Confidential

TB / MBC Submission

Note: Legislation and Regulations Committee Submission
will be a separate document

Establishing an Advisory Audit Committee

TREASURY BOARD SECRETARIAT

Office of the Provincial Controller Division

DRAFT: FOR DISCUSSION PURPOSES ONLY

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I Request

Treasury Board Secretariat is requesting the Legislation and Regulations Committee of Cabinet to recommend for approval an amendment to the Auditor General Act establishing an Advisory Audit Committee-- an advisory agency of independent experts to provide advice to the Government of Ontario and the Auditor General (AG).

Commented [CV1]: Why is it an agency?
HKD: Need to discuss exact nature of body with Public Appt Secretariat (PAS)

Commented [PMK2]: I think this is wrong – this is just your tb/mbc submission, right?
HKD: yes it is

Commented [JL3]: Is there no longer a request for an OIC as well?
HKD: yes there will – will revisit the request after further discussion with PAS and Legal

II Background

The Government's transformational agenda and continuing commitment to modernizing government are fostering a new environment in the OPS, one in which risk management and fiscal accountability take centre stage. At the same time, the increasing emphasis on transparency and efficiencies in government operations means that the Government faces an ongoing challenge to ensure that its control and accountability mechanisms are effective.

The Government addresses these challenges through an established governance and oversight function which includes the following three components:

1. ***Corporate Audit Committee***

   Commented [CV4]: My understanding is that the CAC, as it relates to its communication role with the AG, is solely focused on VFM audits (vs. public accounts) – do we cover that somewhere in the submission?
   HKD: Noted will do

   The Corporate Audit Committee (CAC) assists the Deputy Ministers' Council (DMC) in discharging their governance, accountability and controllership responsibilities by advising that Ministry and Agency risks are being appropriately addressed through a strong governance, risk, control and compliance framework; appropriate stewardship; and an adequate and effective internal audit function.

   The CAC acts as a forum for communication between the Deputy Ministers, senior management, and the Ontario Internal Audit Division (OIAD).

   Within the Ontario Public Service (OPS), Office of the Provincial Controller Division (OPCD) and Ontario Internal Audit Division (OIAD) maintain the key relationships with the Auditor General (AG).

2. ***Ontario Internal Audit Division***

   OIAD provides risk and business consulting services, and independent and objective assurance services to ministries and agencies of the Government. It is responsible for:

   - Audit services for OPS under direction of Corporate Audit Committee though its
     - Enterprise-Wide Audit Service Team
     - Enterprise-Wide I and IT Audit Service Team
     - Corporate Financial Assurance Audit Service Team:
   - Audit services to ministries and agencies through Ministry Audit Service Teams:

- Specialized forensic and fraud investigations services to ministries and agencies though its Forensic Investigations Team:

OIAD liaises between the AG and clients ministries and agencies on Value for Money audit and special reports.

3. ***Office of the Provincial Controller Division***

OPCD is responsible for maintaining the Public Accounts and preparing the Annual Report and Consolidated Statements and the Public Sector Salary Disclosure. OPCD also supports the preparation of the multi-year fiscal plan, Results-based Plan and the provincial Budget, as well as the Pre-Election Report on Ontario's Finances.

OPCD works with the AG during the audit of Public Accounts. The AG considers internal control, accounting policies, accounting estimates and control over assets as well as the overall presentation of the consolidated financial statements. OPCD also liaises with the AG, as well as other jurisdictions and the accountancy bodies, on the development of government accounting standards.

Working relationship with the AG

Commented [JL5]: Maybe this is the Key Consideration
HKD: Noted

There have been significant disagreements between professional staff and the AG regarding a number of financial accounting and reporting issues. Both OPCD and OIAD have noted instances where the efficiency and effectiveness of the auditing and reporting process could be improved. In addition, senior staff from several line ministries have expressed concerns regarding the AG's requests for access to data and/or handling of sensitive issues.

Commented [PMK6]: I think that wherever you say 'professional staff' you mean 'accounting staff' – suggest replacing throughout to make that clearer ('professional staff' is a bit ambiguous).
HKD: Noted

Mostly recently, during the 2015-16 Public Accounts process, the Auditor General and the government's professional accounting staff disagreed regarding the application of Public Sector Accounting Standards (PSAS) to pension assets related to two pension plans that the Province jointly sponsors – Ontario Teachers' Pension Plan and Ontario Public Service Employees' Union Pension Plan.

