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Standing Committee on Public Accounts

Comité permanent des comptes publics

2017 Annual Report, Auditor General:

Ministry of Government and Consumer Services

Infrastructure Ontario

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Ministère des Services gouvernementaux et des Services aux consommateurs

Infrastructure Ontario

1st Session
42nd Parliament

Wednesday 28 November 2018

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Mercredi 28 novembre 2018

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LEGISLATIVE ASSEMBLY OF ONTARIO

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE ON PUBLIC ACCOUNTS

COMITÉ PERMANENT DES COMPTES PUBLICS

Wednesday 28 November 2018

Mercredi 28 novembre 2018

The committee met at 1231 in room 151, following a closed session.

2017 ANNUAL REPORT, AUDITOR GENERAL

MINISTRY OF GOVERNMENT AND CONSUMER SERVICES

INFRASTRUCTURE ONTARIO

Consideration of section 3.11, real estate services.

The Chair (Ms. Catherine Fife): Good afternoon. I'd like to welcome everyone to the public accounts meeting. I'd like to call this meeting to order. We are here today to resume consideration of section 3.11, real estate services, from the 2017 Annual Report of the Office of the Auditor General of Ontario.

I would like to welcome back representatives from Infrastructure Ontario and the Ministry of Government and Consumer Services. Thank you for being here today to answer the committee's questions. As before, I would invite you to introduce yourselves for Hansard before you begin speaking. You will have up to 20 minutes, collectively, for an opening presentation to the committee. We will then move into the question and answer portion of this meeting, where we will rotate back and forth between the government and official opposition caucuses for 20-minute intervals.

You may begin whenever you're ready.

Mr. Kevin French: Thank you, Chair. My name is Kevin French, and I'm the deputy minister for the Ministry of Government and Consumer Services. Thank you again for the opportunity to address the Standing Committee on Public Accounts and provide an update on the work that we've been doing to implement the recommendations from the 2017 Auditor General's report.

While we have already taken a number of concrete steps to implement the report's recommendations, the ministry is open to identifying other ways we can do better. We've committed to ongoing improvement and learning new practices that will benefit our processes on a ministry-wide basis. We've already learned a considerable amount.

In a few minutes, you will hear from my colleagues at Infrastructure Ontario about the governance process they established to ensure disciplined and continuous improvements of their P3 project agreements. This process includes using lessons learned from one project to implement enhancements to the project agreement for future projects.

MGCS and Infrastructure Ontario have been working hard to put the Auditor General's recommendations into practice. This includes maintaining strong relationships with client ministries and renewing agreements with them as necessary. Infrastructure Ontario has initiated a program aimed at providing client ministries with more information, and they will be working more closely with chief administrative officers to ensure awareness and transparency in the operation and maintenance services provided by IO.

We are committed to making the smartest and most efficient possible use of existing government realty assets. In some cases, this means continuing the practice of putting vacant properties on the market as recommended by the Auditor General. In other cases, it means rethinking the way government buildings are currently occupied to achieve greater efficiency and better use of space.

We are implementing a broader strategy to optimize the general real estate portfolio. I think a good example is the Queen's Park reconstruction project, which, when it's complete, will be a new complex that will enable greater workforce modernization, integration and efficiencies.

We're carrying out a number of measures to streamline the process of selling surplus government realty, which was recommended by the Auditor General's report and is echoed in the Ernst and Young line-by-line review of the province's spending. The process enhancement is intended to reduce red tape, reduce government liabilities and ongoing maintenance costs, generate revenue, and put property back into productive use.

Properties in the real estate portfolio will be assessed to determine their optimal use. For some, this will mean being placed on the market for a fair and competitive value, thereby generating revenue and reducing liability for the government. Others will be assessed to determine their suitability for projects that support other government priorities, such as affordable housing and long-term-care projects. Still other properties will continue to serve as active office space for government operations. In all cases, the overarching goal will be to maximize the value of each asset in the portfolio.

There are some technological solutions that are helping us to get the best value we can. Infrastructure Ontario has a sophisticated database system that they can use to track properties through the disposition process. This tracking system for surplus properties allows projects to move through the process in a more timely fashion. This is one of the ways we're optimizing the realty portfolio, through a careful and thorough inventory and action-oriented process.

