METROLINX

Office of the President & Chief Executive Officer
Phil Verster
Phil.Verster@metrolinx.com
(416) 202-5908

June 24, 2020

Catherine Fife, MPP
Chair of the Standing Committee on Public Accounts
Legislative Assembly of Ontario
Toronto, Ontario M7A 1A2

Dear Mrs. Fife:

The Standing Committee requested that Metrolinx provides the Committee Clerk with written responses to the recommendations of the Standing Committee's February 2020 Report.

In response to these requests, please accept the attached document.

Sincerely,

Phil Verster
President and Chief Executive Officer

cc. Bonnie Lysyk, Auditor General of Ontario
Shelley Tapp, Deputy Minister, Ministry of Transportation
Ehren Cory, President and Chief Executive Officer, Infrastructure of Ontario
Jennifer Gray, Chief Financial Officer, Metrolinx
Greg Murphy, Director Internal Audit, Metrolinx

Appendix

Metrolinx responses on recommendations of SCOPA February 2020

Responses to Recommendations of SCOPA February 2020 Report

METROLINX – LRT CONSTRUCTION AND INFRASTRUCTURE PLANNING

(SECTION 3.07, 2018 ANNUAL REPORT OF THE OFFICE OF THE AUDITOR GENERAL OF ONTARIO)

<table>
<tr><th>Rec #</th><th>2020 SCOPA Report Recommendations</th><th>Responses</th></tr>
<tr><td>Rec # 01a</td><td>Metrolinx should:

Provide the Committee with a list of projects from the amended 2041 Regional Transportation Plan, in order of priority, as well as information on sources of funding, where available;</td><td>The 2041 Regional Transportation Plan’s (RTP) strategy #2 (Connect more of the region with frequent rapid transit) identified a full range of transit projects needed to meet growth in what was referred to as the Frequent Rapid Transit Network (FRTN). The 2041 RTP was approved by the Metrolinx Board in March 2018.

The April 10, 2019 Ontario Budget formally announced a commitment to the following previously un-funded rapid transit projects:
Eglinton West LRT Extension to Pearson Airport (RTP project #35);
New Ontario Line between Ontario Place/Exhibition and Ontario Science Centre (changes RTP project #39 “Relief Line Subway”);
Yonge Subway Extension to Richmond Hill (RTP project #40);
Extension of the Scarborough Subway to Sheppard Avenue (changes RTP project #13 Scarborough Subway); and
Extension of the existing Sheppard Subway to McCowan Road (changes RTP project #11 Sheppard East LRT).
In the Fall of 2018, Metrolinx began working with municipal stakeholders and the Ministry of Transportation to develop and implement a Prioritization Framework for building the evidence around almost 70 unfunded rapid transit projects from the 2041 RTP’s FRTN. Municipal stakeholders, which were engaged through over 15 sessions, provided constructive feedback that has helped to guide the development of the Framework and evaluation process. The Framework was built around three fundamental criteria: value for money, optimizing network connectivity, and readiness for implementation.

At its February 20, 2020 meeting, the Metrolinx Board endorsed the Advancing Transit Priorities Prioritization Framework and its results as a consistent annual approach to build an early evidence base to inform business case sequencing for unfunded projects. The Prioritization Framework, Board presentation, and Board Resolution is publically available here:
http://www.metrolinx.com/en/docs/pdf/board_agenda/20200220/20200220_BoardMtg_Advancing_Transit_Priorities.pdf

The requested project information can be found within the public Prioritization Framework in the link above:
Figure 2 identifies and maps all 2041 FRTN projects
Figure 3 identifies and maps all projects with formally announced funding
Table 6 and Figure 16 summarize the 2019 Prioritization Framework’s results, including each project’s score and priority group (i.e. High, Medium, or Refine & Monitor).</td></tr>
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Rec #	2020 SCOPA Report Recommendations	Responses
Rec # 01b	Metrolinx should: Periodically report to the Ministry of Transportation and the general public on the progress of the plan; and	The 2041 Regional Transportation Plan (RTP) is a blueprint for creating an integrated and layered transit network that provides comprehensive regional transit connectivity; publically available link found here: http://www.metrolinx.com/en/regionalplanning/rtp/ As noted in the response to recommendation 01a, Metrolinx has developed a Prioritization Framework for the unfunded components of the Frequent Rapid Transit Network from the 2041 RTP. The Prioritization Framework publically reports on the status of RTP's network, identifying funded projects and un-funded projects that are subject to prioritization. The Framework was endorsed by the Metrolinx Board as a consistent annual approach to build an early evidence base to inform business case sequencing for unfunded projects. Through this process, the Framework's annual review will regularly report on the status of the RTP's network to the Ministry of Transportation and the general public. The Prioritization Framework is described publically with links to the detailed Board report, Board presentation, and Board Resolution on the Metrolinx website at: http://www.metrolinx.com/en/regionalplanning/projectevaluation/projectprioritization/project_prioritization.aspx
Rec # 01c	Metrolinx should: Publicly release the prioritization framework guiding Metrolinx's infrastructure project selection process.	The Prioritization Framework, Board presentation, and Board Resolution is publically available on the Metrolinx website at: http://www.metrolinx.com/en/docs/pdf/board_agenda/20200220/20200220_BoardMtg_Advancing_Transit_Priorities.pdf
Rec # 02a	Metrolinx should: Answer the 61 questions presented by the City of Toronto in response to the 2041 Regional	Metrolinx has been working very closely with the City of Toronto and the TTC on the subway program, and we're thrilled the city has not only been at the planning table, but also endorsed the plan to move the subway program forward with a resounding 22-3 vote in favour at city council.

