This is Exhibit “L” referred to in the Affidavit of the Auditor General Bonnie Lysyk, sworn at the City of Toronto, in the Province of Ontario, before me on September 28, 2021 in accordance with O. Reg. 431/20, Administering Oath or Declaration Remotely.

DocuSigned by:

Heather Fisher

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Commissioner for Taking Affidavits (or as may be)

Heather Fisher (LSO#75006L)

Ontario

HANDBOOK

FOR INTERACTION WITH THE OFFICE OF THE PROVINCIAL AUDITOR

Internal Audit Division
Management Board Secretariat

November 2003

Ontario Internal Audit Division

The Internal Audit Division has prepared this *Handbook for Interaction with the Office of the Provincial Auditor* for use by Ministries and agencies of the OPS. For ease of reference, the Handbook will also be available on the IAD Website at http://intra.mbs.gov.on.ca/iad, and on the Corporate Policy Website at http://intra.pmed.mbs.gov.on.ca/mbc/cat_accountability.html.

The Handbook outlines guiding principles to assist you when working with representatives of the Office of the Provincial Auditor. It provides information about the roles and responsibilities of both the Provincial Auditor and public servants in the conduct of an audit.

The Handbook also incorporates the key provisions of two 2003 Protocols on access to documents, between the Provincial Auditor and the Secretary of the Cabinet and the Deputy Attorney General.

As an Officer of the Legislative Assembly of Ontario, the Provincial Auditor plays a key role in holding the government and its administrators accountable for managing public funds. The Ontario Public Service is committed to supporting this role by exhibiting transparency, co-operation and respect in all dealings with the Provincial Auditor.

This Handbook provides a corporate policy to support this commitment.

Jacques R. Lapointe, CA
Chief Internal Auditor & Assistant Deputy Minister
Internal Audit Division, Management Board Secretariat

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Produced by
Audit Centre for Excellence
and Transportation Audit Cluster

INTRODUCTION

Background

The *Handbook for Interaction With the Office of the Provincial Auditor* grew from the need for guidance in enhancing effective communications and business dealings between the Ontario Public Service (OPS) and the Office of the Provincial Auditor (OPA). Adherence to the Handbook will ensure the OPS is demonstrating the utmost accountability and transparency in assisting with the effectiveness of the OPA's role.

Purpose and Scope

The purpose of the *Handbook for Interaction with the Office of the Provincial Auditor* is to define ministry and agency expectations and provide guidance to staff involved in an audit by the OPA. The Handbook clarifies OPS expectations with respect to dealing with the OPA and the conduct and diligence of staff in providing assistance to them so that audit work can be carried out efficiently and effectively. Such dealings are to be conducted in an ethical and cooperative manner, and respectful of the role and authority of the OPA.

The Handbook is a corporate policy outlining the principles, protocols and responsibilities of individuals in the OPS when involved in any audit or enquiry by the OPA. It applies to all members of the Ontario Public Service, defined for this purpose as all employees of the ministries and agencies of the Government of Ontario. For the purposes of this document, OPS ministries and their agencies will be referred to as the "auditee".

A summary flowchart of the audit process is provided in Appendix A.

THE OFFICE OF THE PROVINCIAL AUDITOR

Mandate

The Provincial Auditor (PA) is the external auditor for the Government of Ontario, appointed under the *Audit Act*. The Provincial Auditor, as an Officer of the Legislative Assembly of Ontario, assists in holding the government and its administrators accountable for the quality of stewardship over public funds and for the achievement of value for money in government operations. The PA's mandate is to report to the Legislative Assembly objective information and recommendations resulting from independent audits of the government's programs, its Crown agencies and corporations.

Responsibilities of the PA

The primary responsibility of the OPA is to audit the administration of government programs and activities as carried out by the ministries and agencies of the Crown under Government of Ontario policies and legislation. Pursuant to the *Audit Act* "the Auditor shall audit, on behalf of the Assembly and in such manner as the Auditor considers necessary, the accounts and records of the receipt and disbursement of public money forming part of the Consolidated Revenue Fund whether held in trust or otherwise." R.S.O. 1990, c.A.35, s. 9 (1).

The PA is also the statutory or appointed auditor for a number of agencies of the Crown and for the *Public Accounts of Ontario*.

All ministry programs are considered for audit on a cyclical basis. Cyclical audits are primarily value-for-money oriented. These audits could also include the major information systems associated with the programs being audited. Cyclical audits deal specifically with the administration of programs and activities by ministry management. The OPA does a significant amount of financial auditing, including the audit of the financial statements of the Province. (See Appendix B for more information).

OFFICE OF THE PROVINCIAL AUDITOR (CONT'D)

Additionally, the OPA conducts audits of activities such as government financial controls, physical asset management and consulting engagements within ministries or government-wide.

The *Audit Act*

The *Audit Act* is the enabling legislation for the Office of the Provincial Auditor. The act lays out the duties and responsibilities of the PA and OPA, on behalf of the Legislative Assembly.

It also outlines the responsibilities of public servants in granting the OPA access to people, facilities and information.

There are a few sections particularly relevant to the conduct of OPS staff.

Section 10 of the *Audit Act* expressly addresses access to information and records. It requires that auditors be furnished with all information necessary to the performance of the audit. This section states:

"Every Ministry of the public service, every agency of the Crown and every Crown controlled corporation shall furnish the Auditor with such information regarding its powers, duties, activities, organization, financial transactions and methods of business as the Auditor from time to time requires, and the Auditor shall be given access to all books, accounts, financial records, reports, files and all other papers, things or property belonging to or in use by the Ministry, agency of the Crown or Crown controlled corporation and necessary to the performance of the duties of the Auditor under this Act."

Ministry and Crown agencies' responsibilities regarding accommodation of the Provincial Auditor's staff is outlined in Section 11 of the *Audit Act* and requires that auditors be provided with adequate accommodations as follows:

"For the purposes of exercising powers or performing duties under this Act, the Auditor may station one or more members of

OFFICE OF THE PROVINCIAL AUDITOR (CONT'D)

the Office of the Auditor in any Ministry of the public service, in any agency of the Crown and in any Crown controlled corporation and the Ministry, agency or corporation shall provide such accommodation as is required for such purposes."

In accordance with Section 14 of the *Act*, the Auditor "may examine any person on oath on any matter pertinent to any account subject to audit by the Auditor or in respect of any inspection audit by the Auditor and for the purpose of such examination the Auditor has the powers conferred upon a commission under Part II of the *Public Inquiries Act*, which Part applies to the examination as if it were an inquiry under the Act."

Accordingly, auditors are to be afforded access to staff for the purpose of interviews. Section 12 (2) of the *Audit Act* provides, in part,

"(2) In the annual report in respect of each fiscal year, the Auditor shall report on,

a) the work of the Office of the Auditor, and on whether in carrying on the work of the Office of the Auditor received all the information and explanations required, and ...

f) such matters as, in the opinion of the Auditor, should be brought to the attention of the Assembly..."

Therefore, auditors have complete discretion on the scope of the audit, and any significant matter that comes to their attention within their mandate could be examined. That mandate requires the OPA to report on any cases observed where money was spent without due regard to economy and efficiency, or where appropriate procedures were not in place to measure and report on the effectiveness of programs. It is not part of the OPA's mandate to measure, evaluate and report on the effectiveness of programs or to develop performance measures or standards. Nor do audit responsibilities extend to government policy matters. Rather, the OPA audits the application of the government's

Office of the Provincial Auditor (cont'd)

administrative policies and the actual administration of the government's policy decisions, as carried out by ministry and agency management.

For further information regarding the *Audit Act*, consult http://www.e-laws.gov.on.ca.

Audit Standards

While conducting an audit, auditors are obliged to follow Generally Accepted Auditing Standards. In so doing, the auditor is required to maintain an attitude of professional scepticism in ensuring that all the information examined is supportable. While an auditor should not be overly skeptical when collecting information, he/she is obliged to verify all information gathered, both written and verbal.

Confidentiality

Confidentiality is an integral part of the audit process. According to section 19 of the *Audit Act*, audit working papers shall not be laid before the Assembly, or any committee of the Assembly, as they are confidential. Audit working papers are the auditor's files, notations, analysis, documentation and draft audit reports that support findings and conclusions in the audit report. Information collected by the auditors is not subject to public access under the *Freedom of Information and Protection of Privacy Act* (FIPPA).

Under section 21 of the *Audit Act*, all employees of the OPA must take an oath to keep confidential all information and documentation obtained through an audit.

Professional Standards

OPA staff are, for the most part, members of professional accounting bodies, namely the Institute of Chartered Accountants of Ontario, the Certified General Accountants of Ontario and the Society of Management Accountants of Ontario. As members of these organizations they are governed by and adhere to the rules of professional conduct of those organizations, as well as to OPA internal rules of professional

Office of the Provincial Auditor (cont'd)

conduct. These rules of conduct provide standards of integrity, due care, independence, objectivity and competency in the conduct of professional activities.

OPS Commitment to the Audit Process

OPS Core Values

All Public Servants are committed to the core values of the Ontario Public Service (OPS) and to upholding the highest levels of service quality and public trust. This trust can be demonstrated throughout the audit process and includes how information is conveyed and shared during audits, as well as the demonstration of sound business practices.

The *Handbook for Interaction with the Office of the Provincial Auditor* is based on the fundamental principle that all government business must be conducted **ethically** and that public servants must conduct themselves with **integrity** and **prudence**, and are **accountable** to the public they serve.

The Handbook is designed to help public servants live up to these expectations through the demonstration of appropriate interactions with the OPA. This means that:

- *We are open and honest in our behaviour, creative and responsive to change, and committed to continuous self improvement and integrity. We will demonstrate these values within the context of a professional and accountable public service.*
- *We are fair, consistent and committed to effective relations with the general public, clients, customers, other staff within and across ministries, and with elected officials. In our relationships with our partners and agents we are clear about expectations and criteria for success.*
- *Within the structures and processes of government, we will continue to exercise fiscal prudence; we value training and organizational learning; and we are committed to consistency and fairness in the treatment of colleagues and staff.*

Guiding Principles for Ministry and OPA Interaction

Consistent with their duties, OPS staff are expected to govern their actions and decisions according to the guiding principles listed below.

OPS Commitment to the Audit Process (cont'd)

1. **Independence**
The Provincial Auditor and staff of the OPA are independent of the government and its administration. This independence is a safeguard that enables the OPA to fulfil its auditing and reporting responsibilities objectively and fairly. The OPA must therefore be free from any external impairment to that independence.

2. **Respect of Authority**
Under the *Audit Act* (section 12), the OPA has the authority to set the parameters of an audit. All dealings with the OPA shall be respectful of that authority.

3. **Responsibility**
Every public servant involved in an audit has a responsibility to ensure a positive and constructive relationship and working environment. In particular, managers and supervisors have a duty to ensure this relationship is maintained through the course of an audit.

4. **Co-operation**
It is the responsibility of all staff to provide the OPA with access to the people, information and records necessary to the performance of its legislated audit responsibilities.

Obligations of OPS Staff

To satisfy the requirements of this *Handbook for Interaction with the Office of the Provincial Auditor*, all OPS staff, when required to be involved in an audit will:

- Respond courteously, with fairness and honesty to inquiries and requests for information or assistance from the OPA
- Not limit or unreasonably delay the time allowed to provide information and conduct interviews
- Respect that the OPA has the authority to select/determine what information is required for the audit
- Respect that the OPA has the authority to decide the pertinence of information
- Not restrict the audit or

OPS Commitment to the Audit Process (cont'd)

interfere with the OPA's ability to form independent and objective opinions and conclusions

- Not interfere with or restrict the scope of an audit
- Not interfere with the selection or application of audit procedures, or in the selection of transactions to be examined
- Remember their actions and comments always reflect on the OPS itself
- Provide the OPA with suitable accommodations upon request
- Provide clear and full disclosure of requested information and explanations
- Provide the OPA with appropriate access to OPS resources and information sources in order to acquire necessary information
- Provide original supporting documentation when available and requested by the auditor, and shall in no way alter, change or delete information or records
- Help foster and support a positive audit environment
- Permit confidential access to staff for the purposes of interviews.

In adopting the above principles, OPS staff must understand that access to information and individuals is fundamental to an effective audit. The auditor not only must review the information but also requires an understanding of the source of that information and what it is used for on an every day basis.

Generally, all OPS documents are subject to audit, except as noted under "Access to Documents" below. Access should be granted not only to the documents themselves, but to where they are stored so that, if necessary, auditors can select files confidentially and/or preserve the integrity of the

OPS Commitment to the Audit Process (cont'd)

audit information gathering process.

Co-operation with the OPA should not be hindered in any way and all queries must be answered accurately and completely. Managers and supervisors have a particular responsibility to ensure a positive relationship with the OPA by respecting the auditor's need to speak with staff as part of the information gathering process, confidentially if necessary. Auditors themselves have a duty to maintain confidentiality and will not attribute responses to any individual.

The OPA sets the scope of the audit, which is intended to be somewhat flexible, and reviews plans with the auditee. However, auditors cannot ignore issues that come to their attention, so unforeseen circumstances can arise that may alter the scope. Auditors are expected to keep the auditee informed of significant changes in scope at periodic update meetings.

Staff of each auditee should advise the OPA of any sensitivities on the use of information provided; for example, if it is highly confidential or has labour relations implications. Staff should also advise the OPA at what management level the information can be discussed with ministry staff during the course of the audit. The OPA should advise the auditee of those staff that they wish to talk to and the general area of discussion. It is not normally appropriate for management staff to attend those interviews.

Access to Documents

The PA has broad statutory authority under the Audit Act to require the disclosure of information relating to public expenditures and revenues as needed to fulfill his responsibilities under the Act.