The failure to resolve key issues resulted in:

- The government passing a time-limited regulation to align the accounting for these pension assets with the interpretation of the Auditor General. This time-limited regulation enabled the professional accounting staff to take responsibility for the preparation of the Public Accounts in accordance with legislation and PSAS.
- The government releasing an annual report and unaudited financial statements on October 3, 2016, and concurrently announcing that an advisory panel would be formed to review the application of PSAS to these pension assets.
- The Auditor General issuing a qualified report on the 2015-16 Public Accounts on October 5, 2016. While the 2015-16 results were accepted by the Auditor General, the audit opinion was qualified because the comparative financial balances were not restated for the prior year to write off the pension assets.

The Pension Asset Expert Advisory Panel reported on 13th February, 2017 and supported the government position that the net pension assets should be accounted as government assets.

While the Province has publicly committed to adopting the recommendations of the Expert Panel, the AG continues to disagree with this treatment. While the disagreement related to the accounting for net pension assets became public, and resulted in both a delay in filing the Public Accounts beyond the required filing date, as well as a qualified audit opinion, there were several other disputed issues that arose during the course of the Public Accounts audit.

The creation of an Advisory Audit Committee (the "Advisory Agency") would assist in enhancing the relationship between the professional staff and the AG by providing a forum where both parties can have a discussion on a contentious issue and benefit from the wisdom of independent expertise.

III Key Considerations

Purpose

The Advisory Agency will comprise independent experts to provide advice to the Government of Ontario and the AG.

The purpose of the Advisory Agency will be to enhance the integrity and efficiency of the Public Accounts Audit and the system of reporting performance, by providing an independent forum for communication and discussion where OPS professional staff and the AG could discuss concerns. Specifically the Advisory Agency will provide professional staff and the AG:

- Access to independent experts who could provide advice and wise counsel on the planning of the Public Accounts Audit;
- A neutral space to discuss significant financial accounting and reporting issues where there might be disagreement between the AG and the professional staff of government; and,
- A forum where independent experts in the field of auditing and accounting could provide an appropriate challenge to either party.

Authority

Amendments to the *Auditor General Act* would be proposed to authorize the establishment of the Advisory Agency, and provide the Advisory Agency with the authority to carry out its responsibilities.

Specifically, the Advisory Agency would:

- review the planning, performance and reports relating to the Public Accounts Audit, Value for Money Audits and Special Reports.
- obtain independent / legal advice after they have reviewed the matter and agrees that seeking a second opinion is beneficial..
- call witnesses as required.

Mandate and Implementation:

Commented [JL7]: I'm not sure if these are key considerations? Might need a different title (Advisory Agency?)...I do wonder if it would flow better to have this sit after the Options section?
HKD: Noted

Commented [CV8]: Somewhere in this section, we need to cover that the committee is advisory in nature only and does not bind the government or the AG to following its advice – what it does it provide a formal structure for the

Commented [CV9]: What does this mean – "system of reporting performance"
HKD: refers to the performance of the Public Accounts audit – will change to make clear

Commented [CV10]: These comments are all related to the public accounts audit, but the authority below includes VFM and special audits?
HKD: We had talked about a phase in the full

Commented [PMK11]: Suggest making similar changes throughout
(i.e. replacing certain statements about what 'will' happens with contingent statements about what

Commented [PMK12]: Does "planning" mean that the ag will need to present her areas of focus to the committee for comment?
HKD: Yes, that's what I was thinking

Commented [PMK13]: Whose performance? I suggest avoiding any suggestion that this committee of the executive branch of government is carrying out performance reviews

Commented [PMK14]: Not clear what you mean here – independent legal advice? Or independent legal and other advice?
HKD: Intention to provide a budget if they

Commented [PMK15]: Not clear what this means – do you just mean 'in connection with specific issues'?
HKD: Yes - and only if they think it is

Commented [CV16]: What are we contemplating here?
HKD: See response to Paul's comments

Commented [PMK17]: Are these really witnesses (i.e. people giving factual 'evidence'), or are they advisors?
HKDHKD: Witness is the wrong word - it's just

Commented [CV18]: Witnesses sounds like some kind of judicial function – who are we contemplating here?