In addition to our commitment to maximizing the value and utility of government assets, we're committed to ensuring that these assets comply with accessibility requirements. We are in compliance with the requirements of the Accessibility for Ontarians with Disabilities Act, and we will remain in compliance going forward.

The requirements stipulate that all new buildings and all major retrofits of existing buildings comply with the act. When maintenance and renovations are undertaken at buildings in the portfolio, an assessment is made to determine if accessibility upgrades can be incorporated into that project. This saves capital expenses by including them in larger projects.

Infrastructure Ontario is acting on the AG's recommendation, and they've implemented a study to evaluate all properties for accessibility.

Members of the committee—when we were here last, I think there were a few questions that will take some time today, related to procurement, the four types of procurement used by the organization to complete government infrastructure projects. We recognize that there were some unanswered questions on this topic during our last appearance. My colleagues from Infrastructure Ontario will speak about this information in depth with the committee today.

The government's line-by-line spending review conducted by Ernst and Young calls on the government to maximize the value of real and operating assets, to ensure taxpayer investment is being put to its most productive use for current and future generations. We are doing exactly that by optimizing the realty portfolio, by improving our processes and practices, by committing to ongoing learning and by following the recommendations of the Auditor General's report.

I'd like to thank you for the time today. I'll turn it over to my colleague Ehren Cory, who will discuss, in more detail, Infrastructure Ontario's portfolio.

The Chair (Ms. Catherine Fife): Mr. Cory?

Mr. Ehren Cory: Ehren Cory, president and CEO of Infrastructure Ontario. I am joined by my colleague Toni Rossi, who is the president of our real estate division. Between the two of us, we'll be able to answer your questions. Thanks again for having us, and thank you, Deputy, for the introduction.

Since the deputy provided a good overview of the steps we're currently taking and where we're headed, I'd love to use just a few minutes to drill down, as the deputy said, into the different types of procurement models we use for projects. I think it's something that we could have done a better job of describing in the last session, so I'm going to just use a few minutes to talk through it.

There's a paper the Clerk should have had and, hopefully, distributed. I'm going to be referring to this, so if you have this sheet, it will be helpful.

When Infrastructure Ontario procures to deliver projects on behalf of the province, projects from $50,000 to $500 million, we follow a consistent set of principles. Those are around, first, delivering value for money and making sure we're getting the best possible value for taxpayers; second, ensuring that we're maximizing competition among qualified bidders so that we're getting good prices, using market tension, and also ensuring that everyone who is bidding is fully qualified to deliver the work; third, making sure that all of our contracts, regardless of size or type, have incentives for good performance and consequences for underperformance; and, to that end, fourth, making sure that we're tracking performance over time and have penalties and restrictions on work for people who underperform.

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Those principles are consistent. The way that they're achieved, though, varies significantly from project to project. That's what the sheet refers to and what I'll talk about, because we don't use the same approach for a new greenfield hospital compared to the renovation of a roof on an existing building.

Referring to the table—and the deputy mentioned four types of procurements, and that's what the table talks to: The first column on the left-hand side refers to our P3 procurements. This is for the large major infrastructure projects on behalf of the province. They are typically greater than $100 million in value. We have, since IO's inception, conducted 110 of those procurements—65 of those are completed and in operation today—with a total capital value across all of them of $47 billion.

As the auditor notes, this P3 model we use often includes not only the construction but also the 30-year maintenance period to ensure that there's value and that there's integration between the design of the building, the construction of the asset and its ongoing upkeep and maintenance so that at the end of the 30 years we still have a high-quality, high-performing asset. That also allows us to transfer significantly more risk to our private sector partner to manage the interfaces between design and construction, and construction and maintenance.

The Auditor General has a recommendation, which we appreciate, around needing to strengthen the relationship with the hospital sector, in particular, and how we help to manage the maintenance period of those contracts. That's one of the areas that was highlighted.

Second column: a second type of procurement that we use called "direct delivery," or you'll see it often referred to as "traditional project delivery." This we use for projects under $100 million. Again, this is much more the classic construction model, where we would go out and hire architects and engineers to design the product first, and then we'd go out and tender those to construction firms and the low bid would win. We execute, on average, about 40 of those a year. They have capital value somewhere in the range of $30 million to $40 million. Think of these as improvements or expansions of existing facilities.