As a general rule all information regarding government expenditures and revenues requested by staff of the OPA in the performance of their duties under the Audit

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Act should be provided to the OPA. The few exceptions are noted below. Information requests should be dealt with expeditiously and documents released in a timely way.

The OPA's access to information is not limited to information relating to any particular audit. Subject to this Handbook, all information requested by the OPA should be provided whether or not it is considered to be within the scope of an audit. Should any questions arise with respect to requests for information, Ministries should obtain advice from their Audit Director.

The OPA's access to information is not restricted by any provisions of the Freedom of Information and Protection of Privacy Act.

The OPA's power to obtain records is subject to confidentiality provisions in other statutes such as the Youth Criminal Justice Act and in court-ordered publication bans. Ministries should obtain advice from their Legal Director with respect to the application of these provisions.

As well, certain other documents may be subject to solicitor-client, litigation or settlement privilege. Such "privileged documents" are to be provided to the OPA under the terms of a protocol between the OPA and the Ministry of the Attorney General (MAG) concerning access by the OPA to privileged documents. The protocol enables the OPA to have access to all documents required by the Provincial Auditor to perform his duties under the *Audit Act* while preserving the government's privilege in those documents. The protocol applies to all documents in the possession of government ministries, including Cabinet documents.

Under this protocol Legal Directors are responsible for reviewing legal documents requested by the OPA, on a timely basis, to determine whether they are subject to solicitor-client privilege, litigation privilege or settlement privilege. Legal directors are

also responsible for identifying any privileged documents that raise special confidentiality concerns such as documents relating to ongoing litigation. Generally, the OPA will be provided with copies of privileged documents; however, if the privileged document raises a special confidentiality concern, the OPA will inspect such documents on the site. Under the protocol, the OPA agrees that it will not unilaterally disclose any privileged document or its contents, or make any direct reference to privileged information in any public report. If the Provincial Auditor has any issues regarding privilege claims or his use of privileged information, the protocol stipulates that the Provincial Auditor will raise them with the audited ministry and with the Deputy Attorney General.

If ministry employees have any questions concerning the OPA's access to privileged documents, they should raise them with their Legal Director.

The OPA's access to information is also subject to certain restrictions with respect to Cabinet Documents (see the following section on Release of Cabinet Documents).

In any case where an information access issue is not resolved between the PA and a Deputy, the matter may be referred by either party to the Secretary of the Cabinet.

Release of Cabinet Documents

The OPA is entitled to documents that are provided to Cabinet or committees of Cabinet, subject to a protocol between the PA and the Secretary of the Cabinet entered into on March 19, 2003 and modified on March 27, 2003 (the *"Cabinet Protocol"*)

In accordance with this protocol, ministries should provide all Business Plans and Capital Plans in their entirety, after they have been reviewed by Cabinet, but should not provide any other Cabinet documents directly to the OPA. For those documents ministries must

OPS COMMITMENT TO THE AUDIT PROCESS (CONT'D)

follow the process outlined below.

Cabinet/Cabinet Committee Submissions
When the OPA requests a Cabinet/Cabinet Committee submission:

Step 1
Final or signed versions of Cabinet or Cabinet Committee submissions and presentations that have been provided to Cabinet are forwarded by the Deputy Minister to the appropriate Central Agency, as follows:

- Cabinet submissions and presentations to: Cabinet Office, ADM of Strategic Planning and Coordination
- Management Board submissions to: Management Board Secretariat, ADM of Program Management and Estimates Division
- CCOPS submissions and presentations to: Ontario SuperBuild Corporation, Vice-President of Infrastructure Strategies and Communications.

Step 2
The Central Agency reviews the request, determines if any deletions are required and provides a memorandum to the Deputy Minister listing any deletions and the reasons for them. Concurrently, the Ministry's Legal Director will review the documents and advise the Deputy Minister of any other potential legal confidentiality provisions in accordance with the Deputy Attorney General's *Interim Protocol.*

Step 3
The Deputy Minister releases the documents to the OPA, severed as required, along with a covering letter and a copy of the Central Agency memoranda. The Minister, Secretary of the Cabinet, President of SuperBuild, Secretary of Management Board, Chief Internal Auditor, the ministry's Legal Director and Internal Audit Director also receive a copy of the Deputy's covering letter.

OPS COMMITMENT TO THE AUDIT PROCESS (CONT'D)

Cabinet submissions will be provided in their entirety (including background, analyses and options) except for Cabinet/Cabinet Committee deliberations, recommendations to Cabinet/Cabinet Committees and communications plans.

Management Board submissions and the financial component of CCOPS submissions will be provided in their entirety, except for communications plans or documents that record references to Cabinet/Cabinet Committee deliberations. Notwithstanding the foregoing, should the OPA find it necessary to access any severed items, then such requests will be dealt with by Cabinet Office on a case by case basis.

Cabinet/Cabinet Committee Minutes

The provision of Cabinet and Cabinet committee minutes to the OPA is the sole responsibility of the appropriate central agency. Ministries must not provide Cabinet or Cabinet committee minutes to the OPA. Management Board minutes and the financial component of CCOPS minutes are routinely provided to the OPA by Management Board Secretariat and the Ontario SuperBuild Corporation respectively. Access to all other Cabinet or Cabinet committee minutes is only provided on specific request by the Office of the Provincial Auditor to the Secretary of Cabinet.

Other Cabinet Documents

Briefing and other notes prepared by central agencies for Cabinet or Cabinet committees should not be released by Ministries but may be provided by central agencies.

Issues Arising in the Course of an Audit

If, during the course of an audit, a public servant becomes aware of any infraction of the *Handbook for Interaction with the Office of the Provincial Auditor*, he/she is obligated to contact the Internal Audit Director to report the activity. If at any time, a public servant is unclear if the infraction to the Handbook

OPS COMMITMENT TO THE AUDIT PROCESS (CONT'D)

jeopardises the integrity of the audit, he/she should contact the Internal Audit Director for consultation in the matter.

The bringing forth of such information will be held in strict confidence by the Director. Once the Director has documented the information, it will be reviewed to determine how the infraction impacts the audit.

This information, and the recommendations of the Internal Audit Director, will then be forwarded to the appropriate executive serving on the Audit Committee for resolution. This information will not be attributed to the individual.

Auditee Co-ordinator

The auditee may appoint a co-ordinator for effective liaison during the audit. If a co-ordinator is appointed, it is their role to facilitate the process. This approach is intended to increase the level of service and ensure that complete and comprehensive information is provided to the OPA on a timely basis.
Co-ordinators are not to screen or select information and will co-operate with OPA requests for direct access to persons and records the Auditor deems necessary. It is not normally be appropriate for a Co-ordinator to attend staff interviews.

The Role of Internal Audit

Internal Audit in the OPS provides business consulting and assurance services to ministries and their agencies through the Internal Audit Division (IAD).

IAD's mission is to enhance the ability of its clients to manage resources prudently to achieve their intended purpose. This is done by providing professional advice, assurance and expertise to promote value for money, managed risk and sound business practices.

IAD provides a full range of professional internal audit services to ministries and the

OPS COMMITMENT TO THE AUDIT PROCESS (CONT'D)

government as a whole including providing advice and assistance with respect to audits of the Provincial Auditor.

To minimize disruption to the audit clients, the two audit groups should rely on each other's work to the extent permitted by the *Audit Act* and in accordance with professional standards. The OPA's reliance on the IAD's work is governed by the reference to the *CICA Handbook*-Assurance section 5050 "Using the work of internal audit". Building this co-operative relationship to help the audit groups to achieve their respective mandates will require commitments and contributions from both groups. It is essential that the Internal Audit Division and the Office of the Provincial Auditor maintain close communications on an ongoing basis, and a mutual understanding regarding the other's planned and ongoing audit activities.
The working relationship between the IAD and the OPA is governed by a Protocol between the PA and the Secretary of Management Board.

Management shall involve IAD in major briefings by the OPA on audit plans (objectives, scope and criteria) and audit reports (discussions of reportable items for factual clearance). The Internal Audit Director is a good source of information should any significant questions or concerns arise during an audit.

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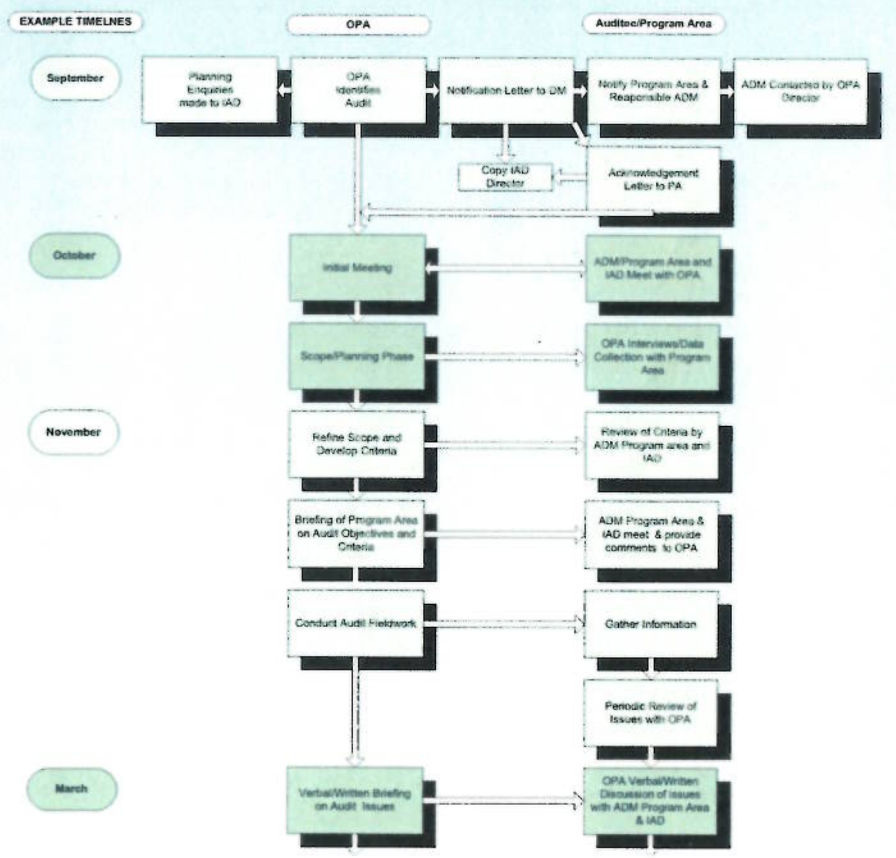
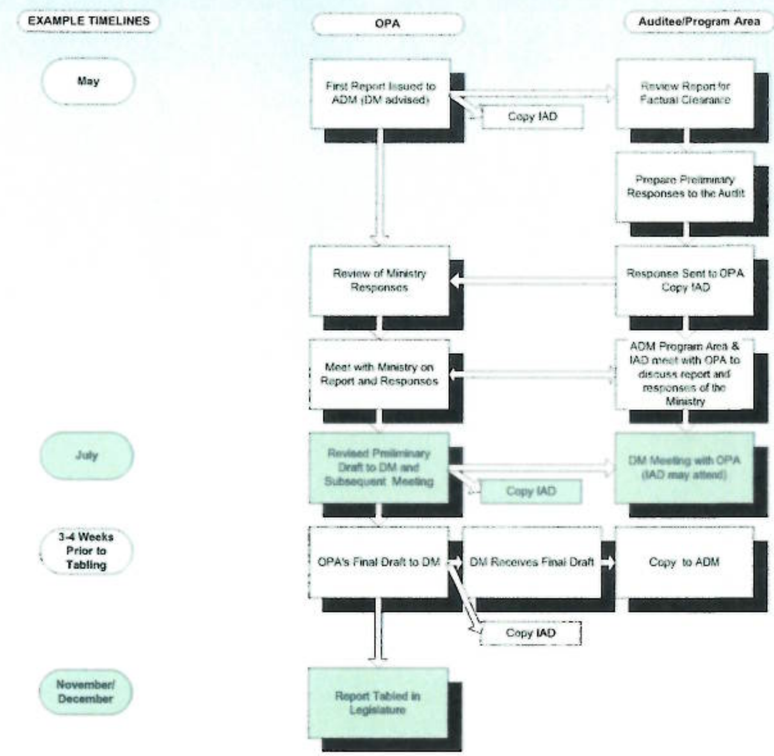
APPENDIX A: AUDIT PROCESS FLOW CHART—VALUE FOR MONEY AUDITS



APPENDIX A: AUDIT PROCESS FLOW CHART—VALUE FOR MONEY AUDITS



APPENDIX B: QUESTIONS AND ANSWERS ON THE OPA

1. What is auditing?

Auditing is an independent, objective assurance and consulting activity. Auditing concerns itself with the broader aspects of accountability, including efficiency, effectiveness and economy. Auditing reviews the reliability and integrity of information, compliance with policies and regulations, the safeguarding of assets, the economical and efficient use of resources, and established operational goals and objectives. Audits encompass all of an organization's activities, including finance, accounting, policy, planning, operations, systems, service/program delivery, engineering, communications/marketing and human resources. To provide value, auditors must be knowledgeable about many areas within government. In addition, they must keep up with emerging technology to use in their own work, and in order to make recommendations on how management might be able to incorporate technology into the daily activities of the organizations they serve.

There are two primary groups that have auditing responsibilities within the Government of Ontario. Through its audit clusters, the Internal Audit Division (IAD) of Management Board Secretariat (MBS) is the internal audit service of the Government of Ontario. The Office of the Provincial Auditor (OPA) is the external auditor for the Government of Ontario reporting to the Legislative Assembly.

