident Claims Fund

Niagara Parks Commission (October 31)*

Ontario Mental Health Foundation

St. Lawrence Parks Commission

Workplace Safety and Insurance Board
(December 31)*

Exhibit 1

---

*   Dates in parentheses indicate fiscal periods ending on a date other than March 31.

Note:

The following changes were made during the 2008/09 fiscal year:

Deletion:

Chief Electoral Officer, *Electoral System Referendum Act*

Ontario Mortgage Corporation

TVOntario Foundation

Exhibit 2

Crown-controlled Corporations

Corporations whose accounts are audited by an auditor other than the Auditor General, with full access by the Auditor General to audit reports, working papers, and other related documents

Agricultural Research Institute of Ontario

Art Gallery of Ontario Crown Foundation

Board of Funeral Services

Brock University Foundation

Canadian Opera Company Crown Foundation

Canadian Stage Company Crown Foundation

Central Community Care Access Centre

Central East Community Care Access Centre

Central East Local Health Integration Network

Central Local Health Integration Network

Central West Community Care Access Centre

Central West Local Health Integration Network

Champlain Community Care Access Centre

Champlain Local Health Integration Network

Deposit Insurance Corporation of Ontario

eHealth Ontario

Echo: Improving Women's Health in Ontario

Education Quality and Accountability Office

Erie St. Clair Community Care Access Centre

Erie St. Clair Local Health Integration Network

Foundation at Queen's University at Kingston

Greater Toronto Transit Authority

Hamilton Niagara Haldimand Brant Community Care Access Centre

Hamilton Niagara Haldimand Brant Local Health Integration Network

HealthforceOntario Marketing and Recruitment Agency

Higher Education Quality Council of Ontario

Hydro One Inc.

Independent Electricity System Operator

McMaster University Foundation

McMichael Canadian Art Collection

Metrolinx

Metropolitan Toronto Convention Centre Corporation

Mississauga Halton Community Care Access Centre

Mississauga Halton Local Health Integration Network

Municipal Property Assessment Corporation

National Ballet of Canada Crown Foundation

North East Community Care Access Centre

North East Local Health Integration Network

North Simcoe Muskoka Community Care Access Centre

North Simcoe Muskoka Local Health Integration Network

North West Community Care Access Centre

North West Local Health Integration Network

Northern Ontario Grow Bonds Corporation

Ontario Agency for Health Protection and Promotion

Ontario Capital Growth Corporation

Ontario Foundation for the Arts

Ontario French Language Communications Authority

Ontario Health Quality Council

Ontario Infrastructure Projects Corporation

Ontario Lottery and Gaming Corporation

Ontario Mortgage Corporation

Ontario Pension Board

Exhibit 2   **487**

Ontario Power Authority

Ontario Power Generation Inc.

Ontario Tourism Marketing Partnership
Corporation

Ontario Trillium Foundation

Ottawa Congress Centre

Royal Botanical Gardens Crown Foundation

Royal Ontario Museum

Royal Ontario Museum Crown Foundation

Science North

Shaw Festival Crown Foundation

Stadium Corporation of Ontario Limited

South East Community Care Access Centre

South East Local Health Integration Network

South West Community Care Access Centre

South West Local Health Integration Network

Stratford Festival Crown Foundation

Toronto Central Community Care Access Centre

Toronto Central Local Health Integration Network

Toronto Islands Residential Community Trust
Corporation

Toronto Symphony Orchestra Crown Foundation

Toronto Waterfront Revitalization Corporation

Trent University Foundation

Trillium Gift of Life Network

University of Ottawa Foundation

Walkerton Clean Water Centre

Waterfront Regeneration Trust Agency

Waterloo Wellington Community Care Access Centre

Waterloo Wellington Local Health Integration
Network

Note:

The following changes were made during the 2008/09
fiscal year:

Addition:

eHealth Ontario

Metrolinx

Ontario Capital Growth Corporation

Ontario French Language Communications Authority

Ontario Mortgage Corporation

Deletion:

Baycrest Hospital Crown Foundation

Mount Sinai Hospital Crown Foundation

North York General Hospital Crown Foundation

St. Clair Parks Commission

Smart Systems for Health Agency

Sunnybrook Hospital Crown Foundation

Toronto East General Hospital Crown Foundation

Toronto Hospital Crown Foundation

Women's College and Wellesley Central Crown
Foundation

Exhibit 3

Exhibit 3

Treasury Board Orders

Under subsection 12(2)(e) of the *Auditor General Act*, the Auditor General is required to annually report all orders of the Treasury Board made to authorize payments in excess of appropriations, stating the date of each order, the amount authorized, and the amount expended. These are outlined in the following table. While ministries may track expenditures related to these orders in more detail by creating accounts at the sub-vote and item level, this schedule summarizes such expenditures at the vote and item level.

