

Public Sector Governance and Accountability – Key Elements to Earn the Public Trust

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Each year the taxpayers of Ontario, through the Legislative Assembly of Ontario, transfer over \$30 billion, or about half of the annual Government spending, to almost 10,000 public sector organizations whose affairs are governed by boards of directors. In addition, government-owned business enterprises, each governed by a board of directors, generate almost \$20 billion of annual revenues.

Therefore, boards of directors in Ontario's public sector administer about \$50 billion annually. This is a sizable amount in dollar terms. While Dollar terms are most easily understood in the private sector, governance in the public sector adds a very significant and important dimension to the fiduciary responsibility of the board members. That dimension is the public trust.

The public expectation is that board members in the public sector ensure that the resources entrusted to them will be used prudently and for the purposes intended. Those purposes can be to provide health care, education, support for disabled persons, public housing, mass transportation, to name a few of the many public services for which these boards of directors have fiduciary responsibility.

The accountability framework in which board members in the public sector carry out their fiduciary responsibilities contains seven steps which are summarized in Table 1.

Implementing and adhering to this framework and carrying out the responsibilities imbedded in it in the public interest is fundamental for good governance in the public sector. Governance failures can have dire consequences as I will illustrate in the examples that my office found while I was the Provincial Auditor of Ontario.

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One example is AgriCorp, where we found that the Ministry of Agriculture and the board of directors had, in effect, lost control over many significant aspects of that corporation's activities.

AgriCorp's primary business is to administer insurance plans for the agriculture and food industries. As of March 31, 2000, the year in which we conducted our value-for-money audit, AgriCorp held assets totaling \$604 million, and in the year then ended, the Corporation paid \$180 million to compensate Ontario farmers for losses from reduced crop yields and low market prices.

As a result of our value-for-money audit we concluded that AgriCorp did not have the necessary governance and accountability procedures in place to ensure that the Corporation was well-managed or to provide the information required to measure and report on its effectiveness.

Some of our specific findings were:

- Inappropriately using public funds, AgriCorp lost \$325,000 in day-trading and violated its fiduciary responsibility by attempting to transfer the loss to the Ontario Crop Insurance Fund. My Office had to take the unusual step to directly intervene to reverse this transfer.
- Contrary to legislation, on several occasions AgriCorp sought to remove money from the Ontario Crop Insurance Fund for administrative expenses. My Office had to take the unusual step to directly intervene to ensure the Fund remained intact.
- Without a proper business case, and without tender, AgriCorp engaged an intermediary to place \$14.5 million of reinsurance coverage with private insurance companies.
- AgriCorp received little or no value from \$3 million it spent on information technology projects that were poorly planned, controlled and managed.

These problems were the result of the failure of the Ministry and of the board of directors to monitor and effectively govern the activities of AgriCorp.

A key underlying problem was that the role and responsibilities of the Ministry representative on AgriCorp's board of directors had not been specified. In addition that representative was non-voting.

There was a clear indication that the information flow between the Corporation, its board of directors and the Ministry was so impaired that corrective action was not taken on a timely basis and was often insufficient or non-existent. These failures were so significant that my Office had to directly intervene to cause corrective action.

The ensuing "house-cleaning" was radical. The board of directors and the Chief Executive Officer were replaced. The Ministry's responsibilities for AgriCorp were reshaped. All of this was done to restore public trust in the operations, the governance and the accountability of AgriCorp.

In our follow-up in 2002 on the implementation of our recommendations made in 2000 we found that monitoring processes had been put in place to facilitate timely corrective action.

Another example of needed improvements in agency accountability and governance was provided in my Office's 1997 value-for-money audit of the Transfer Payment Agency Accountability and Governance of the Ministry of Community and Social Services. That Ministry transferred annually some \$2.1 billion to about 3,400 community-based, mostly non-profit agencies. These agencies were governed primarily by volunteer boards of directors and provided a wide variety of social services throughout Ontario, including services for children and families, young offenders and persons with developmental or physical disabilities.