The Advisory Agency will have the mandate to review:

- Public Accounts
- Value for Money Audits
- Special Reports.

The Advisory Agency will focus on Public Accounts in year one, and expand the scope of their activity each year until it achieves its full mandate at the end of year 3:

- Year 1: Public Accounts only
- Year 2: Public Accounts and Special Reports only
- Year 3: Public Accounts, Value for Money Audits and Special Reports.

The implementation plan will be set out in regulations.

NOTE: Confirm with legal how this will be affected in legislation and regulation and then articulate in document

NOTE: Focus has been on the role of the Advisory Agency wrt Public Accounts, details of their role wrt VFM audits and Special Reports will be fleshed out during the implementation phase.

Composition and Tenure

The Advisory Agency will consist of up to seven members, with one member appointed as Chair.

Members will serve at pleasure and be appointed by the Lieutenant Governor in Council for an initial period of up to three years, and may serve for up to two terms.

Members, taken collectively, will have a broad range of skills, knowledge and experience. They will comprise accounting experts, and legal experts in the field of public sector accounting and auditing standards.

Each member will bring a unique skillset and perspective. Proposed appointees will be assessed against a competency map (Appendix II) which includes knowledge in areas such as:

- Public accounting/standard setting, including Pension Law and Accounting
- Government
- Academia

Members' employment or involvement in other activities must not place them in a conflict of interest position.

Members would be required to hold information received in connection with their duties in confidence.

Meetings and Attendance

In year 1 the Advisory Agency will meet:

Commented [PMK19]: I think these sections need to be fleshed out to explain what exactly the committee is doing – for example, is it pre-reviewing final reports? Is it reviewing and advising on the Auditor's audit plans? If so when

Commented [PMK20]: Would the committee also review and opine on other issues referred to it by the minister of finance/president of treasury board, or the auditor?

Commented [CV21]: Have we had any conversations with OIAD re: this plan/timeline – I think they are thinking that the CAC may play a more significant role in the VFM audit process

Commented [PMK22]: This would likely be done through amendments to the Auditor General Act but we will need to see more details about how exactly this committee will work and what

Commented [PMK23]: If you want this committee to be perceived as actually being independent, consider whether yoiu want to build in a requirement to consult (e.g. with the AG or

Commented [CV24]: Why legal?
HKD: think I was following wording from Pension Panel submission which talked of accounting, legal and pension experts

Commented [PMK25]: Be careful about getting directed to have too narrow a scope of membership on the committee – e.g. remember that you needed an actuary on the pension asset

Commented [PMK26]: I don't think there are 'legal experts in the field of public sector accounting and auditing standards', other than a couple of people in our branch and MOF legal.

Commented [PMK27]: Are the items in the bulleted list all areas that individuals actually need to have knowledge of? I'm thinking specifically of academia

Commented [PMK28]: Seems very specific to one historical issue if the committee is to have a more general mandate. I would be careful about restricting yourself to these areas in legislation.

Commented [PMK29]: I think we could deal with this better through a statutory requirement to keep information in confidence instead of an oath requirement, which is more symbolic.

Commented [PMK30]: Yopu won't know when the leg amendmnets might be introduced or passed, so I think you have to say something like "if the propoposed amendments are approved,

- Quarter 4: Audit Planning for Public Accounts Audit
- Quarter 2: Interim Meeting for Public Accounts Audit
- Quarter 3: Final Audit Report for Public Accounts Audit and Auditor General's Report
- Ad hoc if requested

The meeting schedule will be reviewed in year 2 and 3 as the Advisory Agency increases the scope of its work.

The Chair of the Advisory Agency may also call a meeting to review any matter at the request of either the AG or the President of the Treasury Board.

Advisory Agency members shall attend/participate in the meetings; no substitutes or alternates should attend in place of a member.

Reporting and Accountability:

The Advisory Agency must provide an annual report to Government regarding substantive matters dealt with and actions taken.

The Advisory Agency must disclose the charter and a summary of how they discharged the responsibilities contained in the charter.

The Advisory Agency must evaluate their performance annually.