Then the next two columns are actually the two that were more the focus of the real estate audit, and I'll just talk about those for a few moments.

The first, which is the column labelled "PMSP (project management service provider)" is the model we use generally for projects in the range between $100,000 and $10 million. These are major projects still, but they aren't building a new greenfield asset.

Infrastructure Ontario has contracted with two firms across the province, divided in regions, on a long-term basis—so a five-year contract. Those two service providers, in turn—it is their job on any individual project to go out, hire a contractor and oversee the work. We do about 1,000 projects a year under that model. We spend, in aggregate, about $250 million a year under that model.

Finally, we have our minor capital projects, or what on the table is referred to as the "PLMSP"—apologies for the acronyms. This is the property and land management service provider. For this, we have one contractor across the province that we've contracted with on a long-term basis. They are responsible for the subcontracting of everyday property management tasks—think cleaning, security and landscaping. They're also responsible for small works in those buildings—think the renovation of a bathroom or other small works in the building. These are typically in the range of under $100,000. We do 4,000 to 5,000 of those in a year.

Those are the different models. What I just wanted to highlight is the differences between them and how the principles that we talked about play out.

First, on the table, it talks about the procurement method. Under the P3 model and traditional delivery, we run open RFQs—open to the world to bid—and we qualify a short list of bidders. From there, those short lists provide a detailed RFP response, including a fixed price.

Under the PMSP contract, conversely, as I mentioned earlier, the PMSP would be responsible on an individual project basis to go out typically to 10 firms pulled off of the VOR, a vendor-of-record system. We have prequalified, for the PMSP, a whole bunch of providers in different regions of the province. The PMSP provider would be in charge of going out for an individual project, pulling from our VOR, and hiring.

As you'll recall in our last meeting, we talked about the fact that sometimes the PMSP will take that list that's pregenerated from our VOR—it's randomly generated—and they'll say, "There's another contractor we'd like to add to that list because we think they have unique skills," or, "They were in the same building last month," or, "They're really close by," and they can add those to that list. That's the list you get to bid. Of course, the low bid still wins, so adding someone to the list simply includes them in the tendering process.

Finally, in the PLMSP process, conversely, when you think of how they procure, they actually—we have one for the province—maintain vendor-of-record lists, so they have lists of qualified vendors—again, region by region, in Thunder Bay and in Windsor and in Ottawa—who they can call upon and run bids. Again, it's closed-tender and the low price wins, and we have the ability to audit and make sure that they're following that process. But fundamentally, they are running those procurements.

At our last appearance, we spent a lot of time talking about the consequences of underperformance, which is what the next two rows of this table speak to. If you'll look at our table, there's one table that talks about the vendor performance program. What that refers to is: If you're a bidder, how does your previous history play out in the next bid? The row below that talks about: In a given contract, how does performance get rewarded or penalized? I'll just talk about both in turn.

First, on performance management during the contract: In a P3, the contractual tools during both the construction and the operation phases put significant risk on the contractors. That's one of the major benefits of using the P3 model. We have retained payment—we don't pay until the asset is completed at quality, on time and on schedule; and we have deductions. Similarly, once the asset is already built, when it's operating, if it's performing poorly, if the quality isn't up to snuff, we can withhold up to the full payment to the contractor.

Conversely, under traditional project delivery, there is a more limited set of consequences for performance, typically related to performance security. They've posted bonding or that sort of thing. That's what we'd be able to draw on, but it's much more limited. That's one of the big differences between P3s and traditional contracts.

Under the PMSP and PLMSP, if you look to the right, it's quite different. What happens there is that we have a contract with the PMSP provider that says, "You're contracted to deliver these 1,000 projects a year. If there is underperformance, we'll start withholding money from you." The contractor themselves is not the person on an individual project that is suffering; it's actually the PMSP we've contracted for quality of construction, budget management and schedule management. The same thing on the PLMSP.

Then what happens, if you think of how that plays out in the next bid, we maintain a vendor performance program. In the case of a P3, if you underperformed on your last project, that gets factored into your score when you try to qualify for the next one. If you have, across multiple projects, had serious failures, basically you will be unable to qualify anymore for future work.