Ministry	Date of Order	Authorized ($)	Expended ($)
Aboriginal Affairs	Nov. 20, 2008	4,900,000	–
	Apr. 9, 2009	1,200,000	1,199,000
		6,100,000	**1,199,000**
Agriculture, Food and Rural Affairs	Feb. 5, 2009	37,800,000	32,668,967
	Mar. 30, 2009	1,700,000	317,782
	Apr. 16, 2009	110,000	–
		39,610,000	**32,986,749**
Attorney General	Mar. 12, 2009	77,856,700	65,582,167
	Mar. 12, 2009	8,633,300	4,782,478
		86,490,000	**70,364,645**
Cabinet Office	May 8, 2008	100,000	100,000
	May 15, 2008	1,000,000	23,839
		1,100,000	**123,839**
Children and Youth Services	Jun. 11, 2008	11,553,300	–
	Jun. 24, 2008	400,000	–
	Oct. 2, 2008	756,600	133,759
	Dec. 4, 2008	6,748,300	6,748,300
	Feb. 26, 2009	59,811,400	59,811,400
	Feb. 26, 2009	14,791,700	13,806,300
	Mar. 12, 2009	7,000,000	3,899,436
	Mar. 19, 2009	644,900	–
	Apr. 9, 2009	4,105,600	607,369
		105,811,800	**85,006,564**
Citizenship and Immigration	Apr. 9, 2009	**2,255,100**	**2,093,091**

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Ministry	Date of Order	Authorized ($)	Expended ($)
Community and Social Services	Jan. 29, 2009	58,643,700	54,322,821
	Jan. 29, 2009	241,910,000	241,777,257
	Apr. 9, 2009	13,754,800	7,875,800
	Apr. 9, 2009	2,900,000	–
		317,208,500	**303,975,878**
Community Safety and Correctional Services	Sep. 25, 2008	31,000,000	13,788,137
	Nov. 20, 2008	3,500,000	3,500,000
	Dec. 4, 2008	440,000	440,000
	Mar. 12, 2009	66,114,100	51,551,345
	Apr. 6, 2009	7,150,000	5,000,634
	Apr. 20, 2009	1,350,000	–
		109,554,100	**74,280,116**
Culture	Aug. 19, 2008	1,710,000	–
	Apr. 9, 2009	1,141,800	884,760
		2,851,800	**884,760**
Economic Development	Mar. 12, 2009	305,000	–
	Apr. 16, 2009	3,052,900	–
		3,357,900	**–**
Education	Sep. 25, 2008	337,600	–
	Feb. 23, 2009	1,758,700	1,758,700
	Feb. 23, 2009	281,500,000	160,220,238
		283,596,300	**161,978,938**
Energy and Infrastructure	Dec. 4, 2008	19,500,000	14,745,807
	Dec. 4, 2008	82,493,600	–
	Mar. 12, 2009	130,221,600	–
	Apr. 16, 2009	228,400	–
		232,443,600	**14,745,807**
Environment	Dec. 4, 2008	39,000,000	39,000,000
	Mar. 12, 2009	11,851,300	11,720,414
		50,851,300	**50,720,414**
Finance	Aug. 19, 2008	495,300	–
	Aug. 19, 2008	1,310,300	–
	Aug. 19, 2008	194,800	–
	Dec. 4, 2008	100,280,300	–
	Dec. 4, 2008	900,000	900,000
	Jan. 29, 2009	537,861,600	–
	Jan. 30, 2009	500,000	500,000
	Feb. 23, 2009	333,900	–
	Mar. 12, 2009	189,105,300	–
	Mar. 18, 2009	3,173,000	3,173,000
	Apr. 16, 2009	592,000	–
		834,746,500	**4,573,000**