Rec #	2020 SCOPA Report Recommendations	Responses
	Transportation Plan and share the answers with the Committee;	That vote at council was built on the collaborative work the city, TTC, the province and Metrolinx are doing together to move all the subway projects along as quickly as possible, as requested by Toronto Mayor John Tory. The report from Toronto City Manager Chris Murray in October endorsed the work that's already been done and how the subway program team is moving the projects forward. These reports and the endorsement of the work Metrolinx and the province have done all came months after the 61 questions were sent to the province in April 2019. When the questions were sent, Metrolinx had not yet published the Ontario Line Initial Business Case. Metrolinx and Infrastructure Ontario are working together to deliver the Ontario Line and released the Initial Business Case for the project in July 2019. With the business case in the public domain, the city manager reporting out on the Ontario Line and the other subway lines that are part of the program, and city council endorsed the plan, we are in an excellent go-forward position. The important questions have been answered. The business cases address the concerns about ridership, economic benefits and community impact to a much deeper level than the 61 questions posed by the city. The Initial Business Cases clearly shows the work done to date and how we're moving forward, taking the reader far beyond the scope of many of the questions asked about Ontario Line. The Ontario Line Initial Business Case is available at Metrolinx website at: http://www.metrolinx.com/en/regionalplanning/projectevaluation/benefitscases/20190725_Ontario_Line_IBC.PDF
Rec # 02b	Metrolinx should: Develop an action plan to identify and address the growing connectivity needs of the Greater Toronto and Hamilton Area (GTHA) regional transportation network	The lost connections referenced by the audit are the Eglinton Crosstown LRT's westward extension from Weston to Pearson Airport, an east-west rapid transit connection between the Finch West LRT and the Sheppard subway, and the Hurontario LRT's northward extension from Steeles to downtown Brampton. One of the three projects with a "lost connection" referenced was the Eglinton Crosstown LRT's westward extension. Funding for this project was announced as part of the province of Ontario's April 2019 Budget. A separate action plan is not required since Metrolinx and Infrastructure Ontario are working together to deliver the project. As described on the Eglinton Crosstown West Extension website, planning for the project continues, including due diligence work, further refining the design and engineering work and seeking environmental approvals.

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	as a whole, given that previously envisioned connections have been lost with changes in transit project plans;	The Prioritization Framework and its resulting High scoring, Medium scoring, and Refine & Monitor groups serves as an "action plan" for progressing un-funded projects through Metrolinx business cases. This includes the remaining two projects with "lost connections" and the broader range of un-funded RTP projects across the GTHA. Connectivity needs are assessed through 2 of the 3 metrics in the Framework's Network Optimization Criteria (see Criteria 2. Contribution to Network Optimization – Connectivity in Appendix C of the Prioritization Framework). Connectivity and lost connections are an important factor but they need to be balanced alongside other considerations like value for money and future readiness when prioritizing and evaluating across the suite of nearly 70 un-funded projects across the GTHA. The Framework's Annual Review means that Metrolinx will be continuously looking at expanding and restoring network connectivity. This will include any future cases where project funding constraints may cause a project to be partially implemented. The Prioritization Framework's results for the two remaining un-funded projects with "lost connections" can be found under: • Project 62: Hurontario LRT North Extension (Steeles Ave to Brampton GO) • Project 76: Finch West LRT East Extension (Finch West Station to Finch Station)
Rec # 02c	Metrolinx should: Update its prioritization framework to guide the delivery of the projects identified in the 2041 Regional Transportation Plan;	In the fall of 2018, Metrolinx began working with municipal stakeholders and the Ministry of Transportation to develop and implement a prioritization framework for building the evidence for unfunded rapid transit projects in the 2041 RTP. In February 2020, the Metrolinx Board endorsed the Advancing Transit Priorities Prioritization Framework and its results as a consistent annual approach to build an early evidence base to inform business case sequencing for unfunded projects. The Prioritization Framework, Board presentation, and Board Resolution is publically available here: http://www.metrolinx.com/en/docs/pdf/board_agenda/20200220/20200220_BoardMtg_Advancing_Transit_Priorities.pdf