My Office's key audit findings were:

The Ministry relies on boards of directors to ensure that their administration and the agencies' service delivery are in compliance with Ministry requirements and expectations. We found that the conditions under which such reliance would have been warranted had not been established. The Ministry had neither sufficiently defined nor ensured that its governance, performance and reporting expectations were met for economical and cost effective service delivery.

With regard to agency funding my Office found that the Ministry had not critically assessed requests for funding to ensure that funding

provided to agencies was commensurate with the demand for and the value of the services to be provided by the agencies.

Specifically, my Office's key recommendations for the Ministry, and by implication the boards of directors, were:

- To assess the reasonableness of funding provided in light of the outcomes or services actually received by clients to ensure that value-for-money was received by the taxpayer.
- To critically assess service delivery costs and performance.

To establish good governance and accountability my Office urged the Ministry to define and communicate its expectations for agency governance and for acceptable operating policies and procedures to be followed by individual agencies.

The Ministry agreed to implement my Office's recommendations. In my Office's follow-ups we found further action was required by both the Ministry and the boards of directors to ensure value-for-money is obtained for the taxpayer and that the public trust is earned through improved performance for clients served.

In the private sector, good governance practices may allow a company to achieve a good "bottom line", to benefit through lower borrowing costs and lower cost of capital, to have fewer regulatory problems, and, incidentally, to have lower directors and officers insurance premiums and litigation expenses — all of which could help boost the stock price.

In the public sector good governance and accountability practices are fundamental to ensure that good quality government services are provided economically, efficiently and effectively and that public policy objectives and performance expectations are met — all of which would help boost the public trust in governments and public institutions.

Governance and Accountability Framework for Agencies, Boards and Commissions in the Public Sector

- The Legislature or the ministry sets objectives and assigns the responsibility for meeting them to a board of directors.
- Both parties agree on the specific results to be achieved, as well as how these results will be measured. This step requires a performance contract or memorandum of understanding.
- The Legislature or ministry gives the board of directors the authority necessary to carry out its responsibilities and to achieve the specific results; in other words, it empowers the board to do its job.
- The board of directors then decides on the most appropriate strategies for achieving the agreed upon objectives, as well as on the specific results and performance to be achieved by the organization. The chief executive officer (CEO) is informed of these aims and is empowered by the board to achieve them.
- The CEO reports periodically on results achieved and demonstrates that responsibilities have been carried out appropriately. This process is termed “accounting for results.”
- After receiving assurance through an objective and independent evaluation, the board of directors reacts to and acts upon the results that the CEO has reported.
- Finally, coming full circle, the Legislature or ministry receives, in keeping with the reporting regime it has established, reports from the board of directors about the organization’s performance.

Source: Office of the Provincial Auditor of Ontario

Gouvernance d'entreprise et responsabilisation des organismes, commissions et sociétés du secteur public

- L'Assemblée législative ou le ministre fixe les objectifs et accorde à un conseil d'administration la responsabilité de les réaliser.
- Les deux intervenants se mettent d'accord sur les résultats précis à réaliser ainsi que sur la manière dont on mesurera ces résultats. Pour ce faire, il faudra un contrat d'exécution ou un protocole d'entente.
- L'Assemblée législative ou le ministre donne au conseil d'administration l'autorité nécessaire pour remplir ses responsabilités et pour atteindre les résultats spécifiques; autrement dit, il habilite le conseil à faire son travail.
- Le conseil d'administration décide alors des stratégies les plus aptes à réaliser les objectifs convenus, ainsi que des résultats et du rendement précis que l'organisme doit atteindre. Le conseil d'administration communique alors ces buts au directeur général (DG) et l'habilite à les atteindre.
- Le DG rend compte de temps en temps des résultats réalisés et démontre que les responsabilités ont été remplies comme il faut. On appelle ce processus rendre compte des résultats.
- Après s'être assuré au moyen d'une évaluation objective et indépendante, le conseil d'administration réagit aux résultats signalés par le directeur général et leur donne suite.
- Enfin, pour boucler la boucle, l'Assemblée législative ou le ministre, dans le cadre du régime de compte rendu qu'ils ont établi, reçoivent du conseil d'administration des comptes rendus sur le rendement de l'organisme.

Source : Bureau du vérificateur provincial de l'Ontario