In the PMSP and PLMSP programs—very similar—the vendors from the vendor-of-record list, when they get called to deliver a given project, their score gets bumped up or down based on their previous performance.

So that is meant to be a bit of a tour of the four models we use and how we apply the same principles around procuring for projects across our different models.

Finally, there's one other thing that came up in our last session that I'd love to touch on briefly, which is about the concept under the PLMSP program, in particular, about spending all of our budget. I just wanted to clarify that a little bit. A question that was raised was around: Why do we encourage the project manager to spend all of the budget, and does this provide good value to taxpayers?

Each year, Infrastructure Ontario is provided with funding to undertake capital repairs and maintenance across the portfolio. As you know from reading the auditor's report, there is a significant gap between the total capital work required, including the deferred backlog of required work, and the funding available to do that work. As a result, we create a prioritized list of projects that we want the project manager to complete and to work through that list as much as possible. So they're incentivized to maximize the use of the budget, in total, by completing as many projects as they can from that list. Our goal is to drive the cost of each individual project as low as possible, but for them to use up all of the budget to get as many projects on the list done.

The Chair (Ms. Catherine Fife): You have two minutes left in your presentation.

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Mr. Ehren Cory: Thank you. Our goal is to get the project manager to plan and be ready for significantly more work than they have budget for, so that if any individual project comes in under budget, or is completed early, or is delayed and pushed out, they can immediately move on to the next one and pull it in and get as much work done as possible.

Thank you, Chair. Thank you, committee members, for having us again. Hopefully, that helps clarify a bit more on the models. We may have more discussion there, but I wanted to take the time to just describe that. We're available for questions.

The Chair (Ms. Catherine Fife): Okay, thank you very much. In this session, the government will start.

Before we do begin, though, I just want to let the committee know that there will be a test of the Alert Ready emergency alert system across Canada at 1:55 p.m. today. It may cause a loud tone to be emitted from all cell phones for a short period. I just want to make sure people know. This place has been a little wild lately, so this just adds to it.

We'll go to the government side: MPP Miller.

Mr. Norman Miller: Thank you. That will make sure we're all wide awake, I guess, at 1:55 p.m. when that goes off.

Thank you for coming back today to the committee and for your helpful chart here. I'm going to ask a question, and then I believe MPP Parsa has a couple of short questions. Then MPP Ghamari, I believe, has a number of questions.

I think your chart is helpful. I believe, with regard to the Auditor General's recommendation number 4—and you can correct me, but I think I'm asking about the PMSP program. Specifically, recommendation number 4, which is on page 594 of the auditor's report, mentions that external project managers are able to revise their completion dates, usually without any compulsory justification. The Auditor General notes that these dates can be changed up to 330 days past the original date. So how is Infrastructure Ontario going to assess future contracts and increase incentives to keep projects on track?

Maybe you can let me know if it is, in fact, PMSP that I'm speaking to.

Mr. Ehren Cory: Yes.

Ms. Toni Rossi: Perhaps I'll take that question. Since the Auditor General was in, a big part of our continuous improvement process is, for sure, to start to look at each of those individual areas, whether it's a scope issue, a budget issue or a timing issue. We've put into place a bit more diligence, from a due diligence perspective, on the audit trail. We're actually spending a fair bit more time specifically on those particular—they're basically project charter changes.

I will say, though, that with those changes—we do work with the client. So, in most cases, what the Auditor General pointed out was that we didn't do as good a job as we needed to to document it appropriately. However, it by no means has any impact on the client satisfaction or if the client was actually, in fact, part of the process of changing that completion date, for whatever reason there may be.

Every individual project—as you've heard, we've got about a thousand of them over the year—has something different or unique that might change. We call them project charter changes; we actually track all those changes. The completion date would be changed in a number of cases, as the auditor saw. We are now putting into effect a more robust program to understand when those changes occur and why.

Mr. Norman Miller: Is it specifically the PMSP model?

Ms. Toni Rossi: Yes, it would be the PMSPs through the general contractors or architects or the vendor of record that we have. Specifically, if you look at the chart, we're dealing with the thousand projects, either capital or ministry in combination.

The only other thing I might add as clarification: On an annual basis, we deliver capital projects, so base-building projects within the building—a roof, an HVAC system—and we also deliver ministry projects. The ministries themselves would have a leasehold improvement and add or move or change.