Responses to Recommendations of SCOPA February 2020 Report

Rec #	2020 SCOPA Report Recommendations	Responses
Rec # 02d	Metrolinx should: Prepare and propose a funding strategy for approval by the Province and municipal governments;	Metrolinx uses business cases to build evidence and to make the case for seeking capital funding in coordination with the Province through the Ministry of Transportation. Securing long-term funding for capital projects through the provincial government is governed by the capital planning and funding process where Metrolinx is required to annually submit, through Multi-Year Planning, a rolling 10 year capital plan, a rolling 5-year operating expense plan, and a more detailed 1 year Business Plan to the Minister for approval, outlining Metrolinx's projects and priorities in the coming year. Through the annual Multi-Year Planning process, Treasury Board Secretariat (TBS) and Ministry of Finance prepares a 5-year operating expense plan and 10-year capital expense plan for the Province. As a government agency, Metrolinx's budget plan is included as part of the Ministry of Transportation (MTO) budget submission and therefore follows the requirements of the Province with a 5-year operating expense plan and a 10-year capital expense plan. To prepare for submission to MTO, Metrolinx's budgeting starts earlier (July/August) than the provincial budgeting cycle, and is due to MTO (October/November) prior to the Ministry submission deadline to TBS. The submission outlines new requests or changes to already existing projects including detailed buildup to all forecasts. Metrolinx's proposed plans are reviewed and approved by the Metrolinx board prior to formal submittal to the Ministry. Once Metrolinx's proposed plan is reviewed and approved by the Ministry, the consolidated submission is evaluated by TBS, and TB/MBC provides a decision (spring of the presiding year). Following this, the Ministry of Transportation sets out the expectations and priorities for Metrolinx via a mandate letter. As a reflection of the mandate, the Ministry also formally communicates the agency's approved allocations via the budget letter. In the past these include progressing in the implementation of priority rapid transit projects, continued delivery of PRESTO and GO Transit services, ensuring value for money and meeting accountability and transparency best practices. These priorities, along with other key policy directions such as the Metrolinx Strategic Objectives and other government's public transit commitment, shape the strategic themes for Metrolinx's approved plan. The FRTN Prioritization Framework's project evaluation results will also continue to provide a publically available summary of Metrolinx's project analysis, which will be one input that will inform the prioritization for business case analysis. Through the Metrolinx Benefits Management and Stage Gate process, business cases will be developed for Ministry of Transportation review and consideration through the capital planning and funding process discussed above.

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Rec # 02e	Metrolinx should: Prepare an action plan with execution timelines correlated with the funding strategy; and	Metrolinx's annual Business Plan and rolling 10-year Capital Plan process sets out the overall funding strategy for provincially funded capital projects that are planned and delivered by Metrolinx. During the annual planning process, forecasts would be based on detailed analysis of existing contractual commitments, procurement plans, and schedules. For new and existing projects that have not yet reached the tender stage, the forecasts should be based on cost estimates broken down by project components and phases, procurement plans, and preliminary schedules. These details are provided to the Ministry through standard ministry templates and Q&As developed as part of Metrolinx's rolling 10-year Capital Plan to the Ministry of Transportation. After review and approval by the Minister of Transportation, these are consolidated as part of the Ministry's submission to TBS. Metrolinx will continue to evaluate and group all un-funded projects from the 2041 RTP using the Prioritization Framework and prepare empirical business cases for Ministry of Transportation consideration.
Rec # 02f	Metrolinx should: Publicly report on its status in meeting this action plan.	The Metrolinx Business Plan is prepared with collaboration across the organization and the Ministry of Transportation staff. In accordance with its mandate to assist the Board of Directors of Metrolinx in fulfilling its oversight responsibilities with respect to financial reporting, the Audit, Finance and Risk Management (AFARM) Committee reviews the Business Plan. Subject to the Audit, Finance and Risk Management Committee's advice, the Board of Directors is responsible for reviewing and providing comments on the Business Plan. Once the Business Plan is approved by the Board of Directors, it will be sent to the Ministry of Transportation for approval. In addition, Metrolinx regularly and publically reports on the status of funded and in-flight projects through the Capital Project Group Quarterly Report at each meeting of the Metrolinx Board of Directors. Additionally, in February 2020, Metrolinx began to publically report on the results of the Prioritization exercise. The Prioritization Framework's application will be an annual exercise.

Responses to Recommendations of SCOPA February 2020 Report

METROLINX – LRT CONSTRUCTION AND INFRASTRUCTURE PLANNING

(SECTION 3.07, 2018 ANNUAL REPORT OF THE OFFICE OF THE AUDITOR GENERAL OF ONTARIO)

Rec #	2020 SCOPA Report Recommendations	Responses
Rec # 03a	Metrolinx should: Evaluate whether its current use of consultants is justified and adjust where appropriate to reduce the dependency on a single consulting firm;	Metrolinx undertook a re-examination of its use of integrated contractor staff in 2019 before the incumbent owners engineer and program management (OE/PM) services provider's contract was extended. At that time, Metrolinx's overall spend on professional services overhead (e.g. project management labour costs from its own staff, embedded OE/PM contractors and specialist technical advisors) was benchmarked against other major North American projects and found to be very lean by international standards. With the amendment value included, Metrolinx's spending on the incumbent OE/PM firm's services for fiscal years 2019-20 to 2022-23 would represent 1.6% of the corresponding construction value forecast to be supported by those services; total expenditure on Project Management and Construction Administration (including the contractor and Metrolinx's own staff costs) would be 5.2% of that value. This compares favourably with the findings of a Transportation Research Board study of 51 light rail and heavy rail projects completed between 1974 and 2008 where the equivalent figure averaged 15.1%. Other options evaluated including closing out the current contract and re-procuring all or part of the OE/PM services via a new tendering process, and pursuing an extension of the existing contract more or less as-is. Metrolinx management concluded, with the board's concurrence, that the appropriate strategy was to extend the incumbent's contract with an amendment value that was premised on a phased reduction in reliance on the firm and an orderly process of transferring responsibilities to Metrolinx/IO staff and/or other service providers. By negotiating the extension, Metrolinx was able to obtain several other key benefits, including revised terms and conditions that addressed recommendations of the Auditor General. These included the vendor agreeing to place a portion of their billings at risk against meeting performance targets, a removal of the prime's ability to mark-up subconsultant costs and defining maximum hourly billing rates for each position category. Later in 2019, Metrolinx added responsibilities for delivery of the provinces new subway project commitments to its overall program of capital projects. Rather than extend all responsibilities for OE/PM services for these projects to the incumbent, it elected to conduct a separate procurement for a narrower suite of subway-specific project controls resources.

