

Issue Note

Affordability Fund – Use of Ontario (Trillium) Logo

ISSUE

Outline applicable rules governing the use of the Ontario (Trillium) Logo, and proposed next steps for ENERGY to determine if the logo can be used by the Affordability Fund Trustees, and potentially distributors, to provide recognition of provincial funding granted to the Affordability Fund.

SUMMARY

- The Affordability Fund will provide energy efficiency measures to Ontarians who are not eligible for low-income conservation programs, and who are otherwise unable to make energy efficiency improvements without financial assistance (see Background for further details on the Affordability Fund).
- The current Transfer Payment Agreement (TPA) between ENERGY and the Affordability Fund Trust, and the Affordability Fund Declaration of Trust, convey the expectation that Trustees and electricity distributors will acknowledge the financial support of the province in connection with this new funding program, including in any external communications or marketing to electricity customers. Neither document currently contemplates use of the Ontario Logo.
 - A centralized delivery model through a Trust has been established to ensure independent oversight of funds and to facilitate efficient distribution of funds to electricity distributors.
 - A Board of Trustees will be responsible for administering the Fund, including distributing funds to electricity distributors across the province based on an application process and targeted eligibility criteria.
 - The Board of Trustees will consist of three representatives from separate electricity distributors, two representatives from separate social services agencies and one individual, who will be a non-voting member, will be an employee or representative of the Government of Ontario.
- The Management Board of Cabinet (MBC) is responsible for considering and approving recommendations on visual identity matters including, where appropriate, taking action in respect of non-compliance.
- The use and requirements of use of the Ontario Logo for marketing are outlined in the Visual Identity Directive, Style Guide, and Logo Guidelines.

Visual Identity Directive

- The Visual Identity Directive (Directive) (last revised 2006) was developed, in part, to outline where government identifiers, including the Ontario Logo, can be used and to ensure they are applied in a consistent manner when executing marketing or advertising initiatives.
- The Directive explicitly states that the use of a government identifier is restricted to “government undertakings.”

- The Directive applies equally and without exception to all provincial ministries and to all advisory agencies, regulatory agencies, adjudicative agencies, operational service agencies and operational enterprise agencies.
- The Directive outlines certain classifications of “agencies” that are permitted to use the Logo in connection with their programs. Electricity distributors do not fit this classification.
- These identifiers may be used by other organizations, such as those that receive transfer payments from the government for a project or program.

Government and Advertising Act, 2004 (GAA):

- Government advertising may be required to be reviewed by the Auditor General before being published or displayed.
- Advertising is subject to the GAA if it meets the following criteria (as outlined in the Auditor General’s Guide to the GAA):
 - The government grants permission for the use of the Ontario Logo (or another identifier);
 - Government funds at least part of the ad cost; and
 - Government approves the content of the advertising.
- It is possible that where a third party undertakes advertising that only meets one or two of the criteria listed above that the Auditor General could still interpret such advertising as being subject to the GAA.

Use of the Ontario Logo – ENERGY’s Current Understanding of Required Approvals and ENERGY Outreach to Date

- On Tuesday, March 21, 2017 ENERGY staff (Conservation and Renewable Energy Division, (CRED) and Corporate Services Division (CSD)) had initial conversations with Treasury Board Secretariat (TBS) staff on use of the Trillium logo for Affordability Fund marketing.
- It is CRED’s understanding that in the case of government undertakings, or where the use is by a government agency, the ministry does not need to seek approval from MBC for the use of the Ontario Logo.
 - As the Affordability Fund is to be administered by a non-controlled Trust this may not be deemed a government undertaking.
- Initial discussions with TBS staff found that the use of the Ontario Logo for marketing by third parties (e.g., electricity distributors and program delivery agents) is not permitted under the Directive, unless an exemption is granted by MBC.
 - In the case of Ontario Logo use by third-parties, ENERGY would likely need to seek approval from MBC to use the Ontario Logo and develop its own policy/rules on the use of the Logo in order to protect the identifier (Logo). (TBC by Cabinet Office)
 - If it is determined that third-party use of the Logo is not permitted for the Affordability Fund, then ENERGY could pursue approval of Ontario Logo use only by the Affordability Fund Trust and its Trustees (and not the electricity distributors).

- In the case where the government enters into a TPA with a third party, CRED understands that it is the responsibility of the ministry to ensure proper use of the Ontario Logo by the contracted third-party in that agreement.

Next Steps

- **Early May 2017:** ENERGY Communications, working with CRED staff, to reach out to Cabinet Office to determine what kind of approval is needed, and what the limitations are to use the Ontario Logo by the Fund Trustees (and potentially electricity distributors), to provide recognition of provincial funding provided to the Affordability Fund.
- **May/June 2017:** Should it be confirmed that the Ontario Logo can be used by the Trustees (and potentially electricity distributors) when acknowledging the province, this would be instituted through an amendment to the TPA between ENERGY and the Affordability Fund Trust, which it is estimated to take about one month.
 - It is expected that the Trustees would then amend the Declaration of Trust to incorporate use of the Ontario logo by the Trustees (and potentially electricity distributors).
 - The Affordability Fund Trustees will be in place by May 31, 2017. The Affordability Fund is expected to begin accepting electricity distributor applications for funding in summer 2017.
 - It is recommended that an amendment to the TPA be made in May/June 2017, before the Affordability Fund program is in market.

BACKGROUND

Affordability Fund

- On March 2, 2017, the Government of Ontario announced the establishment of an Affordability Fund as part of its Fair Hydro Plan.
 - The Affordability Fund will provide energy efficiency measures to Ontarians who are not eligible for the Home Assistance Program, and who are otherwise unable to make energy efficiency improvements without financial assistance.
- ENERGY has worked with Hydro One to establish an independent Trust that will administer the Affordability Fund, funded by \$100 million from the tax base.
 - The 'Affordability Fund Trust' was established on March 23, 2017, when the Original Trustee signed a Declaration of Trust (drafted by ENERGY, in collaboration with Hydro One). The Original Trustee is Computershare, a professional Trustee company and a trusted partner in some of the largest public and private organizations in Canada and globally.
 - On March 24, 2017, ENERGY entered into a TPA with the Original Trustee to flow \$100 million to the Affordability Fund Trust.
- A centralized delivery model through a Trust has been established to ensure independent oversight of funds and to facilitate efficient distribution of funds to electricity distributors.

- In the current versions of the Declaration and TPA, the following expectations have been set for recognition of financial support of the Province in connection with the Affordability Fund:
 - *Declaration (Annex, s. 3.2)*: “It is expected that the Trustees will acknowledge the financial support of the Province in connection with the establishment and the funding for the Program, including in any external communications to or marketing directed at the Electricity Distributors and the Primary Beneficiaries. In its delegation of any duties or powers to the Electricity Distributors through Implementation Agreements it is expected that Electricity Distributors will acknowledge the financial support of the Province in connection with the program including in any communications or marketing to Primary Beneficiaries.”
 - *TPA (s. 8.1)*: “The Recipient will acknowledge, in any of its Program-related external communications and marketing whether written, oral, or visual, the financial support of the Province in connection with the establishment and funding of the program, while noting that the views expressed in the publication are the views of the Recipient and do not necessarily reflect those of the Province.”