I will say that many of the project charter changes, from a completion date, we noticed, were against most of those ministry projects, so we want to work with those clients and spend a bit of time chartering better, scoping better, and then auditing so that it's done well.

Mr. Ehren Cory: Yes, if I could add—one of the problems is, when a project gets delayed, there are a bunch of reasons it could happen. One is that the client says, "You know what? We're not actually ready to move out of our floor yet, so you're going to have to wait, Contractor." That would lead to a change in the dates. It has no cost implication and, frankly, the client is requesting it.

In another circumstance, it could be because we didn't get the building permit yet, which might have been our job, or they didn't have approvals in place.

In a third case, it might be because the contractor doesn't have the resources ready.

So, the auditor's recommendation, which we fully agree with, is we need to do a better job of tracking what's driving those changes so that we're holding accountable the ones that are their fault and acknowledging ones that are ours. That was the heart of the recommendation, which we fully agree with and are in the process of implementing.

Mr. Norman Miller: Thank you. I'll pass it on to MPP Parsa, Chair.

The Chair (Ms. Catherine Fife): MPP Parsa?

Mr. Michael Parsa: Thank you for coming back in. My question is about the implementation process. According to the Auditor General's report, the process itself can take a very long time. Is there a way to speed up the process?

Ms. Toni Rossi: Sorry, just for clarity: Which process are we talking about?

Mr. Michael Parsa: The implementation of the procurement process.

Mr. Ehren Cory: From start to finish?

Mr. Michael Parsa: Yes.

Ms. Toni Rossi: If I might—if I'm hearing your question correctly—I think part of the same work that we're doing in understanding and tracking what it is that's causing the changes I think will in fact help us speed up whatever that implementation change needs to be. So, we're starting with "why," in fact, and then documenting and tracking "why." I think I mentioned a little bit earlier a big part of this is we work very closely with our clients, but working a little bit better with our clients from an expectation-setting perspective to ensure everybody knows what the key process milestones are.

Our goal and job is always to execute a project as quickly as possible, with the best quality, and to the budget that's assessed. Any time we can continuously improve that, we're on that.

Mr. Ehren Cory: I think your question—just to build on Toni's response, though—the ultimate measure is obviously getting from project conception, so, "We want to do X" to "done," right? So, it's not just a procurement problem. It's actually how do you get as fast as possible from "started" to "implemented"—so people using the transit or patients in the hospital. It's interesting. In our world, often people get fixated on, "Well, when will the procurement go out?" or "When will you sign the contact?"—which are important milestones. But the most important milestone is when the service comes.

To answer your question, what we're really trying to focus on right now is, how do we reduce the whole timeline? I'm saying that because there are trade-offs in there. Sometimes, going a little slower up front actually makes the construction go much faster. So, if you eliminate changes, drawing requests, confusion about what it is you're buying, by having a procurement go a little longer, you might get the project done faster.

We're very fixated on speed. The Auditor General's recommendation about shortening the timeline, we fully buy into. But we actually think you have to look at the whole chain, from project concept to "done," and how you shorten the whole thing. Sometimes it might even mean, as I say, the procurement taking a little longer, but you take way more time out of construction. That's what we're obsessed with right now: How do we shorten that whole chain? It's clearly a priority of the government. It's clearly why our agency exists, so that's what we're looking at on all of our models, from P3s down to the small projects.

Mr. Michael Parsa: Okay, thanks.

The Chair (Ms. Catherine Fife): MPP Ghamari?

Ms. Goldie Ghamari: Thank you again for coming back. Last time, if you recall, I spoke a bit about the consultant report and the $108,000 that was spent on a review. However, Infrastructure Ontario didn't consider other options that might have resulted in more bids. The consultant's report noted that other options might have resulted in more bids. For example, many smaller companies would have welcomed an opportunity to bid, but expressed concerns that they were not large enough to commit to the volume of work required.

My question is, how does Infrastructure Ontario intend to enable more project management companies in the future to bid on potential management services for capital projects for government properties?

Mr. Ehren Cory: Go ahead.

Ms. Toni Rossi: Thank you. Maybe I'll start and if there's anything else to add, Ehren can add it.