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Rec # 03b	Metrolinx should: Establish the scope of work and budget before hiring consultants and use this to assess proposals from bidders;	Metrolinx, through its partner Infrastructure Ontario, recently conducted a procurement for project controls services to support the Subway Program. Rather than extend all responsibilities for OE/PM services for these projects to the incumbent, it elected to conduct a separate procurement for a narrower suite of subway-specific project controls resources. A process as described above was used.
Rec # 03c	Metrolinx should: Conduct a request-for-proposal process to procure defined program management services;	Metrolinx, through its partner Infrastructure Ontario, recently conducted a procurement for project controls services to support the Subway Program. Rather than extend all responsibilities for OE/PM services for these projects to the incumbent, it elected to conduct a separate procurement for a narrower suite of subway-specific project controls resources. A process as described above was used.
Rec # 03d	Metrolinx should: Before extending contracts, evaluate and document whether it would be more appropriate to re-tender and/or use in-house staff;	Metrolinx undertook a re-examination of its use of integrated contractor staff in 2019 before the incumbent owners engineer and program management (OE/PM) services provider's contract was extended. Other options evaluated and documented including closing out the current contract and re-procuring all or part of the OE/PM services via a new tendering process, and pursuing an extension of the existing contract more or less as-is. Metrolinx management concluded, with the Board's concurrence, that the appropriate strategy was to extend the incumbent's contract with an amendment value that was premised on a phased reduction in reliance on the firm and an orderly process of transferring responsibilities to Metrolinx/IO staff and/or other service providers. The recommended approach was identified as preferable to the alternatives for several reasons, most notably:

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		• Schedule: The incumbent firm is integrated on the project teams where several such as the GO Expansion OnCorr procurement and the Hurontario LRT were at key stages of their delivery not conducive to a vendor change. A change in service provider at that particular time would disrupt and likely delay projects. • Performance: The incumbent firm had obtained positive vendor performance reviews and was re-endorsed by management to the Board at that time. • Value: The incumbent firm's existing hourly rates were confirmed as in line with market pricing. Given the high degree of capability required to provide program-level OE/PM services for a capital projects portfolio as large and complex as Metrolinx's, conflict of interest considerations for firms engaged in the Metrolinx program in other ways, and a trend of consolidation in this sector, relatively few potential bidders were identified. Based on current market conditions and the incumbent's perceived strong position, a new procurement was not expected to obtain competing bids that would have matched the incumbent in capability while also beating it on price. There was a distinct risk that the incumbent would win a re-procurement while raising their prices. • Reliance Reduction: the chosen path reduced reliance and the number of consulting firm staff for simpler tasks and transfer knowledge to Metrolinx staff. • Leverage: The extension provided an opportunity to secure amendments to the contract to implement recommendations of the Auditor General.
Rec # 03e	Metrolinx should: Periodically review contractor records and assess contractor performance; and	Metrolinx has enhanced the contract terms with the incumbent firm holding the OE/PM contract as well as implemented an Agency-wide Vendor Performance Management Program. The Vendor Performance Management process provides ongoing vendor evaluation. Ongoing poor vendor performance may lead to vendor termination and their exclusion from the tender process for a specified period. The incumbent OE/PM Firm has been subject to this framework for some time and has been evaluated every 6 months as part of this process. As part of its 2019 amendment of the contract with the OE/PM vendor, Metrolinx was able to obtain enhanced contract terms, one of which improves the level of accountability for the firm's performance. This initiative allows Metrolinx to apply payment holdback to their invoices under the contract if their performance is not satisfactory, as measured by key performance indicators ("KPI"s). The following eight KPIs were agreed upon with the Consulting Firm in March 2020:

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		• lost time injury frequency • annual work plan expenditures • additional work expenditures • timely drafted invoices • gender balance • timely resource provision • timely submission of task plans • timely completion of deliverables
Rec # 03f	Metrolinx should: Use the competitive bidding process instead of sub-consultants, where possible.	A new process called "Subconsultants Approval Process for Project Management Services Contracts", for using Subcontractors under this contract has been developed and deployed, and communicated to the prime consultant (the Consulting Firm). The new Capital Projects Group Subconsultant process contains the following key controls, which have been designed to ensure that the use of a Subconsultant is warranted under a primary consultant contract: • A detailed request is reviewed by the MX Contract Administration team in order to determine whether in-house expertise is available within the Consulting Firm for the proposed Subconsultant work. • Senior Management in CPG reviews and approves all additional work requests that are beyond the approved Annual Work Plan. • The MX Contract Administration team reviews rate and time validation. The project team must also review and approve since these additional costs will be assigned against their budget.
Rec # 04	The Ministry of Transportation should direct Metrolinx to stop renewing contracts with companies that perform	The Ministry of Transportation continues to work with Metrolinx on vendor management, including the performance of vendors. The ministry meets regularly with Metrolinx's Capital Projects Group and with project management teams to discuss progress and issues on specific projects, including vendor performance. In addition, Metrolinx is also required to seek government approval via TB/MBC prior to any financial settlements with vendors that create future project pressures.