Agency and Appointments Directive

Being an advisory body, the Advisory Agency must comply with the requirements of the Agency and Appointments Directive.

Impact on OPS or government operations

The Advisory Agency is anticipated to accelerate the timeliness of Public Accounts as it will provide a forum for discussion of contentious issues which should facilitate the resolution process resulting in a smoother Public Accounts Audit which is completed earlier.

NOTE: NOTE: Focus has been on the role of the Advisory Agency wrt Public Accounts, details of the impact wrt VFM audits and Special Reports will be fleshed out during the implementation phase.

IV Jurisdictional Scan

In the private sector, audit committees, as a sub-committee of the board of directors, have long provided oversight by offering objective advice and recommendations to the board of directors on whether the organization's governance, risk management, and internal control processes are suitably designed and working as intended to achieve its objectives.

Independent audit committees are now also being established within public sector organizations to meet increasing demands for transparency and accountability. Audit committees provide government with an independent source of assurance and advice on key aspects of its operations. The distinguishing feature of a public sector audit committee is its independence from management.

Commented [PMK31]: And the auditor, if the intent is to advise both bodies? Would the report be made public?
HKD: Yes (to advising both). Report should be made public - discuss further though

Commented [PMK32]: Can it take actions? I thought it was just advisory.
HKD: Refers to the actions of the committee itself, i.e. how they do their work. Will clarify wording

Commented [PMK33]: Not clear what this is.
HKD: Need to clarify the difference between Charter and Terms of Reference - but basically committee should publish what it objectives are and then assess itself against them

Commented [PMK34]: How would this work?
HKD: Need to discuss with COE and PAS

Commented [PMK35]: We'll try to get a student to fact check this by sometime next week if possible.
HKD: noted (and thanks!)

Alberta

Within Canada, only Alberta has a functioning, and long standing, Audit Committee, with a purpose similar to that set out above. Alberta's Auditor General Act stipulates the roles and functions of the Committee, and ensures that the government has insight into the AG reports before they are released.

Alberta's Audit Committee reviews and advises on both performance audits and the Public Accounts, specifically:

- Issues relating to financial statement presentation and disclosure, accounting policies and pronouncements, and non-financial performance information,
- Matters related to the AG's report to the Legislative Assembly prior to its publication and any other reports made by the AG,
- Any matters related to the financial affairs of the Crown in accordance with a request of the President of Treasury Board and Minister of Finance.

Alberta's Audit Committee plays an advisory role, and does not have decision-making authority. It has proven to be successful in bridging the communication between the AG and provincial government. In particular, the AG is very supportive of the audit committee and considers it to be helpful to both parties.

Commented [CV36]: Isn't the Provincial controller supportive as well – would be better to note both sides – and we should caveat that these opinions are based on our discussions with them.
HKD NOTED - will amend

Saskatchewan

The Provincial Audit Act in Saskatchewan mandates, and stipulates the roles and functions of the Audit Committee.

There is not currently an operating Audit Committee nor has one been appointed for many years, however, Saskatchewan is currently seeking to appoint new members.

Commented [PMK37]: We've quickly reviewed the Sask legislation and their committee doesn't seem to be analogous to what you are proposing – their committee is appointed exclusively by their public accounts committee, primarily for the purpose of advising that committee (although their minister of finance can also refer questions to it). Since you are proposing a quite different model (i.e. something under the control of the executive branch instead of the legislative branch), I suggest highlighting that distinction.

HKD: Noted - will revisit

Newfoundland and Labrador

Newfoundland and Labrador is currently developing a charter for its internal Audit Committee to include roles and responsibilities for: Internal Audit, Public Accounts, Advocacy, Ethics and Values, General Matters.

Canada

The Independent Accounting and Financial Auditing Advisory Committee provides advice to the Federal AG on his audits of the financial statements of the Government of Canada, Crown corporations, and various other public sector entities.

Members of the Committee are selected by the AG, who is the Chair, and the Committee members report as personal advisors to him.

International Jurisdictions

The available guidance for public sector audit committees is more limited than for businesses, however, some of the major accounting firms have published guidance for public sector entities that wish to form an audit committee. Much of the guidance is similar and all of the organizations publishing guidance recommend government entities use an audit committee.

In Australia, audit committees are considered a critical component of corporate governance.