2. What is the Office of the Provincial Auditor?

As the external auditor for the Government of Ontario, the Provincial Auditor is appointed under the *Audit Act*. The OPA assists the Legislative Assembly of Ontario to hold the government and its administrators accountable for the quality of the administration's stewardship of public funds and for the achievement of value for money

APPENDIX B: QUESTIONS AND ANSWERS ON THE OPA (CONT'D)

in government operations. The primary responsibility of the OPA is to audit the administration of government programs and activities as carried out by the Ministries and agencies of the Crown under Government of Ontario policies. The OPA is also the statutory or appointed auditor for a number of agencies of the Crown and for the *Public Accounts of Ontario*.

The OPA does a significant amount of attest auditing—about 50 agencies of the Crown annually—and the audit of the financial statements of the province. However, the majority of the OPA's work consists of value-for-money auditing. The OPA performs its work in accordance with the professional standards established by the Canadian Institute of Chartered Accountants (CICA).

For further information on the Office of the Provincial Auditor, visit the OPA Internet site at http://www.gov.on.ca/OPA/.

3. What are the core services the Office of the Provincial Auditor provides to the taxpayers of Ontario?

The core services provided by the OPA are as follows:

- Using value-for-money auditing to provide assurance to the taxpayers of Ontario regarding effective controllership, efficient and accountable administration and economical governance within the Government of Ontario and the Ontario Public Service;
- Conducting compliance audits to ensure due regard to legislative (i.e., statutes and regulations) and administrative requirements (i.e., policy, procedures, directives and guidelines);
- Conducting attest audits to provide audit opinions on financial statements, including the financial statements of the province and many of its agencies;
- Conducting inspection audits to ensure transfer

APPENDIX B: QUESTIONS AND ANSWERS ON THE OPA (CONT'D)

payments reach their intended recipients, and that these payments are used only for their intended purposes; and,

- Assisting and advising the Standing Committee on Public Accounts in its review of the *Public Accounts of Ontario* and the *Annual Report of the Provincial Auditor.*

4. What is the *Audit Act*?

The *Audit Act* is the enabling legislation for the Office of the Provincial Auditor (OPA). The act lays out the qualifications, duties and responsibilities of the Provincial Auditor, on behalf of the Legislative Assembly of Ontario. The act covers the workings of the OPA, including access to records and information, reporting processes and procedures, powers of the OPA, penalties for contravening the *Audit Act*, matters of confidentiality and loyalty, delegation of authority, staffing and a variety of resource allocation issues.

According to the act, the OPA's primary obligation is to audit the receipt and disbursement of all public money forming part of the Consolidated Revenue Fund. Under the *Audit Act*, the OPA should report on any activity of the Government of Ontario that, in the opinion of the Auditor, should be brought to the attention of the Legislative Assembly. The *Audit Act* lays out the responsibilities of those working in the Government of Ontario regarding the OPA access to people, facilities and information. Beyond the Annual Report, the *Audit Act* also allows the OPA access to the Legislative Assembly when the situation warrants, by tabling any special reports. For further information on the Audit Act, see http://www.e-laws.gov.on.ca.

5. Who is the Office of the Provincial Auditor accountable to?

The OPA reports to the Ontario Legislative Assembly through the Speaker of the Legislative Assembly. Reporting to the

APPENDIX B: QUESTIONS AND ANSWERS ON THE OPA (CONT'D)

Legislative Assembly, rather than to the government in power, safeguards the independence of the OPA. At least once a year, the OPA presents a report to the Legislative Assembly. The OPA also assists and advises the Standing Committee on Public Accounts in its review of the *Public Accounts of Ontario* and the *Annual Report* of the Provincial Auditor.

The OPA's Annual Reports are public documents, and the issues and recommendations they contain often receive public attention and comment. This is due to the fact that the OPA audits areas that are vitally important to Ontario's citizens, such as transportation, health care, education, social assistance, and the protection of the environment and Ontario's natural resources. The OPA's audit working papers, including draft audit reports and management letters, are not subject to scrutiny by the Legislative Assembly or any of its committees.

The OPA receives approval for its financial and human resource budgets from the Board of Internal Economy. The Board of Internal Economy is an all-party legislative committee that is independent of the government's administrative process. In accordance with the *Audit Act*, all OPA expenditures are audited annually by a firm of Chartered Accountants, and then subjected to the scrutiny of the Legislative Assembly.

6. How does the Office of the Provincial Auditor select program areas to audit?

All major OPS programs are considered for audit over a five-year cycle. Cyclical audits are primarily value-for-money oriented. These audits also include the major information systems associated with the programs being audited. Cyclical audits deal specifically with the administration of programs and activities by auditee management. The financial statements of Crown agencies are audited annually by the OPA as required by

APPENDIX B: QUESTIONS AND ANSWERS ON THE OPA (CONT'D)

legislation. Periodically, Crown agencies undergo more in-depth value-for-money audits.
In rating the priority of an audit a variety of factors are considered, including:

- total expenditures;
- time of last audit and the results of previous audits;
- work completed or planned by internal auditors; and,
- risk factors, including public impact.

The OPA considers a number of major factors when planning each audit such as:

- mandate under the *Audit Act;*
- clarity of management's objectives and goals;
- availability of information or evidence required;
- availability of appropriate audit methodology for the subject or issue;
- estimated costs, benefits and the duration of an audit; and,
- complexity or diversity of operations.

The amount of work done by internal auditors of ministries and Crown agencies, and the breadth of the internal auditor's scope can have an impact on the timing, frequency and extent of OPA audit activities. By having access to internal audit reports, working papers and work plans, the OPA is better able to avoid duplication of effort by relying on internal audit activities to the extent possible.

7. How does the Office of the Provincial Auditor's audit plan get developed, approved, and implemented?

The OPA is entirely responsible for the audit planning and selection process which is designed to ensure that:

- A risk analysis is undertaken to identify potential programs, functions and units to audit, in terms of financial and social exposure to losses of funds, assets, credibility or lost opportunities to provide for value-added components (i.e., dollars saved, etc.); and,

APPENDIX B: QUESTIONS AND ANSWERS ON THE OPA (CONT'D)

- Audit activities are coordinated with other internal audit and evaluation processes within the OPS

8. Can the OPA undertake special assignments on request?

Special assignments are undertaken by the OPA as requested by the Legislative Assembly, Standing Committee on Public Accounts (not in lieu of statutory duties), or a Minister of the Crown (unless there is a conflict with the auditor's other duties).

9. What is the Office of the Provincial Auditor's mandate during an audit?

The OPA is mandated to audit the administration or management of government programs and activities as carried out by the ministries and agencies of the Crown under Legislative and Government of Ontario policies. Therefore, the OPA does not audit government policy matters, since this is the role of the members of the Provincial Legislative Assembly. For example, the OPA would not question the merits of the Crown's responsibility for health care but would question management of the delivery of health services.

During an audit, the OPA identifies areas where improvements can be made to economy, efficiency and systems to measure effectiveness of government operations. The OPA mainly uses four types of audits to achieve its goals. OPA audit observations are derived from compliance audits, attest audits, value-for-money audits and inspection audits of transfer payment recipients. In addition, OPA audit observations are accompanied by recommendations for improvement.

10. Does the Auditor conduct follow-ups on each audit?

It is the practice of the OPA to follow up on issues raised and recommendations made in their reports and to report on their status. The follow-up can include any commitments or action plans made by the senior management of a ministry or Crown agency during an OPA audit engagement. Follow-up contact usually occurs two years after the initial audit is reported on in the OPA *Annual Report*.

11. What happens once the Provincial Auditor issues an Annual Report or Special Report?

The OPA's audit cycle lasts twelve months. During this time, the OPA conducts a variety of audits, which culminate in an *Annual Report* and possibly a special report on more specific areas of interest. Early in the annual audit cycle, OPA staff brief ministry or agency senior management, conduct fieldwork, including on-site interviews with managers and staff, actual observation of on-site operations, on-site review and analysis of records, reports and other documentation.

Upon completion of fieldwork, the OPA issues a preliminary draft report. The draft report phase is the phase for finalizing discussion, clarification and factual clearance. The preliminary draft report is discussed with senior auditee officials and revised, if necessary, to reflect the results of this discussion. Senior auditee officials prepare a formal response to the OPA with the assistance of internal audit. This response includes action plans to address OPA audit findings. The Deputy Minister reviews all preliminary draft reports prepared by the OPA.

Once a response has been received from the auditee, the OPA prepares and releases a final draft report to the Deputy Minister and provides a copy to the Secretary of Management Board of Cabinet prior to the release of the Annual Report.

The *Annual Report* is brought before the Legislative Assembly in the late fall of each year.

To ensure that OPA recommendations receive timely attention, the OPA conducts in-

depth follow-up reviews on the progress of actions plans to address past audit observations and recommendations. Follow-up status reports appear in the OPA *Annual Report* two years after the audit is initially reported.

12. What is the Standing Committee on Public Accounts?

The Standing Committee on Public Accounts is an all-party committee, appointed for the duration of the Parliament and comprised solely of elected Members of Provincial Parliament. Committee membership is approximately proportional to the respective party membership in the Legislative Assembly. The Chair must be a member of the opposition party with the largest proportion of seats in the Legislative Assembly. With the exception of the Chair, all members are entitled to vote on motions before the Standing Committee. However, the Chair is able to vote in order to break a tie.

The role of the Standing Committee is as follows:

- to examine, assess and report to the Legislative Assembly on a number of issues, including the economy and efficiency of government operations;
- to determine whether systems are in place to measure the effectiveness of programs in achieving their objectives;
- to examine controls over assets, expenditures and the assessment and collection of revenues; and,
- to assess the reliability and appropriateness of information in the *Public Accounts*.

In fulfilling this role, the Committee reviews and reports to the Legislative Assembly its observations, opinions and recommendations on selected matters in the *Annual Report* of the OPA, special reports by the OPA and the Provincial Auditor's *Report on the Public Accounts*. Once they have been tabled, these documents are

APPENDIX B: QUESTIONS AND ANSWERS ON THE OPA (CONT'D)

permanently referred to the Standing Committee. The Standing Committee has the power to request that the OPA perform a Special Audit under the section 16 and 17 provisions of the *Audit Act*.

Standing Committee meetings are open to the public except when the committee is setting its agenda and preparing its reports. The OPA is highly involved with assisting this committee. The Clerk of the Standing Committee is a liaison between the committee and the OPA, the public and other government functionaries. Since the committee is concerned with matters of administration rather than policy matters, Ministers rarely attend. Other attendees at Standing Committee meetings could include Deputy Ministers, senior ministry officials, CEOs and Chairs of the Boards for Crown agencies, and senior agency staff.

The Standing Committee is a member of the Canadian Council of Public Accounts Committees (CCPAC). This umbrella group (i.e., federal, provincial and territorial public accounts committees) shares knowledge about the political representatives' roles in overseeing the auditing of public accounts.

13. What are the *Public Accounts*?

The *Public Accounts* comprise the financial statements of the Province along with three complementary volumes reflecting the financial activities of government ministries, significant provincial agencies, boards and commissions and OPS senior salary disclosure. The Ministry of Finance oversees the *Public Accounts* for the Government of Ontario. The *Public Accounts* for each fiscal year ending March 31 are prepared under the direction of the Minister of Finance as required by the *Ministry of Treasury and Economics Act*. The act requires the *Public Accounts* to be delivered to the Lieutenant Governor in Council for presentation to the Legislative

APPENDIX B: QUESTIONS AND ANSWERS ON THE OPA (CONT'D)

Assembly not later than the tenth day of the first session held in the following calendar year. However, the *Public Accounts* are normally tabled in the Assembly in the late summer or early autumn after the end of the fiscal year to which they pertain.

The financial statements of the Province report the activities of the Consolidated Revenue Fund combined with those organizations that are accountable for the administration of their financial affairs and resources, either to a minister of the government or directly to the Legislature, and that are controlled by the Government. The financial statements are the responsibility of the Government of Ontario. This responsibility encompasses ensuring the integrity and fairness of the information presented in the statements, including the many amounts based on estimates and judgement. The government is also responsible for ensuring that an established system of control with supporting procedures is in place to provide assurance that transactions are authorized, assets are safeguarded and proper records are maintained. Each year, the OPA audits and expresses an opinion on the financial statements of the province.

14. Does the OPA outline the scope of the audit?

The OPA develops objectives and the criteria outlining the scope of the audit for discussion with management. However, this is only a guideline. If circumstances change, or if new or significant information comes to light, the auditor has the obligation to follow up on the information accordingly (as outlined in section 12 of the *Audit Act*).

The program area is required to be flexible to any changes in the audit scope in accordance with the observations made during the audit. However, the OPA can be reasonably expected to advise the auditee when such instances occur. Usually this would happen during periodic update meetings with the auditor.

15. What kind of information does the auditor examine?

During the course of an audit, all information is subject to verification. This includes verbal information, written information, as well as information obtained through observations.

16. How does the auditee ensure all documents have been returned?

Staff should keep a record of documents provided to the OPA to ensure that they are returned. OPA staff will require original documentation and will make copies of these documents as required.

17. What course of action do staff members take if they become involved in or aware of a potential violation of this Handbook for Interaction with the Office of the Provincial Auditor?

If, during the course of an audit, a public servant becomes aware of, any infraction of the Handbook, he/she is obligated to contact the Internal Audit Director to report the activity. If at any time, a public servant is unclear if the infraction of the Handbook may impact on the audit, he/she should contact the Internal Audit Director for consultation in the matter.

18. What is the Internal Audit Division of Management Board Secretariat?

The Internal Audit Division (IAD) of Management Board Secretariat (MBS) provides internal audit services for the Government of Ontario. IAD was established on April 1, 1999 through the integration of internal audit branches from all OPS ministries. Audit services are provided to ministries by IAD through a number of service clusters.

IAD is a service to OPS senior management, providing risk and business consulting services and independent and objective

assurance to Deputy Ministers and senior management in accordance with approved ministry audit plans. IAD also undertakes enterprise-wide projects and audits approved by the Corporate Audit Committee.