Ministry	Date of Order	Authorized ($)	Expended ($)
Government Services	Jul. 31, 2008	998,600	387,345
	Aug. 19, 2008	4,065,800	28,240
	Aug. 19, 2008	1,612,500	1,612,500
	Aug. 19, 2008	6,193,400	6,193,400
	Aug. 19, 2008	3,058,000	3,058,000
	Aug. 19, 2008	506,000	–
	Aug. 31, 2008	1,000,000	1,000,000
	Mar. 19, 2009	95,483,600	93,325,834
	Apr. 1, 2009	17,663,100	16,623,850
	Apr. 16, 2009	2,427,500	1,159,411
	Sep. 17, 2009	126,473,400	126,472,401
		259,481,900	**249,860,981**
Health and Long–Term Care	Nov. 21, 2008	2,664,500	2,606,993
	Feb. 11, 2009	10,904,600	9,023,038
	Feb. 26, 2009	2,370,700	–
	Feb. 26, 2009	694,287,000	654,898,839
	Mar. 12, 2009	558,776,700	558,776,600
	Mar. 19, 2009	937,300	–
	Sep. 17, 2009	338,382,400	328,195,236
		1,608,323,100	**1,553,500,706**
Health Promotion	Aug. 27, 2008	900,000	–
	Oct. 2, 2008	4,100,000	–
	Nov. 20, 2008	3,900,000	–
		8,900,000	**–**
Labour	Feb. 10, 2009	**2,466,200**	**1,506,983**
Municipal Affairs and Housing	Jun. 24, 2008	2,000,000	2,000,000
	Jul. 23, 2008	1,784,000	1,784,000
	Aug. 19, 2008	5,003,300	–
	Nov. 27, 2008	2,412,000	2,412,000
	Dec. 4, 2008	1,000,000	–
	Mar. 24, 2009	5,580,200	4,536,720
	Mar. 26, 2009	1,240,000	391,120
		19,019,500	**11,123,840**
Natural Resources	May 29, 2008	**5,100,000**	**–**
Northern Development and Mines	Jun. 24, 2008	11,000,000	8,897,895
	Mar. 12, 2009	700,000	–
	Mar. 19, 2009	1,150,000	240,309
		12,850,000	**9,138,204**
Office of Francophone Affairs	Aug. 19, 2008	52,500	49,530
	Sep. 25, 2008	51,000	–
	Dec. 4, 2008	150,000	–
		253,500	**49,530**

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Ministry	Date of Order	Authorized ($)	Expended ($)
Revenue	Aug. 19, 2008	**750,000**	**—**
Small Business and Consumer Services	Sep. 25, 2008	2,000,000	2,000,000
	Mar. 12, 2009	1,000,000	376,576
		3,000,000	**2,376,576**
Tourism	Jul. 23, 2008	1,310,000	1,310,000
	Jan. 29, 2009	5,336,700	—
	Feb. 26, 2009	862,600	828,547
	Apr. 9, 2009	57,600	—
	Apr. 16, 2009	2,823,800	—
		10,390,700	**2,138,547**
Training, Colleges and Universities	Aug. 19, 2008	1,059,900	—
	Aug. 19, 2008	380,800	380,800
	Aug. 19, 2008	4,800,000	—
	Aug. 19, 2008	5,884,900	5,580,900
	Feb. 23, 2009	4,647,900	—
	Mar. 12, 2009	1,110,000	1,075,407
	Mar. 26, 2009	120,000,000	—
	Apr. 8, 2009	2,455,400	1,680,044
	Apr. 16, 2009	1,735,200	—
		142,074,100	**8,717,151**
Transportation	Feb. 23, 2009	11,625,000	11,625,000
	Feb. 26, 2009	88,800,000	45,651,708
	Mar. 25, 2009	11,330,000	9,240,671
		111,755,000	**66,517,379**
Total Treasury Board Orders		**4,260,340,900**	**2,707,862,698**

Exhibit 3

Office of the Auditor General of Ontario

Box 105, 15th Floor
20 Dundas Street West
Toronto, Ontario
M5G 2C2

www.auditor.on.ca