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	poorly on the vendor performance review;	Metrolinx has indicated to the ministry that they have developed a robust vendor management program that regularly reviews performance of vendors by contract and ensures collaboration exist between Metrolinx and vendors to resolve performance issues. The ministry understands that this program allows Metrolinx to resolve commercial issues with existing vendors collaboratively with minimal disruptions to project schedule and project cost escalation (i.e., delays), and allows Metrolinx to preclude poor performing vendors from the procurement process (e.g., bidding, awarding). Part of this process includes a vendor decertification process where a vendor's right to participate is revoked which precludes them from participating in the competitive or negotiated procurement process. This revocation also extends to a Vendor's capacity to participate as a subvendor or subject matter expert. In addition, Metrolinx has advised the ministry that it continually reports to the Metrolinx Board of Directors on its evaluation of vendors in various categories such as historical performance, quality of work and participation in the process, financial management, owner's satisfaction, safety, etc. The Ministry will continue working with Metrolinx on enhancing oversight in this regard including options to issue directives to the agency under Section 31(1) of the Metrolinx Act, 2006.
Rec # 05a	Metrolinx should work with the AFP consortium to: Promptly resolve issues identified by Metrolinx's technical advisors and the Toronto Transit Commission (TTC) regarding designs that do not meet project requirements and specifications;	The Project Agreement requires completed work to pass the inspection of an Independent Certifier. If designs do not meet project requirements and specifications, the substantial completion payment will not be released to the AFP consortium until the issue is resolved. Under the selected delivery model for the project, this, and not in-flight intervention by the owner, is the primary commercial mechanic that strongly incents the consortium to develop and build an innovative design solution that is in full compliance with requirements and specifications. Metrolinx's senior management meets monthly with the AFP consortium to discuss progress made and raise any issues or concerns. Metrolinx maintains a register of issues identified and raises them at these meetings until closed. On October 30, 2018, Metrolinx wrote to the AFP consortium to restate the need going forward to ensure that project designs meet project requirements and specifications and requesting that a working group meeting be convened with them related to improving their design submissions process. This meeting occurred and provided an opportunity to engage the AFP consortium in knowledge transfer and lessons learned to improve design submission protocols.

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		Metrolinx has continued to work with the AFP consortium to bring to its attention issues identified by our project team. Metrolinx has made clear that those issues must be addressed as part of the process for the AFP consortium delivering a project which is compliant with project requirements and certified as such by the Independent Certifier.
Rec # 05b	Metrolinx should work with the AFP consortium to: Minimize the number of partial design reviews and approvals by Metrolinx's technical advisors and the Toronto Transit Commission (TTC); and	As permitted by the project agreement, Metrolinx has continued to encourage the AFP consortium to submit its designs in a size and sequence that optimizes the design process and conserves the resources of all parties. In the particular case of construction in close proximity to Toronto Transit Commission assets, Metrolinx will continue to enforce the specific design review and approval provisions that were included in the project agreement.
Rec # 05c	Metrolinx should work with the AFP consortium to: Design future contracts with provisions to avoid substantial penalties.	Metrolinx introduced enhanced delay penalties for its vehicle contract with Light Rail Vehicle supplier. Section 5 of the Contract Amendment between Metrolinx and its Light Rail Vehicle supplier for the Eglinton Crosstown LRT has been amended to include liquidated damages. For the Hurontario LRT, a vehicle drop-down agreement has been signed by both Parties; this agreement protects Metrolinx from the risk of additional costs that might arise from interface risks between the vehicle supplier and the winning AFP consortium since the risk has been offloaded in the Procurement process.

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Consult regularly with relevant stakeholders on cost estimates as part of the budget-setting and cost-monitoring process;</td><td>An enhanced process and oversight mechanism was implemented in 2019 to ensure collaboration with relevant stakeholders. The Governance framework, which was developed in collaboration with the City of Toronto, TTC and MTO reflects the number of regional transit programs in delivery, such as GO Expansion, LRT and Subways Program. The governance framework between the four organizations was designed to support:

• streamline intergovernmental relationships with respect to delivery of capital programs and projects that impact transit expansion;
• ensure close collaboration on governance, finance, operations, and policy and planning initiatives; and
• identify, escalate and resolve intergovernmental delivery issues effecting steady state capital programs.</td></tr>
<tr><td>Rec # 06b</td><td>Metrolinx should:

Provide a valid reason for the $237 million settlement with the consortium; and</td><td>The claim settlement reached with ProjectCo in 2018 was to settle claims raised by CTS for costs incurred by it up to the settlement date resulting from matters that it asserted were either the sole responsibility of Metrolinx or the shared responsibility of CTS and Metrolinx. Metrolinx used a portion of the project contingency fund (which is included in the Treasury Board approval for the project) to pay for the settlement.

In order to assess the validity and merit of each claim and the monetary value that should properly be attributed to it, Metrolinx undertook and completed an independent assessment of each claim principally to determine (i) whether or not the claim had validity and was likely to succeed if adjudicated, and (ii) if the claim was found to have merit on the balance of probability, to what extent was Metrolinx responsible. Percentages (ie did CTS have a 50% or greater likelihood to succeed) and amounts (ie what actual damages/money would CTS be entitled to if it succeeded) were assigned to each claim. It is important to note that the parties have an obligation to address claims when they arise through a carefully articulated dispute resolution process in the contract. They each have a duty to mitigate and to do their best to find solutions so that the issues giving rise to the claims are solved rather than exacerbated.

The assessment of each claim took into account not only the Contract language itself and the exact obligations of the parties, but also the ultimate impact of the matters raised by CTS on the scheduled completion date and the overall cost to Metrolinx of not settling the claims quickly and moving forward with the project to completion.