The internal audit function in the OPS is governed by the *Internal Audit Directive*. The Directive can be viewed at http://intra.mbs.gov.on.ca/iad or on the Corporate Policy Website at http://intra.cpb.gov.on.ca.

For further information on the Internal Audit Division, visit the IAD Intranet site http://intra.mbs.gov.on.ca/iad/.

19. Are there any agreements between the Provincial Auditor and the Internal Audit Division?

The IAD and OPA have created a protocol outlining the terms of this effort to facilitate the mutual exchange of information and the furthering of common interests of both audit groups.

The OPA and IAD are committed to maintaining good communication between the two audit groups and to improving the discharge of their respective audit duties by co-operating in a number of areas, including audit planning and sharing of knowledge and audit tools. The OPA copies IAD Audit Directors on letters to Deputy Ministers announcing the start of an audit or conveying draft or final audit reports.

20. How does Internal Audit Division facilitate the relationship between the Provincial Auditor and the management of the client ministry?

The Internal Audit Director can act as a liaison during an audit, providing a point of contact between the client's senior management and the OPA. The Audit Director helps program managers and senior managers understand and respond appropriately to OPA audit findings. The Audit Director also provides guidance to the client's senior management when it is preparing its formal response to the OPA preliminary draft reports.

21. What are the core services Internal Audit Division provides to the senior management of the Ontario Public Service?

The core professional services provided by the IAD are as follows:

Risk and Business Consulting:

- risk assessment and control design;
- consulting advice on controllership, accountability, governance and sound business practice;
- training and education on risk and control;
- advice and liaison for audits of the Provincial Auditor; and
- Program evaluation

Information Management and Information Technology Services:

- Specialized audit, risk assessment and consulting services in IM & IT projects that include new systems under development, systems and IT project management, information and infrastructure security and IT operations

Assurance Services:

- value for money audits;
- financial and internal control audits;
- compliance reviews; and
- forensic investigations and special reviews

22. What is the role of the Ministry Audit Committee?

Ministry Audit Committees govern a ministry's audit and risk management activities. Audit Committees should meet at least twice a year and consist of the Deputy Minister, Assistant Deputy Ministers and other senior management

Audit Committees are mandated to monitor controllership in the ministry, including risk management, internal controls, accountability and audit coverage.

They also:

- review and approve the annual audit plan;
- review audit recommendations/ responses by program managers; and
- oversee ministry responses to the Provincial Auditor's recommendations.

23. What is the Corporate Audit Committee?

The Corporate Audit Committee is a Deputy Ministers' committee chaired by the Secretary of Management Board of Cabinet. Its purpose is to enhance accountability and control in the OPS and ensure risks are being appropriately addressed across the enterprise, by promoting an effective internal audit function which meets enterprise and ministry needs.

It provides support and direction to the Internal Audit Division and reviews enterprise-wide risk assessments and audit and consulting plans prepared by the Chief Internal Auditor.

This is Exhibit "M" referred to in the Affidavit of the Auditor General Bonnie Lysyk, sworn at the City of Toronto, in the Province of Ontario, before me on September 28, 2021 in accordance with O. Reg. 431/20, Administering Oath or Declaration Remotely.

DocuSigned by:

Heather Fisher

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Commissioner for Taking Affidavits (or as may be)

Heather Fisher (LSO#75006L)

Ontario

Ontario Internal Audit Division

Handbook for Interaction with the Office of the Auditor General of Ontario

Ontario Internal Audit Division
Treasury Board Office
Ministry of Finance

FOREWORD

The Ontario Internal Audit Division of the Treasury Board Office, Ministry of Finance, has prepared this *Handbook for Interaction with the Office of the Auditor General of Ontario* (previously, the Provincial Auditor) for use by ministries and agencies of the Crown and for organizations in the Broader Public Sector (i.e. provincial government grant recipients and Crown-controlled corporations and their subsidiaries). For ease of reference, the *Handbook* will be available on the Ontario Internal Audit Division Intranet Website, at http://intra.fin.gov.on.ca/tbo/oiadsite/ and also on the Ministry of Government Services' Corporate Policy Division Intranet Website.

The purpose of this *Handbook* is to provide guiding principles to assist you when working with representatives of the Office of the Auditor General of Ontario. It provides information about the roles and responsibilities of the Office of the Auditor General, ministries, agencies of the Crown and the Broader Public Sector in the conduct of an audit.

The *Handbook* has important information on the Auditor General's rights of access to people, facilities and information, and the legislation governing this access and related protocols agreed to. However, it should be noted that nothing in this document limits or diminishes the rights, powers, privileges and remedies of the Auditor General under the *Auditor General Act* or any other applicable legislation.

As an Officer of the Legislative Assembly of Ontario, the Auditor General plays a key role in helping the Legislature hold the Government and its administrators accountable for managing public funds. The Government of Ontario is committed to supporting this role by exhibiting transparency, cooperation and respect in all dealings with the Office of the Auditor General.

This Handbook is intended to provide you with guidance to support this commitment.

Original Signed by	***Original Signed by***
Colin Andersen Deputy Minister of Finance	Michelle DiEmanuele Deputy Minister of Government Services Associate Secretary of the Cabinet Secretary of Management Board of Cabinet

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INTRODUCTION

Background

The *Handbook for Interaction with the Office of the Auditor General of Ontario (Handbook)* was developed to facilitate effective communications and business dealings between the ministries and agencies of the Crown and the Office of the Auditor General of Ontario (see question #3 in Appendix B for details). In 2006, the *Handbook* was revised to reflect Government of Ontario (Government) reorganization and amendments to the *Audit Act* (1978) that resulted from the passage of the *Audit Statute Law Amendment Act, 2004* (November, 2004).

The amendments resulted in the new *Auditor General Act (Act).* The new *Act* expanded the Auditor General's value-for-money (VFM) audit mandate (see Question #2 in Appendix B for definition) to include organizations in the broader public sector (BPS) (i.e. provincial government grant recipients and Crown-controlled corporations and their subsidiaries). Municipalities are excluded from the Auditor General's VFM mandate.

Changes were made to this *Handbook* to reflect the Auditor General's expanded powers and the roles and the responsibilities of the various stakeholders in their audits. As these expanded powers evolve, further revisions to the *Handbook* may be required.

Purpose and Application

The purpose of the *Handbook* is to provide guidance regarding the Government's expectations of its ministries, agencies of the Crown, and the BPS in terms of their conduct and diligence in providing assistance to the Auditor General during his/her audits. Such dealings are to be conducted in an ethical and cooperative manner, and respectful of the role and authority of the Auditor General.

The *Handbook* outlines the guiding principles, protocols and responsibilities of individuals in ministries, agencies of the Crown and the BPS when involved in any audit or enquiry by the Auditor General.

For the purposes of this document, ministries, agencies of the Crown, grant recipients, and Crown-controlled corporations and their subsidiaries will be referred by the Auditor General as the "auditee." Also, the use of the term

INTRODUCTION (Cont'd)

"Auditor General" refers to the Office of the Auditor General of Ontario, the Auditor General and staff of the Office.

A summary flowchart of the process typically followed for an audit of a ministry and/or agency of the Crown is provided in Appendix A. The audit process for a BPS entity has not been specifically summarized in a flowchart as the processes are still evolving. The section on "the Handbook as it Applies to the Broader Public Sector" outlines the guidance on how ministries and the Ontario Internal Audit Division (OIAD) will be involved in the Auditor General's BPS audits.

Mandate

The Auditor General is the external auditor for the Government of Ontario, appointed under the *Auditor General Act* (see question #5 in Appendix B for details). As an Officer of the Legislative Assembly, the Auditor General of Ontario assists in holding the Government, its administrators, Crown-controlled corporations and their subsidiaries, and grant recipients accountable for the quality of their stewardship of public funds and for the achievement of value for money in the delivery of services to the public. The Auditor General reports to the Legislative Assembly objective information and recommendations resulting from independent audits of the Government's financial statements, programs, agencies of the Crown, Crown-controlled corporations and their subsidiaries and grant recipients.

Responsibilities of the Auditor General

The audit responsibilities of the Auditor General are set out in the *Auditor General Act*.

Pursuant to section 12(3) of the *Act*, "*the Auditor General shall express his or her opinion as to whether the consolidated financial statements of Ontario, as reported in the Public Accounts, present fairly information in accordance with the appropriate generally accepted accounting principles and the Auditor General shall set out any reservations he or she may have.*"

Also, under section 9(1), "*the Auditor General shall audit, on behalf of the Assembly and in such manner as the Auditor General considers necessary, the accounts and records of the receipt and disbursement of public money forming part of the Consolidated Revenue Fund whether held in trust or otherwise.*" To this end, in addition to the annual attest audit of the Province's consolidated financial statements, the Auditor General conducts on a cyclical basis VFM audits of the revenues, expenditures and administration of government programs and activities as carried out by the ministries and agencies of the Crown, as well as special audits (VFM) of organizations in the BPS carrying out activities under Government of Ontario policies and legislation. The scope of these audits may include the matters set out in section 12(2)(f) of the *Act* and could also include the major information systems associated with the programs or organizations being audited. Such audits could also focus on common services such as procurement, human resources management, physical asset management and use of consultants, performed across a number of auditees.

The Auditor General also:

- Audits the financial statements of many agencies of the Crown. For those agencies of the Crown audited by another auditor, the audits of these agencies are performed under the direction of the Auditor General and the other auditor reports to the Auditor General. (s. 9 (2)).
- Receives from the auditors of Crown-controlled corporations copies of their audited financial statements and any recommendations made to management resulting from the audits. (s. 9(3)).

The Auditor General does not perform VFM audits of municipalities but may audit the accounting records of the municipalities pertaining to provincial reviewable grants received directly or indirectly by the municipality to ensure that the funds were used for their intended purpose. (s. 9.1 (2) & s. 9.2 (1) & (2)).

The Auditor General Act

The *Auditor General Act* is the enabling legislation for the Auditor General. The *Act* lays out the duties, responsibilities and powers of the Auditor General on behalf of the Legislative Assembly.

It also outlines the responsibilities of employees of ministries and agencies of the Crown and of those in the BPS in granting the Auditor General access to people, facilities and information. Specifically:

Section 10 of the *Act* provides for the Auditor General's access to information and records:

10. (1) "*Every Ministry of the public service, every agency of the Crown, every Crown controlled corporation and every grant recipient shall give the Auditor General the information regarding its powers, duties, activities, organization, financial transactions and methods of business that the Auditor General believes to be necessary to perform his or her duties under this Act.*"
(2) "*The Auditor General is entitled to have free access to all books, accounts, financial records, electronic data processing records, reports, files and all other papers, things or property belonging to or used by a ministry, agency of the*

Crown, Crown controlled corporation or grant recipient, as the case may be, that the Auditor General believes to be necessary to perform his or her duties under this Act."

Section 11.1 of the *Act* provides for the stationing of staff in an auditee's location:

11.1 (1) *"For the purpose of exercising powers or performing duties under this Act, the Auditor General may station one or more members of the Office of the Auditor General in any ministry of the public service, agency of the Crown, Crown controlled corporation or grant recipient."*

(2) *"The ministry, agency, corporation or grant recipient, as the case may be, shall provide the accommodation required for the purposes mentioned is subsection (1)."*

Also, in accordance with Section 11, the Auditor General has special powers of inquiry under the *Public Inquiries Act:*

11 (1) *"The Auditor General may examine any person on oath on any matter pertinent to an audit or examination under this Act."*

(2) *"For the purpose of an examination, the Auditor General has the powers that Part II of the Public Inquiries Act, confers on a commission, and that Part applies to the examination as if it were an inquiry under that Act."*

Section 12 of the Act provides, in part,

12 (2) *"In the annual report in respect of each fiscal year, the Auditor General shall report on,*

(a) The work of the Office of the Auditor General and on whether, in carrying on the work of the Office, the Auditor General received all the information and explanations required, and…

(f) Such matters as, in the opinion of the Auditor General, should be brought to the attention of the Assembly…"

Therefore, the Auditor General has complete discretion on the scope of the audit, and any significant matter that comes to their attention within their mandate could be examined. The Auditor General may report on any cases observed where money was spent without due regard to economy and efficiency, or where appropriate procedures were not in place to measure and report on the effectiveness of programs, where in the opinion of the Auditor General it should be brought to the attention of the Assembly.

It is not part of the Auditor General's mandate to measure, evaluate and report on the effectiveness of programs or to develop performance measures or standards. Nor do audit responsibilities extend to government policy matters, as the Legislative Assembly holds the Government accountable for policy matters. Rather, the Auditor General audits the application of the Government's administrative policies and the actual administration of the Government's policy decisions, as carried out by ministries', agencies of the Crown's, Crown-controlled corporations and their subsidiaries' and grant recipients' management.

For further information regarding the *Act*, consult http://www.e-laws.gov.on.ca or http://www.auditor.on.ca.

Audit Standards

While conducting an audit, auditors follow Generally Accepted Auditing Standards. In doing so, the Auditor General is required to maintain an attitude of professional scepticism in ensuring that all the information examined is supportable and to the extent required, they verify information gathered, both written and verbal.

Confidentiality

Confidentiality is an integral part of the audit process. According to section 19 of the *Auditor General Act*, audit working papers shall not be laid before the Assembly or any committee of the Assembly. Audit working papers include but are not limited to the Auditor General's files that contain audit plans, interview notes, analysis, documentation and draft audit reports that support findings and conclusions in the audit report. By necessity, the Auditor General is not designated as an institution to which the *Freedom of Information and Protection of Privacy Act (FIPPA)* applies, therefore information collected by the Auditor General is not subject to public access under *FIPPA*.

Under section 21 of the *Auditor General Act*, all employees of the Office of the Auditor General of Ontario must take an "*oath of office and secrecy and oath of allegiance*" to keep confidential all information and documentation obtained through an audit.