This is reflected in the legislative requirements included in the Financial Management and Accountability Act, and the Commonwealth Authorities and Companies Act that require Australian Government public sector entities to establish an audit committee.

In New Zealand, the New Zealand Institute of Internal Auditors and KPMG published a survey of current practice characteristics in public sector audit committees in New Zealand (IIA New Zealand, 2005).

In the UK, public sector audit committee guidance is available through the Audit Committee Handbook (UK Treasury, 2007).

Although there is no all-encompassing legislation or regulation in the USA that requires audit committees in the public sector, several prominent USA professional organizations[1] recommend or encourage that audit committees be created for government entities.

V Options

The following options were considered:

Option 1: Creation of an Advisory Agency (Recommend)

Establishing the Advisory Agency through legislation provides the ability to give the Advisory Agency a mandate beyond simply advising the Government or a Minister. Key functions and powers of the Advisory Agency can also be included in the legislation, for example, the power to compel cooperation by the Auditor General and others, to specify timing of presentation of reports, etc.

Option 2: Create Expert Panels on a needs basis

An alternative is to establish an Expert Panel on an ad hoc basis when the situation demands to provide specific advice to the Minister.

The government recently made use of an expert panel - The Pension Asset Expert Advisory Panel. The risks with the creation of expert panels on as needed basis is the time required to recruit members to the panel and the fact that the AG would not be compelled to interact with the panel. While the AG did meet with the Pension Panel twice, she had communicated to TBS that she was not interested in having any interaction with the Panel.

Option 3: Status Quo

In the absence of either an Advisory Agency or an Expert Panel, the AG would continue her work as an independent officer of the legislature.

There has been increased tension in the working relationship between professional staff and the AG. In the absence of any change, the tension is likely to continue and the relationship with the AG may deteriorate further, resulting in more disagreements

[1] These include the Governmental Finance Officers Association (GFOA, 2008), the National Association of College and University Business Officials, the Institute of Internal Auditors (IIA, 2009), the Governmental Accountability Office, and the Office of Management and Budget.

and qualified audit opinions in the future.

Establishing the Advisory Agency is just one element of a wider TBS strategy to improve the working relationship with the AG.

Additionally, OIAD has been requested to prepare an analysis of potential opportunities to enhance public service collaboration with the OAGO, specifically as it relates to where OIAD/CAC/DMC may provide enhanced support. OIAD's analysis focuses on the AG's value for money (VFM) audit processes.

Recommendation

To amend to the Auditor General Act to establish an Advisory Agency to strengthen and improve the transparency and accountability of the government, serve as a vehicle for communication between the provincial government and the AG, and play an independent oversight and advisory role to assist both the government and Auditor General.

This is also in line with Alberta's Auditor General Act and The Provincial Audit Act in Saskatchewan which mandate the establishment of an Audit Committee (see section IV for further details).

Ontario would be the second jurisdiction in Canada, after Alberta, to establish such a body,

VI Financial Implications / Analysis

Per diems

Advisory Agency members will be compensated at market rates because of the time requirement expected of members and the ability to attract quality candidates.

The proposed per diem of $627 for the Chair and $491 for other members is above the maximum remuneration provided for part-time Advisory Agencies as set out in Schedule A of the Agencies and Appointments Directive.

Note: Waiting for confirmation from OIAD whether there are external members on CAC and what they are paid.

The proposed rates are in line with special advisors and appointees to short-term advisory boards for appointees with specific knowledge, and expertise/technical knowledge. Other experts sitting on Provincial Advisory Panels have been remunerated at similar rates including

- External members of the CAC are paid $1,500 per diem for the external Chair and $1,200 per diem for other external members. In addition to the annual required CAC meetings, a maximum of 10 additional days can be allocated towards committee commitments and requests at a per diem rate of $750 for Chair and $600 for other external members.
- Committee to evaluate drugs: $355-$1000 per diem, the Chair is on retainer.
- Building Code Commission: $398-$627 per diem.
- Physician payment review board: $398-$664 per diem.

Commented [PMK38]: Suggest replacing this with something more concrete about what the body will do.
HKD: NOTED

Commented [PMK39]: Per previous comment, I don't think that what you are proposing is that analogous to the Sask model.
HKD: Noted - will revisit

Commented [CV40]: Third?
HKD: Sask. has legal mandate but no comiittee

Commented [CV41]: They are – in my last CAC binder which is in my office or Shannon may have electronically.