On the foregoing basis, considering the probability of CTS's success and Metrolinx's liability on each claim, the conclusion was that Metrolinx's potential liability and exposure on the claims exceeded the settlement amount of $237 million. Metrolinx is confident that the settlement represented the best value to taxpayers and the Province.</td></tr>
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<tr><td>Rec # 06c</td><td>Metrolinx should:

Explain what steps have been taken to ensure that cost overruns and delays are not repeated, and make the information public.</td><td>Metrolinx continues to hold regular meetings with the Project Co to ensure it promptly learns of potential events. Since the settlement agreement in 2018 there have been numerous improvements in actively managing the project to protect Metrolinx’s commercial interests and managing potential risk events. These include:

1. A resource loaded work schedule so physical progress can be measured and compared to plan each month; this allows the team to identify the need for mitigation
2. Float movement- this measures where there has been deterioration and/or improvement; this also informs the team to identify mitigation requirements
3. Development of a 'Heat Map' indicating area of the project on the critical path or close to the critical path
4. Monthly Works Committee meetings are now better structured to talk about progress and understand mitigation - these meetings are minuted to an improved level detail
5. Monthly Executive meetings between senior executives from ProjectCo and Metrolinx</td></tr>
<tr><td>Rec # 07</td><td>The Ministry of Transportation and the Treasury Board Secretariat should obtain all supporting documentation relating to a financial settlement, and sign off on any financial settlements before they occur.</td><td>The Ministry has worked with Metrolinx to establish a formalized process for resolving settlements. As MTO and Metrolinx proceed to implement current and planned major transit infrastructure projects, it is anticipated claims will be brought forward by the project contractors. Metrolinx has indicated to the ministry that in cases of claim settlements, Metrolinx is required to negotiate in good faith and under tight timelines, often with a requirement to sign an agreement-in-principle upon completion of negotiations. Metrolinx has advised that this process is not atypical to any commercial negotiation process; however, being a government agency, Metrolinx does not have the authority to bind the government to financial commitments without TB/MBC approvals.

Metrolinx will approach future claims that cannot be managed from within (i.e., material claims) using the following process:

1. Metrolinx will inform the Minister of Transportation and the Deputy Ministry of Transportation through weekly touchpoints on material claims, if any, on Metrolinx transit projects that are anticipated to enter into settlement negotiations within a six month period.

2. At a minimum of two weeks prior to formal settlement negotiation of the claim, Metrolinx will provide written notice to the Minister of Transportation and the Deputy Minister of Transportation outlining the negotiation strategy and the value and basis of the claim. This</td></tr>
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		update will contain Metrolinx's assessment on likelihood of the claim to cause financial pressure beyond the provincially approved Project Budget and appropriation envelope. 3. If Metrolinx is not able to dismiss the claim but is able to manage the settlement amount of any claim from within the project budget, and settling does not create future project pressures, Metrolinx may proceed to settle the claim while keeping MTO informed. 4. If Metrolinx is not able to dismiss the claim and is not able to manage the settlement amount of any claim without causing a financial pressure on the project, MTO and Metrolinx will seek TB/MBC approval on a settlement agreement prior to execution.
Rec # 08a	Metrolinx should: Clarify its commitment to the electrification of the GO rail network; and	Metrolinx is committed to bringing electrified trains to the GO rail network as part of a broader investment to bring faster and more convenient service options to the region's travellers. We have clear plans and firm funding support from our shareholder to get us there. GO Expansion is underway now–we increased services by an incredible 33%–an increase of more than 400 GO train weekly trips–in the two years prior to the imposition of temporary COVD-19-reated service reductions. Infrastructure improvements, which would enable electrification, continue to advance even during this uncertain time. As of March 31, 2020, over $4B of our $10.5B GO Expansion Early Works had already been invested in hundreds of projects large and small. The next phase means even more expansion with new technology and new infrastructure that will allow for even more service enhancement. Metrolinx and Infrastructure Ontario are currently in an active procurement for the design, construction, operation and maintenance of electrification, track, signals and fleet for the remaining elements to complete GO Expansion, referred to as the On-Corridor Works contract (or "OnCorr"). Through this procurement process, we are looking to the private sector to propose innovative approaches to meet the future GO Transit rail service levels that are outlined in the GO Expansion business case. This includes their chosen technology to electrify trains. Metrolinx's thinking, as contained in the Reference Concept Design we have provided to OnCorr bidders, is that this will be achieved by a 25 kV overhead catenary system installed across core segments of the network.