Section 27.1 confers upon all employees of the Office of the Auditor General of Ontario a stringent Duty of Confidentiality in which they "*shall preserve secrecy with respect to all matters that come to their knowledge in the course of his or her employment or duties under the Act*."

Confidentiality of personal information, such as information relating to race, age, sex, education, medical and employment history as defined under *FIPPA*, collected during the course of an audit is preserved under section 27.2, with section 27.2(3) explicitly describing how confidentiality of personal medical information is preserved.

Confidentiality of privileged information (solicitor-client, litigation, settlement) is preserved in section 27.1 (3) and this section states that the Auditor General will not disclose privileged information without the consent of the privilege holder.

However, the oath of secrecy and the confidentiality provision are both subject to an exception that permits disclosure only for the purposes of the *Auditor General Act* and for proceedings under the *Criminal Code of Canada*.

The Auditor General may disclose information provided to him that is not subject to these limitations on disclosure. Under section 12 of the *Act*, the

Auditor General is required to report to the Speaker of the Assembly on a variety of matters, including the examination of disbursements of public money and "*such matters as, in the opinion of the Auditor General, should be brought to the attention of the Assembly…*" Information provided to the Auditor General could therefore be made public if it is included in the Auditor General's *Annual Report*.

Professional Standards

Staff of the Office of the Auditor General of Ontario are, for the most part, members of professional accounting bodies, namely the Institute of Chartered Accountants of Ontario, the Certified General Accountants of Ontario and the Society of Management Accountants of Ontario. As members of these organizations, they are governed by and required to adhere to the rules of professional conduct of those organizations, as well as to the Auditor General's internal rules of professional conduct. These rules of conduct provide standards of integrity, due care, independence, objectivity and competency in the conduct of professional activities.

ACCESS TO DOCUMENTS

The Auditor General has broad statutory authority under the *Auditor General Act* to require the disclosure of information relating to the powers, duties, activities, organization, financial transactions and methods of business of every government ministry, every agency of the Crown, every Crown-controlled corporation and its subsidiaries and every grant recipient as needed to fulfill their responsibilities under the *Act*.

As a general rule, all information requested by the Auditor General in the performance of their duties under the *Auditor General Act* should be provided to them. Information requests should be dealt with expeditiously and documents released in a timely way. The few exceptions are noted below.

The Auditor General's access to information is not limited to information relating to any particular audit. All information requested by the Auditor General should be provided whether or not it is considered to be within the scope of an audit. Provision of highly sensitive documents should be made in accordance with the guidance provided in this *Handbook*. Should any questions arise with respect to requests for information, ministries, agencies of the Crown and BPS entities should expeditiously obtain advice from their Legal Directors or legal counsel.

FIPPA or *Municipal Freedom of Information and Protection of Privacy Act (MFIPPA*) do not restrict the Auditor General's access to information. *FIPPA*, (s. 42 (e)) and *MFIPPA (*s. 32 (e)) allow for personal information to be disclosed, *"for the purpose of complying with an Act of the Legislature."* The *Auditor General Act* contains equivalent confidentiality provisions.

The Auditor General's power to obtain records may be subject to confidentiality provisions in other statutes such as the *Youth Criminal Justice Act, the Quality of Care Information Protection Act, 2004* and in court-ordered publication bans. For this and other instances where another statute may limit disclosure for the purpose of complying with an Act of the Legislature, ministries, agencies of the Crown and BPS entities should expeditiously obtain advice from their Legal Directors or legal counsel with respect to the application of these provisions.

Access Subject to Common Law Privilege

Certain documents, while they must be provided to the Auditor General may be subject to Common Law privileges (e.g. solicitor-client, litigation, settlement and/or Crown (Cabinet)).

ACCESS TO DOCUMENTS (Cont'd)

Privilege is a special legal right, exemption or immunity granted to a person. The references to solicitor-client privilege, litigation privilege or settlement privilege referred to in subsections 10(3) and 27.1(3) of the *Auditor General Act* refer to specific forms of legal privilege which operate to exempt persons from the disclosure of certain information or documents in specified circumstances.

Solicitor-client privilege is the right of a client to refuse to disclose and to prevent the disclosure by another of confidential communications between a lawyer and the client where the purpose of the communications is the giving and receiving of legal advice and is intended to remain confidential.

Litigation privilege protects materials generated for the dominant purpose of litigation at a time litigation is pending or is reasonably contemplated.

Settlement privilege is the right of a lawyer and a client in a legal proceeding to refuse to disclose and to prevent the disclosure of discussions with the opposing party in the legal proceeding of communications in relation to and arising from the settlement of the legal proceeding.

Cabinet privilege, which is also referred to as Crown privilege or public interest immunity, is the right of the Crown to refuse to disclose and to prevent the disclosure of information where the disclosure would be injurious to the public interest. Each form of privilege, and in particular public interest immunity, is subject to certain conditions. The doctrines of these forms of privilege and the conditions under which they apply are based on precedents established by courts.

Release of Privileged Documents: Solicitor-Client, Litigation & Settlement Privilege

Prior to the amendments to the Auditor General 's enabling legislation in 2004, the Auditor General's access to privileged documents (solicitor-client, litigation and settlement) was governed by a protocol between the Auditor General (previously the Provincial Auditor) and the Ministry of the Attorney General. The Protocol confirmed the Auditor General's right to access to privileged information but more importantly it confirmed that the disclosure to the Auditor General does not constitute a waiver of the privilege by the privilege holder and it stated conditions for the treatment of this information by the Auditor General.

ACCESS TO DOCUMENTS (Cont'd)

The amendment to the *Act*, (s. 10 (3)) "*A disclosure to the Auditor General under subsection (1) or (2) does not constitute a waiver of solicitor-client privilege, litigation privilege or settlement privilege*" gave legal status to the privilege holder's right to maintain privilege and confirmed that disclosure to the Auditor General does not constitute a waiver of solicitor-client privilege, litigation privilege or settlement privilege. The amendment also clarified the Auditor General's responsibility of preserving the confidentiality of privileged information, therefore, employees of the Office of the Auditor General, (s. 27.1 (3)) "*shall not disclose any information or document disclosed to the Auditor General under section 10 that is subject to solicitor – client-privilege, litigation privilege or settlement privilege unless the person has the consent of the holder of the privilege.*"

Since the legal rights and responsibilities of the Auditor General with respect to these privileges have been formalized in the *Act*, the past Protocol now exists only to assist legal counsel with the processes to follow in providing this information to the Auditor General.

Under this Protocol, Legal Directors are responsible for reviewing documents subject to solicitor-client privilege, litigation privilege and settlement privilege requested by the Auditor General, on a timely basis, before releasing the documents. The purpose of the review is to determine whether the documents are subject to solicitor-client privilege, litigation privilege or settlement privilege, to identify any privileged documents that raise special confidentiality concerns such as documents relating to ongoing litigation, and to advise the Auditor General accordingly. Generally, the Auditor General will be provided with copies of privileged documents, however, if the privileged document raises a special confidentiality concern, the Auditor General will inspect such documents on site.

For the Auditor General's audits of the BPS, the BPS entity's legal counsel should provide the necessary assistance in dealing with the Auditor General's request for information and documents subject to solicitor-client privilege, litigation privilege and settlement privilege.

If the Auditor General has any issues regarding privilege claims or their use of privileged information, the Protocol stipulates that the Auditor General will raise them with the audited entity and with the Deputy Attorney General.

ACCESS TO DOCUMENTS (Cont'd)

If ministry, agency of the Crown or BPS entity employees have any questions concerning the Auditor General's access to privileged documents, they should raise them with their Legal Directors or Legal Counsel.

Release of Privileged Documents: Crown (Cabinet) Privilege

The Auditor General is entitled to documents that are provided to Cabinet or to the committees of Cabinet. The access is subject to certain restrictions based on Cabinet privilege. Cabinet privilege protects certain government documents related to decision-making by government (e.g. documents or parts of documents that record advice and recommendations to Cabinet; documents or parts of documents that record the deliberations of Cabinet; or communication plans and communication plan analyses; it generally applies only to documents relating to the highest level of government such as documents of Cabinet and Cabinet committees). Documents that may be subject to Cabinet privilege must be reviewed on a case-by-case basis as not all Cabinet documents are privileged.

The Auditor General's access to documents that are provided to Cabinet or committees of Cabinet is subject to a protocol between the Auditor General (previously, the Provincial Auditor) and the Secretary of the Cabinet entered into in 2003 (the *"Cabinet Protocol"*).

In accordance with this Protocol, ministries should routinely provide all Results Based and Capital Infrastructure Plans in their entirety, after they have been reviewed by Cabinet, but should not provide any other Cabinet documents directly to the Auditor General. For those documents to be provided, ministries must follow the process outlined below. **In addition, the process agreed upon between Cabinet Office and other Central Agencies, and the Office of the Auditor General of Ontario to record and monitor the timely processing and return of the required information should be followed to ensure that the Auditor General is expeditiously provided with the information they require.**

Where an information access issue is not resolved between the Auditor General and a Deputy Minister, either party may refer the matter to the Secretary of the Cabinet.

Note: Generally there should not be any documents in the BPS that are subject to Cabinet privilege. Therefore, unless protected by a specific statute all documents and information should be made available to the Auditor General. If clarification or consultation is required regarding giving access to the Auditor General then the BPS entity's audit representative or other ministry liason should contact their ministry representative for the appropriate process to follow.

Cabinet/Cabinet Committee Submissions

When the Auditor General requests a Cabinet/Cabinet committee submission (the submission includes the presentation document and the full submission document):

Step 1
Final or signed versions of the documents requested by the Auditor General are forwarded by the responsible Deputy Minister to the appropriate Central Agency, as follows:

- Cabinet submissions to:
  Cabinet Office,
  Executive Council Office
- Treasury Board/Management Board of Cabinet submissions to:
  Treasury Board Office,
  Fiscal Strategy and Coordination Division,
  Health and Demand Forecasting Branch,
  TB/MBC Coordination Office.

Step 2
The Central Agency expeditiously reviews the request, determines if any deletions are required and provides a memorandum to the Deputy Minister listing any deletions and the reasons for them. Concurrently, the responsible Ministry's Legal Director will review the documents and advise the Deputy Minister of any other potential legal confidentiality provisions with respect to privileged information in accordance with the *Auditor General Act*.

Step 3
The Deputy Minister releases the documents to the Auditor General, severed as required, along with a covering letter and a copy of the Central Agency memoranda. The Minister, Secretary of the Cabinet, Secretary of Treasury Board/Management Board of Cabinet, Chief Internal Auditor, the Ministry's

Legal Director and Internal Audit Director also receive a copy of the Deputy's covering letter.

Cabinet submissions will be provided in their entirety (including background, analyses and options) except for documents or parts of documents indicating Cabinet/Cabinet committee deliberations, recommendations to Cabinet/Cabinet committees and communications plans, which will be addressed on a case-by-case basis.

Treasury Board/Management Board of Cabinet submissions will be provided in their entirety, except for communications plans or documents that record references to Cabinet/Cabinet committee deliberations.

Notwithstanding the foregoing, should the Auditor General find it necessary to access any severed items, then Cabinet Office will deal with such requests on a case-by-case basis.

Cabinet/Cabinet Committee Minutes

The provision of Cabinet and Cabinet committee minutes to the Auditor General is the sole responsibility of the appropriate central agency. Ministries must not provide Cabinet or Cabinet committee minutes to the Auditor General.

Treasury Board/Management Board of Cabinet minutes are routinely provided to the Auditor General by the:

- Treasury Board Office;
- Fiscal Strategy and Coordination Division;
- Health and Demand Forecasting Branch; and
- TB/MBC Coordination Office.

Access to all other Cabinet or Cabinet committee minutes is only provided on specific request by the Auditor General to the Secretary of Cabinet.

Other Cabinet Documents

Briefing and other notes prepared by central agencies for Cabinet or Cabinet committees should not be released by ministries but may be provided by central agencies.

ISSUES ARISING IN THE COURSE OF AN AUDIT

If, during the course of an audit, staff at a ministry or agency of the Crown become aware of any potential or actual disregard for the *Auditor General Act* or this *Handbook,* or, are unclear if the potential or actual disregard jeopardises the integrity of the audit they should contact their respective Internal Audit Director or the Chief Internal Auditor (CIA) of the Ontario Internal Audit Division.

The bringing forth of such information will be held in strict confidence by the Internal Audit Director and the CIA. Once the Internal Audit Director or the CIA has documented the information, it will be reviewed to determine how the infraction impacts the audit, if any.

This information, and the recommendations of the Internal Audit Director or the CIA will then be forwarded to the appropriate executive serving on the appropriate audit committee for resolution. This information will not be attributed to the individual.

A BPS staff member, in a similar situation, is invited to contact the CIA.

THE ROLE OF AN AUDIT COORDINATOR

To increase the level of service and ensure that complete and comprehensive information is provided to the Auditor General on a timely basis, the auditee may appoint a coordinator.

Coordinators are <u>not</u> to screen or select information. The Auditor General may directly access persons and records the Auditor General deems necessary. It is <u>not</u> normally appropriate for a Coordinator to attend staff interviews.

For BPS audits, the auditee's Coordinator could also be the link to communicate with the ministry representative when required.

THE ROLE OF THE ONTARIO INTERNAL AUDIT DIVISION

The Ontario Internal Audit Division (OIAD) of the Ministry of Finance's Treasury Board Office provides business consulting and assurance services to ministries and their agencies.

OIAD's mission is to enhance the ability of its clients to manage resources prudently to achieve their intended purpose by providing assurance and expertise to promote value for money and by providing professional advice regarding risk management and sound business practices.