Commented [CV42]: Should include rates for the Pension Panel as well – although I think the better comparator is the external CAC members

HKD: WIll do - both Pension Pensionn and CAC were much higher - $15,000-$2,000

- Ontario Financing Authority: Max $500 per diem.

The chair received a higher per diem than other members, as this person will likely have interaction with the media and must become fluent with all the aspects of the Advisory Agency. Any under-expenditure on per diem costs may be reallocated to procurement costs in the approved budget.

Commented [CV43]: I don't think this committee will have any exposure to the media – look at the write up re: the differentiation in the chair comp for CAC – presumably it relates to additional responsibilities re:running the meetings, etc.
HKD:Noted - will amend

Commented [CV44]: I don't think this applies to this type of appointment – assuming this was from the pension panel TOR
HKD: Yes it was from Pension Panel. Noted

Other expenses and costs

Advisory Agency members will be reimbursed for travel costs to attend the meetings, and other reasonable expenses incurred in connection with their duties in accordance with Treasury Board/Management Board of Cabinet Directives and Guidelines.

The Advisory Agency budget also includes a provision for ODOE, and for the procurement of services, including advice from such counsel, staff, or expertise considered necessary in the performance of its duties at reasonable remuneration approved by TB/MBC.TBS will follow TB/MBC Directives and Guidelines and other applicable government policies in obtaining these services.

Advisory Agency Support

The Province will identify two ministry staff to support the Advisory Agency:

- 1.0 FTE AFA21 Senior Policy Advisor
- 1.0 FTE OAD11 Administrative Assistant

Commented [CV45]: I don't think these are full time roles – what does CAC have?
HKD: Will check with CAC

The two staff members will work collaboratively with the Advisory Agency to provide information as requested/required, to conduct research as needed, to help write reports, and administrative support.

TBS will be responsible the costs of these individuals.

Annual Costs

Based on these rates, the total annual budget is estimated at $0.8M, which is comprised of:

	#people	**Per diem**	**# meeting / year**	**# days / meeting**	**Total Cost (rounded)**
Advisory Agency Costs					
Chair	1	627	4	15	38,000
Members	6	491	4	10	118,000
	Total Per Diems				156,000
	Travel Budget: 10% per diem per meeting				62.000
	ODOE Costs: 15% of per diems				23,000
	Total Budget: Chair and Members				241,000
Additional OPS Staff Costs – 2.0 FTE					
AFA21 Salary & Wages (mid-point scale)				94,000	

Commented [CV46]: I think 15 and 10 days per meeting look high – how did we arrive at these?
HKD: Placeholder - I made them deliberately high. More realistically I think 5-7 days: 3-5 days prep and 2 days for each meeting? But Per diems are likely to be higher if we're benchmarking to CAC and Pension panel.

	Employee Benefits at 15%	14,000	
			108,000
	ODOE at 15%		16,000
OAG11	Salary & Wages (mid-point scale)	56,000	
	Employee Benefits at 19%	11,000	
			67,000
	ODOE at 15%		10,000
Procurement Costs			400,000
	Total Estimated Annual Costs		**842,000**

NOTE: While $$ Costs will be managed within OPCD/TBS Budget, we will need approval for the 2.0 FTEs requested.

The budget is consistent with the goal of resolving complex and or contentious accounting issues earlier such that fiscal planning can be completed with more certainty regarding accounting issues.

Additional costs may arise for others:

- The AG is likely to incur some costs and may request additional funding
- Other ministries may also incur costs if they are required to be present at meetings, (e.g. if the Advisory Agency were focusing on VFM audits, the audited ministry would be at the meeting.)

OPCD/OTB will manage additional costs within their funding envelope. No additional funds will be required.

The costs for Option 2 will be higher than for Option 1, because of higher per diems for short term advisors due to the higher degree of pressure on an Expert Panel to thoroughly assess and provide advice on a short period of time.

Option 3 will incur no cost as no Advisory Agency will be established. Funds that would be directed towards the Advisory Agency will instead be directed to other TBS priorities.