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		To support the GO Expansion program, Metrolinx has identified various infrastructure requirements including track and switches, layovers, and electrification to achieve established service level targets across the network. New infrastructure involves carrying out Environmental Assessments (EA) and EA Addendums under the Transit Project Assessment Process (TPAP) (Ontario Regulation 231/08).
Rec # 08b	Metrolinx should: Set a clear timeline for the electrification of the GO rail network, specifying when each GO line will be electrified;	As noted above, as part of the procurement for GO Expansion program, the procurement for the design, construction and maintenance associated with Electrification is currently in-market and bidders are actively developing their solutions as of this writing. The timelines associated with the electrification of each corridor will be provided by the Preferred Proponent in parallel with overall OnCoor timelines. The procurement incents bidders to implement electrification quickly by evaluating the proponents submission based on the ability to achieve the largest benefits as soon as possible in line with the GO Expansion Full Business Case.
Rec # 09	Metrolinx should: Provide the Committee with details on how Metrolinx is structuring agreements with private sector developers, and make this information available to the public;	Since December 2018, Metrolinx and Infrastructure Ontario have advanced a Market Driven approach to the delivery of station infrastructure through Transit Oriented Development (TOD), now referred to as Transit Oriented Communities (TOC). This approach enables Metrolinx to leverage third-party investment to reduce public funding for transit expansion and offer new opportunities to deliver more transit services faster and at a lower cost to taxpayers. The TOC Program applies to the Greater Golden Horseshoe transit network and addresses four work streams: (1) market-driven third-party funded; (2) joint development; (3) dispositions; and (4) connections. The TOC Program creates opportunities to work with the private sector to extract value as a result of public investment in transit. Metrolinx attends a number of industry events (conferences, speaking engagements, etc.) to stay connected and current in the real estate development market. We have also, with the help of the Urban Land Institute (ULI), arranged a series of industry roundtables to discuss TOC opportunities. Last spring, Metrolinx openly solicited third party interest for new GO rail stations in and around 12 locations identified through business cases. Landowners/developers within 800m of a proposed site were contacted directly and invited to submit an expression of interest. Metrolinx and Infrastructure Ontario together have successfully fostered a pipeline of Market Driven TOC prospects, and over the last year have put in place the processes and systems that can enable more responsiveness to the development industry. Metrolinx and Infrastructure Ontario have also demonstrated the ability to be a trusted business partner with the development industry. There are a number of TOC transactions that are in active negotiations or have already reached the conditional or binding agreement transaction stage. In all instances, a negotiation strategy

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		for these transactions has been employed using consistent terms, in accordance with TOC governance, to ensure that Metrolinx operations, infrastructure, and customers are protected and that a fair exchange of value is achieved for all parties. For Market Driven TOC opportunities, the TOC program has established an intake process, including a Conflict of Interest (COI) standard operating procedure. When a third party approaches Metrolinx with a Market Driven TOC opportunity, Metrolinx follows the TOC In-take Process to determine whether there is a viable TOC opportunity, to assess the viability of the potential partner, to evaluate which work stream the opportunity falls within, and a valuation to determine whether an opportunity demonstrates a fair exchange of value. A robust COI process has been developed to ensure that any COI between a potential third party development partner and provincial officials, including Board members, staff or external stakeholders are identified, and that the appropriate processes are developed. For Joint Development and Dispositions, Metrolinx and Infrastructure Ontario have brought development opportunities to market through real estate brokers through a competitive and transparent process to ensure maximum exposure to the development industry, fairness, and to incite maximum competitive tension, all of which positively drive value for the Province. To ensure Metrolinx's requirements and standards for infrastructure are met, a Metrolinx Asset Protection Package (MAPP) is provided to third parties delivering infrastructure on Metrolinx's behalf. The MAPP ensures there is a consistent and clear approach to how Metrolinx works with third parties, while also providing project specific infrastructure requirements as needed for each transaction. Third parties will be required to deliver Metrolinx infrastructure in accordance with the MAPP, which includes the process by which Metrolinx will review designs and construction plans for compliance. TOC transactions requiring capital funding fall under the unified governance and approvals structure set out by the Metrolinx Capital Project Approvals Policy (Feb 2019). Under this policy, there are up to three governance bodies that review and approve of TOC proposals: 1. The Metrolinx Investment Panel - consists of CEO, CFO, CPO, COO, CCO, DCCO, and General Counsel 2. The Metrolinx Board of Directors 3. Provincial Treasury Board/Management Board of Cabinet (TB/MBC) through Ministry of Transportation (MTO) The Investment Panel is Metrolinx management's accountable governance body for benefits management of TOC proposals that require capital funding, which are reported into the Metrolinx Board of Directors for approvals. Under this governance body, the business cases for TOC

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		proposals have been reviewed for their alignment with the broader service network prior to authorization to proceed. Investment Panel and Board Memos provide recommendations based on an assessment on various factors such as the business case analysis, options on commercial/procurement structures, funding status, potential risks and interface with other parts of the organization. Metrolinx is currently working to advance a TOC framework that is specific to the GO Rail and LRT programs and it will set out the principles that will form the basis for all future transactions. Currently, Market Driven and Joint Development TOC transactions are subject to TB/MBC approval prior to formal execution of the binding agreement with the developer(s). For these streams, the Investment Panel and Metrolinx Board of Directors must review and approve the transaction prior to finalizing a draft binding agreement with the developer(s) that will be considered by TB/MBC. At the conclusion of negotiations, the draft binding agreement is tabled before TB/MBC for decision-making. The binding agreements with the developer(s) are based on transaction terms consistent with the TOC framework and these TB submissions also outline options considered, preferred commercial/transaction terms, how benefits to the province are maximized, and governance structures which oversee the construction of assets. Under the dispositions steam of the TOC program, TB/MBC approvals would be sought if the disposition requires an exemption from the Provincial Realty Directive (e.g., disposed at amounts other than fair market value). To date, all TOC related dispositions have not required an exemption from the Realty Directive.
Rec # 10	Infrastructure Ontario should develop tools and remedies for incorporation into Alternative Financing and Procurement (AFP) contracts to address early indications of project delays.	IO has implemented the following contractual and structural changes: 1. A significant contractual change that IO is introducing to the market in spring 2020 is with respect to the Dispute Resolution Procedure. IO has completely redrafted the procedure, in light of concerns that the procedure was not resolving claims quickly enough and keeping projects and cash flows moving. 2. IO has set up a Commercial Resolutions Group ("CRG") comprised of a team of lawyers specialized in disputes who work closely with each Delivery team to more proactively identify project delays and risks, and to respond to claims in a consistent manner. In addition to providing centralized advice and training for Project Delivery teams implementing the projects, CRG has rolled out a notice protocol on all projects to provide clear and consistent direction related to claims across the portfolio.