OIAD provides a full range of professional internal audit services to ministries and the Government as a whole including providing advice and assistance with respect to audits conducted by the Auditor General. Each ministry's Audit Service Team (AST) assists its client ministry/ministries in reviewing the Auditor General's draft reports for factual accuracy and to ensure that the management comments provided appropriately address the Auditor General's recommendations. Based on input from the different ASTs, the Ministry of Finance's AST summarizes the Auditor General's findings. This summary is used to brief senior government officials before the release of the Auditor General's *Annual Report.*

To minimize disruption to auditees, the two audit groups, OIAD and the Auditor General may rely on each other's work to the extent possible and in accordance with professional standards. The Auditor General's reliance on OIAD's work is governed by the reference to the *Canadian Institute of Chartered Accountants Handbook-Assurance section 5050 "Using the Work of Internal Audit."* Building this cooperative relationship to help the audit groups to achieve their respective responsibilities requires commitments and contributions from both groups. OIAD and the Auditor General strive to maintain close communications on an ongoing basis regarding the other's planned and ongoing audit activities.

The working relationship between OIAD and the Auditor General is governed by a protocol between the Auditor General (previously the Provincial Auditor) and the Chair of the Corporate Audit Committee (signed November 2000).

It is highly recommended that ministry management involve OIAD in major briefings by the Auditor General on audit plans (objectives, scope and criteria) and audit reports (discussions of reportable items for factual clearance). The

THE ROLE OF THE ONTARIO INTERNAL AUDIT DIVISION (Cont'd)

Internal Audit Director is a good source of information should any signi
questions or concerns arise during an audit.

ADVICE REGARDING ACCOUNTING PRINCIPLES, GOVERNANCE AND ACCOUNTABILITY

For advice regarding the application of accounting principles for governments recommended by the Public Sector Accounting Board (PSAB) of the Canadian

Institute of Chartered Accountants (CICA), and where applicable, the recommendations of the Accounting Standards Board of the CICA and other governance and accountability issues:

- Ministries and agencies of the Crown through their Ministry Controller/Finance Director should contact the Office of the Provincial Controller Division (see Question #25 in Appendix B for details of role); and
- BPS organizations should contact their auditors.

For fiscal years beginning on or after April 1, 2005, school boards and authorities, community colleges and hospitals' financial results will in the Government's reporting entity and therefore be consolidate Government's financial statements.

Guiding Principles for Interaction with the Office of the Auditor Ger al of Ontario

Consistent with their duties, employees of ministries and agencie
are expected to govern their actions and decisions according to
principles listed below.

1. Independence
The Auditor General is independent of the Governme
This independence is a safeguard that enables the A
auditing and reporting responsibilities objectivelv airly. T
General must, therefore, be free from any exter
independence.

2. Respect the Authority of the Auditor
As noted above, the Auditor General h mplete e
audit, and any significant matter tha s to th r
All dealings with the Auditor Gen r

3. Responsibility
Every employee of a minist the Crow audit
a responsibility to ensure sh
environment. In partic supe
relationship is maint ug

4. Cooperation
It is the respor pro nera cess
the people, i on rds
legislated

Oblig ns of M tries and encies o e Crown ff

A yee e

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THE HANDBOOK AS IT APPLIES TO MINISTRIES AND AGENCIES OF THE CROWN (Cont'd)

- Not limit or unreasonably delay the time required to provide information and conduct interviews;
- Respect that the Auditor General has the authority to select/determine what information is required for the audit;
- Respect that the Auditor General has the authority to decide the pertinence of information;
- Not restrict the audit or interfere with the Auditor General's ability to form independent and objective opinions and conclusions;
- Not interfere with or restrict the scope of an audit;
- Not interfere with the selection or application of audit procedures, or in the selection of transactions to be examined;
- Remember their actions and comments always reflect on the Government itself;
- Provide the Auditor General with suitable accommodations upon request;
- Provide clear and full disclosure of requested information and explanations;
- Provide the Auditor General with appropriate access to ministries' and agencies of the Crown's resources and information sources in order to acquire necessary information;
- Provide original supporting documentation when available and requested by the Auditor General, and shall in no way alter, change or delete information or records;
- Help foster and support a positive audit environment;
- Permit confidential access to staff for the purposes of interviews;
- Respond to the issues raised by the Auditor General and provide factual clearance for the purpose of finalizing their findings; and
- Keep any copies of drafts reports and related supporting information issued by the Auditor General for purposes of factual clearance in strict confidence as these documents are considered part of the Auditor General's working papers and therefore may not be made public under the *Auditor General Act*.

In adopting the above principles, ministries' and agencies of the Crown's staff must understand that access to information and individuals is fundamental to an effective audit. The Auditor General not only must review the information but also requires an understanding of the source of that information and what it is used for.

THE HANDBOOK AS IT APPLIES TO MINISTRIES AND AGENCIES OF THE CROWN (Cont'd)

Generally, all ministries' and agencies of the Crown's documents are subject to audit, except as noted under the "Access to Documents" section. Access should be granted not only to the documents themselves, but also to where they are stored so that, if necessary, the Auditor General can select files confidentially and/or preserve the integrity of the audit information gathering process.

Cooperation with the Auditor General should not be hindered in any way and all queries must be answered accurately and completely. Managers and supervisors have a particular responsibility to ensure a positive relationship with the Auditor General by respecting the Auditor General's need to speak with staff as part of the information gathering process, confidentially if necessary. Auditors themselves have a duty to maintain confidentiality and will not attribute responses to any individual.

The Auditor General sets the scope of the audit, which is intended to be somewhat flexible, and reviews plans with the auditee. However, the Auditor General cannot ignore issues that come to their attention. The Auditor General is expected to keep the auditee informed of significant changes in scope at periodic update meetings.

Management staff of each auditee should advise the Auditor General of any sensitivities on the use of information provided; for example, if it is highly confidential or has labour relations implications, so that they may discuss the information with the appropriate staff. The Auditor General should advise the auditee of those staff that they wish to talk to and the general area of discussion. It is not normally appropriate for management staff to attend those interviews.

THE HANDBOOK AS IT APPLIES TO THE BROADER PUBLIC SECTOR

For the purpose of this *Handbook*, grant recipients in the Broader Public Sector, Crown-controlled corporations and their subsidiaries are broadly referred to as the "Broader Public Sector" (BPS).

For the BPS, the essence and purpose of the *Handbook* remains the same as that for ministries and agencies of the Crown, to clarify the Government's expectations with respect to the conduct and diligence of auditees in providing assistance to the Auditor General so that audit work can be carried out efficiently and effectively. **The obligations and expectations of cooperation with the Auditor General of the BPS staff are the same as those of the staff of ministries and agencies of the Crown.**

The processes to be followed in the Auditor General's audits of the BPS are most likely to be similar to those followed for audits of ministries and agencies of the Crown, however, the BPS audits may be impacted by the grant payment agreements and memoranda of understanding that govern the audited entity's relationship with the Government of Ontario. These processes will likely be refined as the Auditor General and the Government benefit from the experience of the initial BPS audits.

The roles of ministry management and the Ontario Internal Audit Division as they pertain to BPS audits are addressed below.

<u>Ministry Management & the Ontario Internal Audit Division</u>:

Ministry staff responsible for managing the relationship with the BPS auditee is a helpful resource in the BPS entities' dealings with the Auditor General. OIAD facilitates the reporting of the Auditor General's findings to senior government officials prior to the tabling of the Auditor General's *Annual Report*. OIAD's involvement with the Auditor General's audits is documented in the various processes in the *Handbook* and more specifically in the section, The Role of the Ontario Internal Audit Division.

For BPS audits, OIAD at the request of the ministries' staff or based on pre-established protocols will provide support to ministries in their dealings with the Auditor General.

THE HANDBOOK AS IT APPLIES TO THE BROADER PUBLIC SECTOR (Cont'd)

The Auditor General will keep Deputy Ministers of the ministries responsible for the sector organization(s) being audited informed of their BPS audit activity by providing them with:

- A copy of the letter to the BPS entity's Board of Directors (for entities with a Board), sector associations and/or entity's senior management announcing the Auditor General's intention to conduct an audit;
- A copy of the transmittal letter to the BPS's entity accompanying the draft report being provided for factual clearance and responses; and
- A copy of the final draft report that incorporates the organization's responses (if only one sector organization is audited), or a summary of responses (if several organizations in a sector are audited).

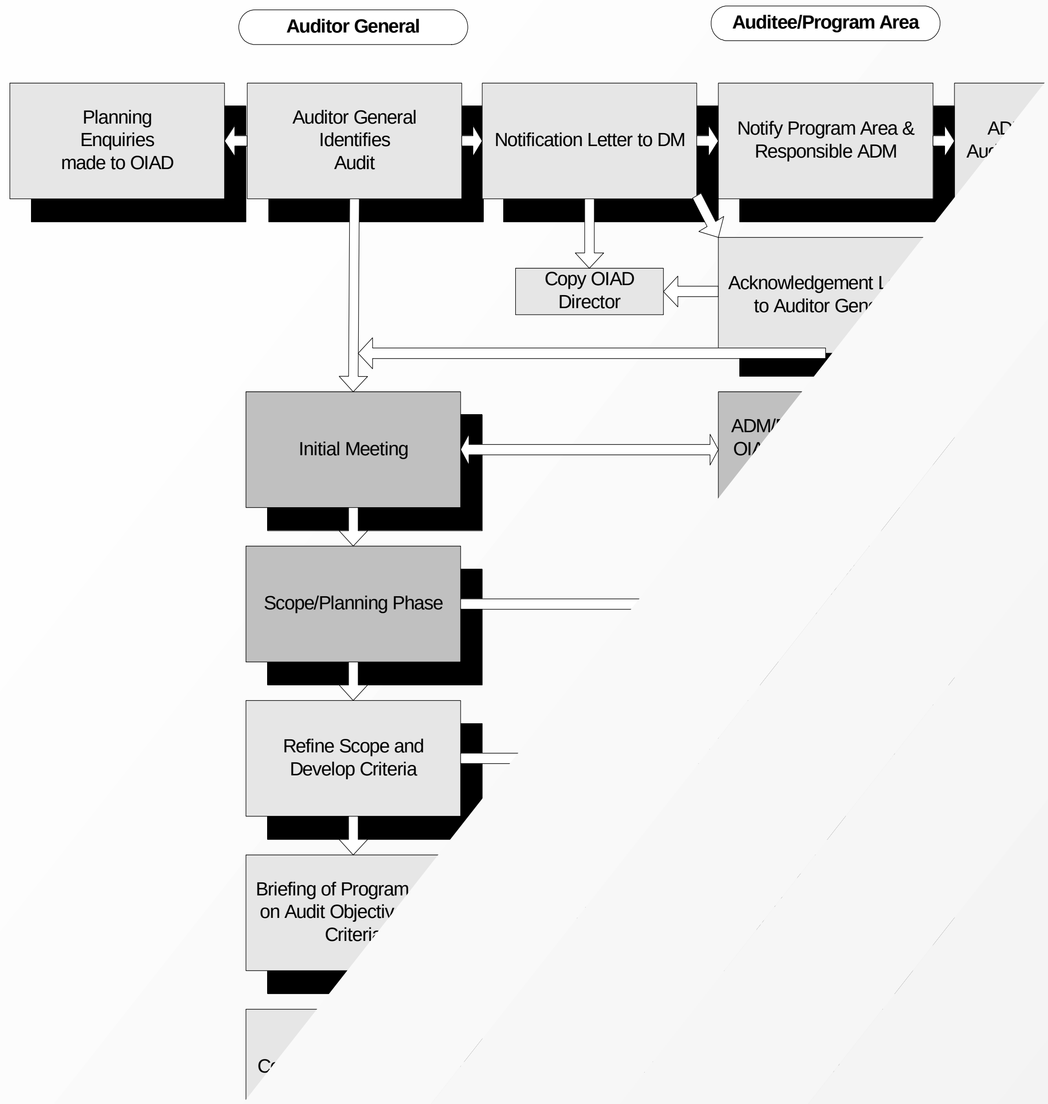
If the draft report contains issues or recommendations that may require a response or action by the ministry responsible for the BPS entity(s) the Auditor General will provide the Deputy Minister with the relevant sections of the draft report for factual clearance and response before finalization and issuance of the final draft report.

OIAD will receive copies of all transmittal letters and a copy of the final draft report that incorporates the organization's responses.