VII Risks and Mitigating Strategies

Note: Cindy has had initial discussion with Communication, and we will be seeking their input on mitigating strategies.

Risks	Mitigating Strategies
• Establishing the Advisory Agency will be seen as an increase in bureaucracy and	• Establishing the Advisory Agency is in line with Best Governance

Commented [JL47]: Have you confirmed if you have accommodations room for these two FTEs? If not, you need to request the accommodations square footage.

Also, confirm that Cindy/Karen want to request additional FTEs instead of managing within OTB vacancy rate.

HKD: Noted – further

cost with little or no benefit to Ontario. • There is a contraindication in the government establishing a new Advisory Agency while, at the same time, trying to reduce the number of government agencies and boards etc.	practice • The costs of the Advisory Agency will be managed within the government's existing budget.
• The Advisory Agency may be seen as usurping authority from an independent legislative officer, and thus undermining the role of the AG. • Placing a legal obligation on the AG to cooperate and interact with the Advisory Agency may be seen as usurping authority from an independent legislative officer, and thus undermining the role of the AG.	• The Advisory Agency is an advisory body, and there is no requirement that the AG follow the Advisory Agency's advice • The AG retains independence to make own decisions.

VIII Performance Measurement

Note: Working to identify performance measurement items

IX Legislative and Regulatory Requirements

Note: Have had initial discussion with Paul Kaufman, Legal Services Branch. He is expecting to receive the draft Cabinet Submission for his review/comment shortly.

X Stakeholder Engagement

Note: Cindy has had initial discussion with Communication, and we will be seeking their input on mitigating strategies.

STAKEHOLDER	CONCERN / ISSUE	MITIGATING STRATEGY
Auditor General	• Unlikely to be supportive • May be seen as an attempt to hamper independence	• The Agency is an advisory agency, and the AG retains independence to make own decisions, as there is no requirement that the AG follow the Advisory Agency advice

Commented [PMK48]: Is this section more about the 'plan' to amend the existing framework?
HKD: Noted

Commented [PMK49]: Once we have a bit more clarity re: the workings of the body, we can say that the proposal is to amend the AG Act to (x,y,z) and to make any necessary consequential amendments to other acts
HKD: Noted.

		• Establishing the Advisory Agency is in line with Best Governance practices • May be possible to leverage support from both the controller and AG in Alberta to provide Ontario AG with a basis to support the creation of the Advisory Agency
Other Independent Officers of the Legislature: Ombudsman, Integrity Commissioner, Fairness Commissioner, Etc	• May be some concern that the Advisory Agency will impact the role of the AG, and similar bodies may be created to affect other Independent Officers of the Legislature	• The Agency is advisory body, like the Pension Asset Expert Advisory Panel established 2016/2017. • Establishing the Advisory Agency is in line with Best Governance practices.
Federal and provincial AGs	• Interest, rather than concern, regarding Ontario moving forward with a leading edge / best practice	• Establishing the Advisory Agency is in line with Best Governance practice. • Ontario will be the third province to enact legislation to establish an Advisory Audit Committee and the second province to establish one.
OPCD / OIAD	• Staff may have concerns regarding how the Advisory Agency will impact their work and relationship with the AG	• Establishing the Advisory Agency is in line with Best Governance practice. • The Audit Committee in Alberta works well for both staff and the AG and both parties consider it helpful.

Commented [PMK50]: You might want to note the fairly recent and very strong public adverse reaction that the government got when it pruned the powers of legislative offices in connection with the h1 spinoff.
HKD: Noted

Timeframe

Add in a timeframe section before recommendation.

i.e. TB/MBC date, LRC date, appointment date, etc.

XI Recommendation

Recommend approval to establish an Advisory Audit Committee, which would be an advisory agency of independent experts to provide specific advice to the Government of

Commented [JL51]: Will this be the name of the body in the legislation?
HKD: working title for now but yes will need a formal name.

Ontario and the Auditor General.

In this regard, the Board:

i) Recommend the Legislation and Regulations Committee of Cabinet approve an amendment to the Auditor General Act as follow:

   a. NEEDS TO BE ADDED.

ii) Recommend the Lieutenant Governor in Council approve a remuneration Order-in-Council for panel members of the Advisory Audit Committee.