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		3. IO now has a third-party claims management firm on retainer that is available to undertake schedule analysis with respect to delay claims on any given project, providing a consistent and sophisticated analysis when it comes to the larger delay claims in particular. 4. IO has strengthened its centralized Project Controls function within the Program Management Office, by hiring additional specialized individuals to support the implementation of industry standard and more consistent cost and schedule controls on projects. Similarly, IO's Project Delivery team has been strengthened with additional training on claims and increased expertise in project management. Individuals with specialized experience in matters such as scheduling and utilities have been hired to IO's in-house team, to provide expertise on such matters across the portfolio and to support the project teams. All of these personnel changes have assisted in creating additional bench strength at IO to mitigate against delay on projects.
Rec # 11a	Infrastructure Ontario and Metrolinx should: Initiate an independent, transparent, and rigorous assessment of the costs and benefits embedded in the traditional delivery model in comparison with a Public-Private Partnership (P3) model before signing a contract with a consortium; and	IO uses two core tools to compare delivery models: i) the Procurement Options Analysis and ii) Value for Money Analysis. In 2019, IO developed a rigorous Procurement Options Analysis Methodology Tool (POA) to shortlist delivery models and ultimately recommend the procurement model that best achieves project objectives. The methodology involves defining the project scope and objectives, determining the evaluation criteria, assigning relative importance to the evaluation criteria and rating the delivery models in accordance with the established criteria. The project scope, objectives and unique characteristics are used as an initial screening of potential procurement options and assist in shortlisting viable models. This step assists in identifying any scope elements and project specific constraints that would preclude the use of certain commercially acceptable procurement options. The following factors are considered, at a high level, in shortlisting delivery options: project scale and scope, market capacity (e.g. risk tolerance), timing constraints, complexity, implementation requirements, and revenue potential. The Value for Money Analysis (VFM) compares an estimated cost of procuring a project through a PPP vs a more traditional approach. The VFM analysis tool is used to verify the validity of P3 delivery for a given project. This methodology has been used by IO since 2007, with numerous enhancements over the years, most significantly a complete update to the methodology in 2015. Every project requires a positive VFM to be completed and tabled with our board of directors, prior to commercial and financial close.

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Rec # 11b	Infrastructure Ontario and Metrolinx should: Clarify the process of calculating/estimating the risk transfer, which is central to the Public-Private Partnership (P3) model, and make the information public.	As noted in IO's response to Recommendation 11a, IO's POA methodology tool provides a robust framework to determine the delivery model that best achieves project objectives, which includes facilitating relevant risk transfer objectives. IO conducts a VFM analysis to validate the use of a P3 model when launching a project. An integral component of this analysis is the assumption of risk transfer to the private sector and mitigation of public sector risks under AFP. In addition, after the project agreement has been finalized, IO releases a public report that contains the final VFM analysis, along with details on the project, the procurement process and the project agreement. The objective of the report is to provide the public and others with an understanding of the project and the basis for the decision to deliver the project via AFP.
Rec # 12	Metrolinx should provide the Committee with details on how it plans to reduce its operating subsidy to zero, including any anticipated impacts on pricing, service levels, and ridership levels.	Metrolinx's long-term objective is to eliminate its reliance on the provincial operating subsidy. Working toward this objective, Metrolinx has a plan to reduce its reliance on the provincial operating subsidy by taking a more commercial approach to conduct its business. To achieve this, Metrolinx has been focusing on actions to increase ridership and fare revenue, increase non-fare revenue opportunities and finding efficiencies. However, the ongoing COVID-19 pandemic has impacted Metrolinx's ability to achieve this plan due to significant declines in ridership and revenues. Metrolinx continues to assess the impact of the COVID-19 pandemic, including the review of key drivers to support ridership and revenue recovery, while reassuring customers that our service is safe and reliable. Prior to the pandemic, Metrolinx had successfully executed a number of strategies to help reduce reliance on the provincial operating subsidy, including: o Increasing ridership and fare revenue, including through the implementation of planned service expansions, enhanced customer experience and implementing fare strategies that promote both on-peak and off-peak ridership; o Increasing non-fare revenue, including by pursuing retail opportunities on Metrolinx properties, upgrades to advertising assets, acquiring corporate partners and sponsors, and implementing a revenue protection strategy to help manage fare evasion; o Reviewing its operating budget and identifying various operational efficiency opportunities, implementing cost management controls through regular monthly expense reporting and quarterly budget forecast challenge meetings; and, o Maximizing the value of our assets and generating other revenue opportunities through the implementation of a market-driven strategy to deliver new GO stations under the Transit Oriented Community program.

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		The implementation of these measures has resulted in a year-over-year reduction in Metrolinx's provincial operating subsidy requirement plan from \$505.3M in 2018-19 to \$321.2M in 2019-20 and consequently improved its planned cost-recovery ratio from 64.5% to 69.0% within the same period as highlighted in the 2019-20 Metrolinx Business Plan. o Historically, Metrolinx has consistently had one of the best cost recovery ratios among its North American peers. For example, Translink in Metro Vancouver has reported a cost recovery ratio of 54.5% in 2018 for its transit service. o With the COVID-19 pandemic and the physical distancing restrictions still in place at the time of writing, the financial impact of the pandemic has not been fully quantified, but with a decrease in ridership by approximately 95%, reducing reliance on the provincial operating subsidy will remain a challenge until ridership levels resume.