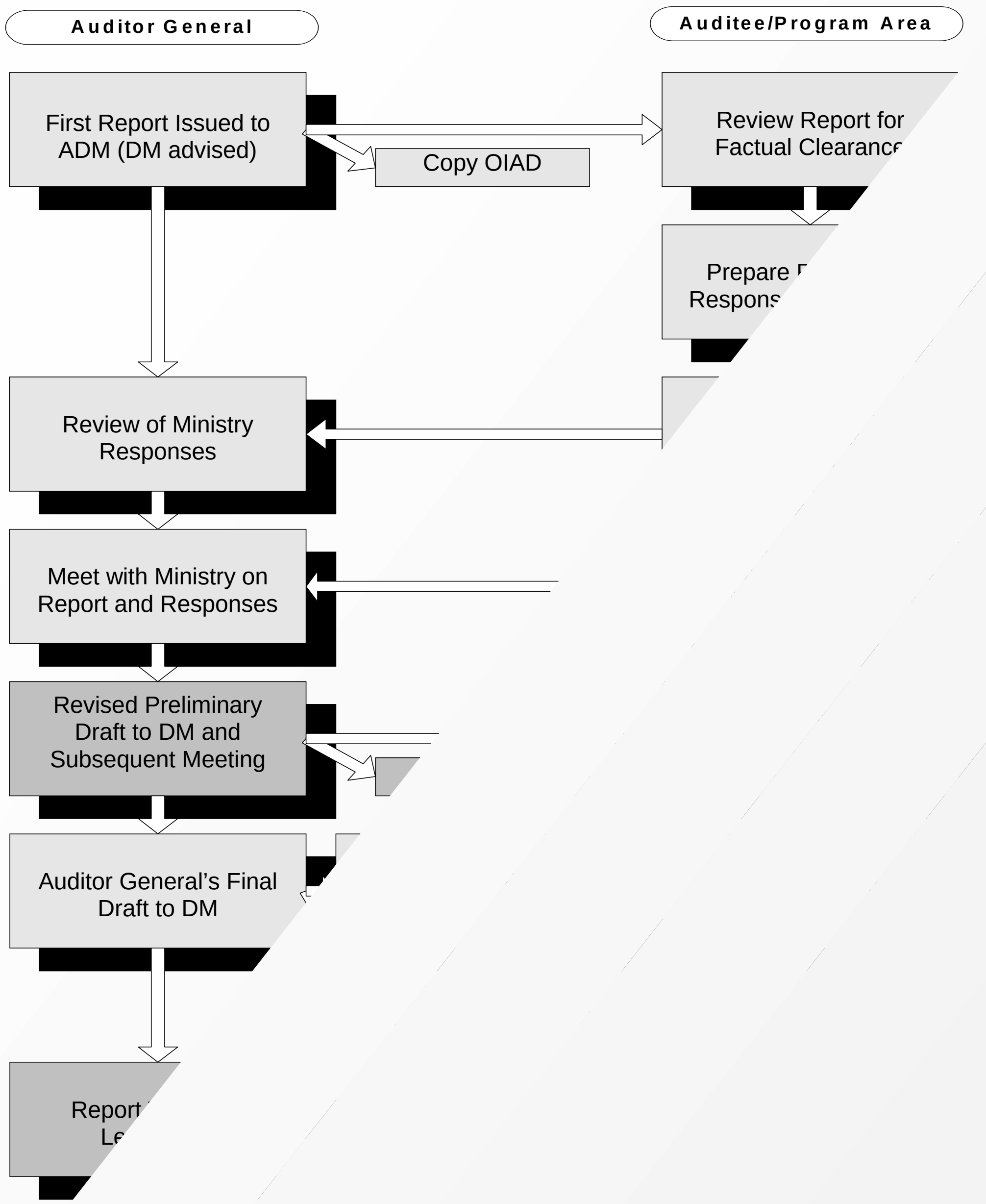
Ministry management will ensure that there is a ministry representative to maintain appropriate communication with the BPS entity being audited. It is suggested that this Ministry representative and the BPS entity being audited obtain agreement on the degree of Ministry involvement during the audit. The initial meeting with the Auditor General provides a good opportunity for the Ministry representative and the auditee's representatives to discuss and agree on communications during the audit.

If clarification or assistance is required by a BPS entity during an audit by the Auditor General it is recommended that the BPS entity's representative contact their Ministry representative for the appropriate processes to follow.

APPENDIX A: AUDIT PROCESS FLOWCHART



APPENDIX A: AUDIT PROCESS FLOWCHART (Cont'd)



APPENDIX B: QUESTIONS AND ANSWERS

1. What is auditing in the Ontario public sector context?

Auditing is an independent, objective assurance activity. Auditing examines the broader aspects of accountability including efficiency, effectiveness and economy. Auditing reviews the reliability and integrity of information, compliance with policies and regulations, the safeguarding of assets, the economical and efficient use of resources, and the measurement of the extent to which established operational goals and objectives are being achieved. Audits may encompass all of an organization's activities, including finance, accounting, policy, planning, operations, systems, service/program delivery, engineering, communications/marketing and human resources. To provide value, auditors must be knowledgeable about many aspects of administration and service delivery within government and the BPS.

There are two primary groups that have auditing responsibilities within the Government of Ontario. The Ontario Internal Audit Division of the Ministry of Finance’s Treasury Board Office is the internal audit service of the Government. The Auditor General is the external auditor for the Government reporting to the Legislative Assembly.

2. What is value-for-money auditing?

Value-for-money (VFM) auditing is the assessment of whether public resources are well administered, whether government programs and activities and those of the Broader Public Sector organizations receiving provincial grants, Crown-controlled corporations and their subsidiaries are managed with due regard to economy and efficiency, and whether procedures to measure and report on the effectiveness of these programs activities have been established and are operating satisfactorily.

3. What is the Office of the Auditor General of Ontario?

The Auditor General is the external auditor for the Government of Ontario appointed by the Legislature under the *Auditor General Act*. The Auditor General assists the Legislative Assembly of Ontario to hold the Government and its administrators accountable for the quality of the administration's stewardship of public funds and for the achievement of value for money in the delivery of services to the public.

The primary responsibility of the Auditor General is to audit the administration of government programs and activities as carried out by the ministries, agencies of the Crown, Crown-controlled corporations and their subsidiaries and grant recipients carrying out activities under Government of Ontario policies and legislation.

The Auditor General also does attest audits of the financial statements of the Province and approximately 45 agencies of the Crown. The Auditor General performs its work in accordance with the professional standards established by the Canadian and Ontario Institute of Chartered Accountants. For further information on the Office of the Auditor General visit the Auditor General's Internet site at http://www.auditor.on.ca.

4. What are the core services the Office of the Auditor General of Ontario to the Legislative Assembly of Ontario?

The core services provided by the Auditor General are as follows:

- Attest audits to provide audit opinions on the financial statements of the Province and agencies of the Crown that are not audited by another auditor. In addition:
  - The Auditor General directs the audits of agencies of the Crown whose audits are performed by public accounting firms appointed as auditors by the Lieutenant Governor in Council; and,
  - The Auditor General has audit access rights with respect to audits of Crown-controlled corporations, whose audits are performed by public accounting firms.
- Value-for-money Audits of selected government activities, broader public sector organizations receiving government grants (except municipalities), and Crown-controlled corporations and their subsidiaries, to make an assessment of whether or not public money was spent with due regard for economy and efficiency and whether appropriate procedures were in place to measure and report on the effectiveness of programs; to provide assurance to the taxpayers of Ontario regarding effective controllership, efficient and accountable administration and economical governance;
- Compliance audits to ensure due regard to legislative (i.e. statutes and regulations) and administrative requirements (i.e. policy, procedures, directives and guidelines). Compliance audit work generally is conducted as a component of the value-for-money and attest audits;

- Special Assignments as requested by the Legislature, the Standing Committee on Public Accounts, or a Minister of the Crown; and
- Assistance and advice to the Standing Committee on Public Accounts in its review of the *Public Accounts of Ontario* and the *Annual Report of the Auditor General of Ontario.*

5. What is the *Auditor General Act* (*formerly The Audit Act*)?

The *Auditor General Act* is the enabling legislation for the Office of the Auditor General of Ontario. The *Audit Act* was passed in 1977 and came into force on April 1, 1978. The *Audit Act* was amended with the passage on November 23, 2004 of Bill 18, the *Audit Statute Law Amendment Act, 2004.* The 2004 amendments renamed the *Audit Act, the Auditor General Act* (November 30, 2004). Among other changes in the 2004 amendments, the most significant change was the expansion of the Auditor General's value-for-money mandate to organizations in the Broader Public Sector (BPS) that receive government grants and to Crown-controlled corporations and their subsidiaries.

The *Auditor General Act* lays out the qualifications, duties and responsibilities of the Auditor General. The *Act* covers the workings of the Auditor General, including access to records and information, reporting processes and procedures, powers of the Auditor General, penalties for contravening the *Act*, matters of confidentiality and loyalty, delegation of authority, the collection and use of personal information, staffing and a variety of resource allocation issues. According to the *Act*, the Auditor General audits the receipt and disbursement of all public money forming part of the Consolidated Revenue Fund. Under the *Act*, the Auditor General shall report on any activity of the Government of Ontario that, in the opinion of the Auditor General, should be brought to the attention of the Legislative Assembly. The *Act* lays out the responsibilities of those working in the Government of Ontario and the BPS regarding the Auditor General's access to people, facilities and information. Besides reporting on the results of the audits in the *Annual Report*, the *Act* also allows the Auditor General access to the Legislative Assembly when the situation warrants, by tabling a special report. For further information on the *Act*, see http://www.e-laws.gov.on.ca.

6. Who is the Auditor General accountable to?

The Auditor General reports to the Ontario Legislative Assembly through the Speaker of the Legislative Assembly. Reporting to the Legislative Assembly, rather than to the Government in power, safeguards the independence of the Auditor General. At least once a year, the Auditor General presents a report to the Legislative Assembly. The Auditor General also assists and advises the Standing Committee on Public Accounts in its review of the *Public Accounts of Ontario* and the *Annual Report* of the Auditor General.
The Auditor General 's *Annual Reports* are public documents, and the issues and recommendations they contain often receive public attention and comment. This is due to the fact that the Auditor General audits areas that are important to Ontario's citizens, such as transportation, health care, education, social assistance, and the protection of the environment and Ontario's natural resources. The Auditor General is not subject to the *Freedom of Information and Protection of Privacy Act,* therefore their audit working papers, including draft audit reports and management letters, are not subject to public access.

The Auditor General receives approval for its financial and human resources budgets from the Board of Internal Economy. The Board of Internal Economy is an all-party legislative committee that is independent of the Government's administrative process. In accordance with the *Auditor General Act*, all expenditures of the Auditor General are audited annually by a firm of Chartered Accountants, whose report on the audit is required to be submitted to the Board of Internal Economy and is then subsequently required to be tabled in the Legislative Assembly.

7. How does the Auditor General select program areas to audit?

All major Provincial programs are considered for audit over a five to seven year cycle. Cyclical audits are primarily value-for-money oriented. These audits also include the major information systems associated with the programs being audited. Cyclical audits deal specifically with the administration of programs and activities by auditee management. As required by legislation, the Auditor General audits the financial statements of most of the agencies of the Crown. Periodically, agencies of the Crown undergo more in-depth value-for-money audits. In rating the priority of a cyclical audit, a variety of factors are considered, including:

- Total revenues or expenditures;
- Time of last audit and the results of previous audits and related follow-ups;
- Work completed or planned by internal auditors; and
- Risk factors, such as complexity and diversity of operations, impact on the public.

The Auditor General considers a number of major factors when planning each audit such as:

- Responsibilities under the *Auditor General Act;*
- Clarity of management's objectives and goals;
- Availability of information or evidence required;
- Availability of appropriate audit methodology for the subject or issue;
- Estimated costs, benefits and the duration of an audit; and
- Complexity or diversity of operations.

The amount of work done by internal auditors of ministries and agencies of the Crown, and the breadth of the internal auditor's scope can have an impact on the timing, frequency and extent of the Auditor General's audit activities. By having access to internal audit reports, working papers and audit plans, the Auditor General is better able to avoid duplication of effort by relying on internal audit activities to the extent possible.

8. How does the Auditor General's audit plan get developed and implemented?

The Auditor General is entirely responsible for the audit planning and selection process which is designed to ensure that:

- A risk analysis is undertaken to identify potential programs, functions and units to audit, in terms of financial and social risks, including potential exposure to losses of funds, assets, credibility or lost opportunities to provide for value-added components (e.g. dollars saved, etc.); and
- Other recent audit or evaluation activity is also considered in establishing audit priorities.

9. Can the Auditor General undertake special assignments on request?

Special assignments are undertaken by the Auditor General, as requested by the Legislative Assembly, Standing Committee on Public Accounts (not in lieu of statutory duties), or a Minister of the Crown. However, the Auditor General can decline an assignment referred by a Minister if, in their opinion, it conflicts with other duties.

10. What can the Auditor General audit?

The Auditor General can audit the administration or management of government programs and activities as carried out by the ministries and agencies of the Crown, Crown–controlled corporations and their subsidiaries and grant recipients carrying out activities under Legislative and Government of Ontario policies. Therefore, the Auditor General does not comment on the merits of government policy matters, since this is the role of the members of the Provincial Legislative Assembly. For example, the Auditor General does not question the merits of the Crown's responsibility for health care but would audit the administration and management of the delivery of health services prescribed by legislation and government policies.

During an audit, the Auditor General identifies areas where improvements can be made to economy, efficiency and systems to measure results, including the effectiveness of the auditee's operations. The Auditor General's audit observations are derived from attest audits, value-for-money audits, compliance audits and special assignments. In addition, the Auditor General's audit observations are generally accompanied by recommendations for improvement.

11. Does the Auditor General conduct follow-ups on each audit?

It is the practice of the Auditor General to follow up on issues raised and recommendations made in previous *Annual Reports* and to report on their status. The follow-up can include any commitments or action plans made by the senior management of a ministry, agency of the Crown, Crown-controlled corporation or grant recipient during an Auditor General audit engagement. Follow-ups are usually conducted and reported on two years after the initial audit is reported on in the Auditor General's *Annual Report*.

12. What is the Auditor General's reporting process?

The Auditor General 's audit cycle generally lasts twelve months. During this time, the Auditor General conducts a variety of audits, which culminate in an

Annual Report and possibly a special report on more specific areas of interest to the requestor or the Legislature. Auditor General staff brief ministry, agency of the Crown, Crown-controlled corporation and/or grant recipient senior management, conduct fieldwork, including on-site interviews with managers and staff, actual observation of on-site operations, on-site review and analysis of records, reports and other documentation.

Upon completion of fieldwork, the Auditor General issues a draft report. The draft report phase allows for discussion, clarification and factual clearance. The draft report is discussed with senior auditee officials and revised, if necessary, to reflect the results of this discussion. The draft report is the property of the Auditor General and as such must remain confidential in accordance with the *Auditor General Act*. Senior auditee officials, with assistance from The Ontario Internal Audit Division as needed, prepare a formal response to the Auditor General on the draft report, including action plans to address the audit findings and recommendations. The Deputy Minister/BPS senior management reviews all preliminary draft reports prepared by the Auditor General.
Once a response has been received from the auditee, the Auditor General prepares and releases a final draft report to the Deputy Minister and/or BPS senior management and provides a copy to the Secretaries of Treasury Board/Management Board of Cabinet prior to tabling/publication.