Commented [JL52]: Need to summarize the changes...may be multiple points
HKD: Noted

Commented [JL53]: Confirm name of body...
HKD: Noted

XII Communication and Issues Management

NOTE : Cindy has had initial discussion with TBS communications (Sofie DiMuzio). They are expecting to receive the draft Cabinet Submission for review/comment shortly.

XIII Proposed Minute

Treasury Board/Management Board of Cabinet:

Commented [HKD54]: Wording provided by BPFM

Approve the establishment of the Ontario Advisory Audit Agency (NAME TBC);
In this regard, the Board:

a) Recommends amendments to The Auditor General Act to the Legislative and Regulations Committee;
b) Approves the Terms of Reference for the Agency;
c) Recommends to Cabinet an Order in Council remunerating the Chair at $xxx per diem, plus eligible expenses, the Vice-Chair (where applicable) at $xxx per diem, plus eligible expenses, and the other board members at $xxx per diem, plus expenses.

Appendix I: Roles & Responsibilities

NOTE: Working on completing the above table to make explicit the different roles of government, the AG and the Advisory Agency. Table will be 'back pocket' item or an appendix but including here while the paper is a WIP

	Government	Auditor General	Advisory Agency
Public Accounts			
Value for Money Audits			
Special Reports			

Appendix II: Member Competencies

NOTE: Working on competency map

Appendix III: Proposed Terms of Reference

Commented [HKD55]: This is template from AAD – need to include Terms of Ref from Meimei notes using these headings

The Agencies & Appointments Directive, 2015 (AAD) notes that Terms of Reference are considered more appropriate for advisory agencies, short-term advisory bodies and special advisors as their mandates are limited to providing the government with advice and recommendations and they do not have operational decision-making authority.

The Terms of Reference will include the following elements:

Mandate

Terms of Reference should include a clear statement of the advisory agency, short-term advisory body or special advisor's mandate, in sufficient detail to guide the work of the appointees. Mandate statements must be consistent with the provisions of the constituting instrument and the mandate approved by Treasury Board / Management Board of Cabinet for the entity.

Objectives, Deliverables & Critical Success Factors

Terms of Reference should include a clear statement of the entity's objectives. All deliverables should be listed in sufficient detail to guide the work of the appointees along with proposed due dates and any mandatory progress updates or check-in meetings.

Critical success factors for the objectives and deliverables should also be listed in this section.

Membership and Timing

Terms of Reference should include details regarding the following membership and timing information:

- *Composition (Chair, Vice-Chair, number of members).*
- *Method of appointment (OIC or Letter).*
- *Length of term of appointees.*
- *Appointees' roles (particularly the role of the chair).*

Ministry's role in providing administrative support

Terms of Reference should also outline any details regarding the ministry's provision of any administrative and staff support for the entity.

This section should specify the extent of any other administrative arrangements for the appointees, including:

- *expense reimbursements;*
- *provision of facilities and office equipment/supplies, and;*
- *other arrangements as applicable.*

Accountability Relationships

Terms of Reference should detail the lines of accountability between the agency, body or special advisor and the minister and among the appointees. Terms of Reference should also specify that the deputy minister is responsible for providing any required ministry support for the work of the entity.

Terms of Reference should detail the relationship and communications protocols (who contacts whom and with what frequency) between the minister, ministry and the appointees.

Terms of Reference should specify how the appointees are expected to work together to provide the deliverables required and detail any protocols to resolve disagreements that may be necessary.

Ethical Framework and Conflict of Interest Provisions

Appointees to advisory agencies are subject to the ethical framework including conflict of interest provisions set out in the Public Service of Ontario Act, 2006 (PSOA). Terms of Reference for advisory agencies should reference the obligations of appointees under the PSOA, including setting out the position responsible for being the agency's ethics executive (usually the chair).

Appointees to short-term advisory bodies and special advisor positions are not bound by the ethical framework and conflict of interest provisions set out in the PSOA however, they are strongly encouraged to conduct themselves in the spirit of the Act. The AAD lists ethical considerations for government appointees not subject to the in Section 2.2. Ministries are strongly encouraged to codify these by including them in the Terms of Reference.

Confidentiality and Intellectual Property Considerations

Terms of Reference should include any confidentiality and intellectual property considerations necessary.