The *Annual Report* is usually formally tabled in the Legislative Assembly in the late fall of each year while special reports may be tabled at any time.

To ensure that the Auditor General's recommendations receive timely attention, the Auditor General may conduct in-depth follow-up reviews on the progress of actions plans to address past audit observations and recommendations. Follow-up status reports appear in the Auditor General's *Annual Report* two years after the audit is initially reported.

13. What is the Standing Committee on Public Accounts?

The Standing Committee on Public Accounts (PAC) is an all-party committee, appointed for the duration of the Parliament and comprised solely of elected Members of Provincial Parliament. PAC membership is approximately proportional to the respective party membership in the Legislative Assembly.

APPENDIX B: QUESTIONS AND ANSWERS (Cont'd)

The Chair must be a member of the opposition party with the largest proportion of seats in the Legislative Assembly. With the exception of the Chair, all members are entitled to vote on motions before PAC. However, the Chair is able to vote in order to break a tie. The role of the PAC is as follows:

- To examine, assess and report to the Legislative Assembly on a number of issues, including the economy and efficiency of government operations;
- To determine whether systems are in place to measure the effectiveness of programs in achieving their objectives;
- To examine controls over assets, expenditures and the assessment and collection of revenues; and
- To assess the reliability and appropriateness of information in the *Public Accounts.*

In fulfilling this role, the PAC reviews and reports to the Legislative Assembly its observations, opinions and recommendations on selected matters in the *Annual Report* of the Auditor General, special reports by the Auditor General and the *Public Accounts*. Once they have been tabled, these documents are deemed to have been permanently referred to PAC. Under sections 16 and 17 of the *Auditor General Act,* PAC has the power to request that the Auditor General examine any aspect of the *Public Accounts* or perform a special assignment on any matter.

PAC meetings are open to the public except when it is setting its agenda and preparing its reports. The Auditor General is highly involved with assisting PAC. The Clerk of PAC is a liaison between the committee and the Auditor General, the public and other government functionaries.

Since PAC is concerned with matters of administration rather than policy matters, Ministers rarely attend. Other attendees as deemed appropriate by PAC could include Deputy Ministers, senior ministry officials, Chief Executive Officers, Chairs of the Boards and other senior staff of agencies of the Crown, Crown-controlled corporations and grant recipients.

PAC is a member of the Canadian Council of Public Accounts Committees. This umbrella group (i.e. federal, provincial and territorial public accounts committees) shares knowledge about the political representatives' roles in overseeing the auditing of public accounts.

14. What are the *Public Accounts*?

The *Public Accounts* comprise the financial statements of the Province along with three complementary volumes reflecting the financial activities of Government ministries, significant agencies of the Crown, Crown-controlled corporations, and Ontario Public Service senior salary disclosure. The Ministry of Finance's Office of the Provincial Controller's Division oversees the preparation of the *Public Accounts* for the Government of Ontario (see Question #25 for details regarding the Office of the Provincial Controller's Division). Section 13(3) of the *Ministry of Treasury and Economics Act* requires that, except in extraordinary circumstances, the *Public Accounts* for each fiscal year ending March 31 be delivered to the Lieutenant Governor in Council on or before the 180th day after the end of the fiscal year and the Lieutenant Governor in Council shall lay the *Public Accounts* before the Legislative Assembly if the Assembly is in session; and if the Assembly is not in session, shall make the *Public Accounts* public and lay the *Public Accounts* before the Assembly on or before the tenth day of the next session.

The financial statements of the Province report the activities of the Consolidated Revenue Fund combined with those organizations that are accountable for the administration of their financial affairs and resources, either to a Minister of the Government or directly to the Legislature, and that are controlled by the Government. The financial statements are the responsibility of the Government of Ontario. This responsibility encompasses ensuring the integrity and fairness of the information presented in the statements, including the many amounts based on estimates and judgement. The Government is also responsible for ensuring that a system of control with supporting procedures is in place to provide assurance that transactions are authorized, assets are safeguarded and proper records are maintained. Each year, the Auditor General audits and expresses an opinion on the financial statements of the Province.

15. Does the Auditor General outline the scope of the audit?

The Auditor General develops objectives and the criteria outlining the scope of the audit for discussion with the auditee's management. However, this is only a guideline. If circumstances change, or if new or significant information comes to light, the Auditor General may follow up on the information accordingly.

The program area/auditee is required to be flexible to any changes in the audit scope in accordance with the observations made during the audit. However, the Auditor General can be reasonably expected to advise the audit client when such instances occur. Usually, this would happen during periodic update meetings.

16. What kind of information does the Auditor General examine?

During the course of an audit, any information needed to assess the audit criteria may be examined. This includes verbal information, written information, electronic information as well as information obtained through observations.

17. How does the auditee ensure all documents have been returned?

Staff should keep a record of original documents provided to the Auditor General to ensure that they are returned. The Auditor General will require original documentation and will make copies of these documents as required.

18. What course of action do staff members take if they become involved in or aware of a potential disregard for *the Auditor General Act* or the guidance in this *Handbook*?

If, during the course of an audit, ministries' or agencies of the Crown's staff become aware of any potential or actual disregard for the *Auditor General Act* or the guidance in this *Handbook*, or, are unclear if the potential or actual disregard jeopardises the integrity of the audit they should contact their respective Internal Audit Director or the Chief Internal Auditor of the Ontario Internal Audit Division.

A BPS staff member, in a similar situation, is invited to contact the Chief Internal Auditor of the Ontario Internal Audit Division.

19. Who is the Ontario Internal Audit Division?

OIAD of the Ministry of Finance's Treasury Board Office provides internal audit services for the Government of Ontario. OIAD was established on April 1, 1999 through the integration of internal audit branches from all ministries. Audit services are provided to ministries by OIAD through a number of service teams.

OIAD is a service to ministries and agencies of the Crown senior management, providing advisory and assistance services and independent and objective assurance to Deputy Ministers and senior management in accordance with approved ministry audit plans. OIAD also undertakes enterprise-wide projects and audits approved by the Corporate Audit Committee (CAC).

The Internal Audit Directive governs the internal audit function in the Ontario Government. The Directive can be found at the Ontario Internal Audit Division Intranet Website, at http://intra.fin.gov.on.ca/tbo/oiadsite/ and on the Ministry of Government Services' Corporate Policy Division Intranet Website.

20. Are there any agreements between the Auditor General and the Ontario Internal Audit Division?

OIAD and the Auditor General have a protocol outlining the terms to facilitate the mutual exchange of information and the furthering of common interests of both audit groups.

The Auditor General and OIAD are committed to maintaining mutual open and effective communication between the two audit groups and to improving the discharge of their respective audit duties by cooperating in a number of areas, including audit planning and sharing of knowledge and information. The Auditor General copies OIAD Audit Directors on letters to Deputy Ministers/BPS senior management announcing the start of an audit or conveying draft reports.

21. How does the Ontario Internal Audit Division facilitate the relationship between the Auditor General and the management of its client ministry?

The Internal Audit Director can act as a liaison during an audit, providing a point of contact between the auditee's senior management and the Auditor General. The Audit Director can help program managers and senior managers understand and respond appropriately to Auditor General audit findings when preparing the formal response to the Auditor General's draft report.

For BPS audits, OIAD at the request of the ministries' staff or based on pre-established protocols can provide similar services.

22. What are the core services the Ontario Internal Audit Division provides to the senior management of the Ontario Public Service?

The core professional services provided by the OIAD are as follows:

Advisory and Assistance Services
- Risk assessment and control review;
- Advice on governance, controllership, accountability and sound business practices;
- Training and education on risk and control; and
- Advice and liaison for audits conducted by the Auditor General.

Information Management and Information Technology (IM & IT) Services
- Specialized audit, risk assessment and consulting services in IM & IT projects that include new systems under development, systems and IT project management, information and infrastructure security and IT operations.

Assurance Services
- Value-for-money audits;
- Financial and internal control audits;
- Compliance reviews and; and
- Forensic investigations and special reviews.

23. What is the role of the Ministry Audit Committee?

Ministry Audit Committees govern a ministry's audit and risk management activities. Audit Committees should meet at least quarterly or as appropriate and consist of the Deputy Minister, Assistant Deputy Ministers and other senior management

Audit Committees are mandated to monitor controllership in the ministry, including risk management, internal controls, accountability and audit coverage.

They also:
- Review and approve the annual audit plan;
- Review audit recommendations/responses by program managers; and
- Oversee ministry responses to the Auditor General's recommendations.

24. What is the Corporate Audit Committee?

The Corporate Audit Committee is a Deputy Ministers' committee chaired by the Secretary of Management Board of Cabinet. Its purpose is to enhance accountability and control in the Ontario Government and ensure risks are being appropriately addressed across the enterprise, by promoting an effective internal audit function which meets enterprise and ministry needs.

It provides support and direction to the Ontario Internal Audit Division and reviews enterprise-wide risk assessments and audit and consulting plans prepared by the Chief Internal Auditor.

25. What is the role of the Office of the Provincial Controller Division?

The Office of the Provincial Controller Division (OPCD) ensures effective financial management, accounting control of programs, activities and resources by providing timely accurate advice to support the objectivity and integrity of the Consolidated Financial Statements and Financial Statement Discussion and Analysis.

The OPCD is responsible for ensuring that the Consolidated Financial Statements of Ontario and the Financial Statement Discussion and Analysis section of the *Annual Report* are prepared to be in compliance with legislation, and in accordance with accounting and financial reporting principles for governments recommended by the Public Sector Accounting Board (PSAB) of the Canadian Institute of Chartered Accountants (CICA) and, where applicable, the recommendations of the Accounting Standards Board of CICA.

The OPCD is the key liaison between the Auditor General and the Government with respect to the activities that the Auditor General undertakes to express an opinion on the fair presentation of the Public Accounts of Ontario (*Annual Report* and Consolidated Financial Statements).
Ministries and agencies of the Crown through their Ministry Controller/Finance Director should contact the OPCD for information and advice regarding accounting principles, governance and accountability.

BPS organizations should consult with their auditors for advice regarding the application of accounting principles for governments recommended by the PSAB of the CICA, and where applicable, the recommendations of the Accounting Standards Board of the CICA.

26. What is the relevance of *the Handbook* for the Broader Public Sector?

For the purpose of this *Handbook*, grant recipients in the broader public sector, Crown-controlled corporations and their subsidiaries are broadly referred to as the "Broader Public Sector" (BPS).

As for the employees of ministries and agencies of the Crown, the essence of this *Handbook* for employees of the BPS is of cooperation with the Auditor General with respect to their audits.

Within relevant sections of the *Handbook* references have been made to processes as they apply to the BPS. The audit process for a BPS entity has not been specifically summarized in a flow chart as the processes are still evolving. The section on "the Handbook as it Applies to the Broader Public Sector" outlines the guidance on how ministries and the Ontario Internal Audit Division will be involved in the Auditor General's BPS audits.

APPENDIX C: INDEX OF ABBREVIATIONS/TERMS

ACT	The Auditor General Act
AST	Audit Service Team
Auditee	Ministries, agencies of the Crown, grant recipients and Crown-controlled corporations and their subsidiaries, referred by the Auditor General
Auditor General	Office of the Auditor General, Auditor General and staff of the Office
BPS	Provincial government grant recipients and Crown-controlled corporations and their subsidiaries
CAC	Corporate Audit Committee
CIA	Chief Internal Auditor (of the Ontario Internal Audit Division)
CICA	Canadian Institute of Chartered Accountants
FIPPA	Freedom of Information and Protection of Privacy Act
Government	Government of Ontario
Handbook	The Handbook for Interaction with the Auditor General of Ontario
MFIPPA	Municipal Freedom of Information and Protection of Privacy Act
OIAD	Ontario Internal Audit Division
PAC	The Standing Committee on Public Accounts
Province	Province of Ontario
PSAB	Public Sector Accounting Board
VFM	Value-for-Money

Court File No.

OFFICE OF THE AUDITOR GENERAL OF ONTARIO - and - LAURENTIAN UNIVERSITY OF SUDBURY

Applicant Respondent

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

PROCEEDING COMMENCED AT
TORONTO

AFFIDAVIT OF AUDITOR GENERAL BONNIE LYSYK

(Sworn September 28, 2021)

(Rule 14.05 (3) Application – Interpretation of Section 10 of *Auditor General Act*)

GOWLING WLG (CANADA) LLP
Barristers & Solicitors
160 Elgin Street
Suite 2600
Ottawa ON K1P 1C3
Tel: 613-233-1781
Fax: 613-563-9869

Richard G. Dearden (LSO#19087H)
richard.dearden@gowlingwlg.com

Heather Fisher (LSO#75006L)
heather.fisher@gowlingwlg.com

Sarah Boucaud (LSO#76517I)
sarah.boucaud@gowlingwlg.com

Lawyers for the Applicant

AUDITOR GENERAL OF ONTARIO -and- LAURENTIAN UNIVERSITY OF SUDBURY
Applicant Respondent

Court File No. CV-21-00669471-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

PROCEEDING COMMENCED AT
TORONTO

APPLICATION RECORD

GOWLING WLG (CANADA) LLP
Barristers & Solicitors
1 First Canadian Place
100 King Street West, Suite 1600
Toronto ON M5X 1G5

Richard Dearden (19087H)
Richard.dearden@gowlingwlg.com
Tel: 613-786-0135
Heather Fisher (75006L)
Heather.fisher@gowlingwlg.com
Tel: 416-369-7202
Sarah Boucaud (76517I)
Sarah.boucaud@gowlingwlg.com
Tel: 613-786-0049

Lawyers for the Applicant