If I can step back for a second. I think what we've trying to describe in our table is the fulsome scope of this particular portfolio. On an annual basis, as you can see, we deliver upwards of 6,000 projects. In delivering that, one of the things that we feel is very important for the government is the ability to actually look at those projects holistically as a program, which is where a project management service provider company comes in.

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There are many, many, many general contractors and architects, so across the province we are absolutely ensuring that there's fair and competitive bidding, and lots of companies that actually have that opportunity. But from a programmatic perspective, it's also important to get the right quality of companies to be able to deliver on this very complex program.

Ms. Goldie Ghamari: Right. So how does Infrastructure Ontario intend to enable more project management companies to bid?

Ms. Toni Rossi: In our next outsourced provider competition—the last time around, we went out and we opened it up to the field; we will do the exact same thing. We will do a business case that will showcase: do we need one; do we need four in different regions; do we need seven? So I think the next round, as for all of our RFPs, we'll undertake a good business-case project. That is—

Ms. Goldie Ghamari: Sorry, just to interrupt. So the consultant did recommend that going with two zones and dividing the province into more zones would get higher prices, but that other options might have resulted in more bids and so make it more competitive.

Isn't the business case already there, and, if not, how much would that cost on top of the consultant's report?

Mr. Ehren Cory: What you've just pointed out is the trade-off the consultant referred to. Fewer zones will mean fewer bidders, bigger companies but lower prices; with more zones, you might get more competition but probably pay higher prices. Ultimately, the consultant's recommendation was for us to do fewer zones.

Ms. Goldie Ghamari: But wouldn't less bidders and bigger companies also result in less competitive pricing, because essentially you're dealing with—I don't want to use the word "monopoly," but you're dealing with a monopoly of two or three businesses that are not necessarily worried about being competitive because they know that they're going to be guaranteed the bid. That kind of ties into, as well, all of the over-budget pricing, which I'm going to get to next. I just can't see how making the bid only accessible to two or three large companies is actually helpful when you're looking at lowering prices.

Ms. Toni Rossi: So maybe, if I can, I'll address it in a different way. The first round that we went out in our first-generation PMSP, we actually had three organizations that came in and were doing the work. At that time, their competitive bid—we prescribed it—was a 15% fee at risk. The next time we went out, we actually didn't prescribe a maximum, but we prescribed a minimum. A minimum threshold for a fee at risk was put in because we knew 15% was doable and 15% was what the market was bearing at the time. So we actually put in a minimum fee at risk of 20%.

Ms. Goldie Ghamari: Okay. So then, to answer the question: Does Infrastructure Ontario intend to enable more companies to bid? Or are you going to keep the same system that only allows two or three companies to bid? It's just a really simple question.

Mr. Ehren Cory: As Toni said, in 2019, next year, when we go out, we will do a business case and again look at the choice between dividing into more regions, which might increase the number of competitors but it also might drive higher prices. We're getting real economies of scale from having to—

Ms. Goldie Ghamari: So it's something that you'll be looking at.

Mr. Ehren Cory: That's what we're going to do next year.

Ms. Goldie Ghamari: Perfect. Great.

With respect to budget performance and how it sort of ties in, I noted last time that on a project-by-project basis the costs were much higher than the 20% in the RFP. I understand that Ms. Rossi did respond that they were not far off from the 20% industry standard, as they were closer to 22%; however, when I went back and I reviewed the materials, this response was with respect to an aggregate amount and not on a project-by-project basis. We weren't really comparing apples to apples here; we were comparing apples to oranges. The industry standard on a project-by-project basis is 20%, so the aggregate overall sort of hides the fluctuations in there.

To go to my question: Infrastructure Ontario's master services agreement with the external property and land manager states that each business plan estimate that the external property and land manager prepares should, at most, differ by plus or minus 20%, and the Auditor General's report noted that in two thirds of projects sampled, the actual cost was over 20% of the estimate, which, again, sort of makes me question the logic of having one or two big companies if they're consistently going over that 20% industry standard. And for, actually, half of those projects that were sampled, the variance was more than double, so my question is: Have any improvements been made in meeting the standard in the agreement on a project-by-project basis, not on an aggregate basis?

Mr. Ehren Cory: I want to not get too confused in my answer, so let me just clarify: What happens on an individual project basis under the PLMSP program, as you indicate, is, first, the property and land manager goes out and looks at the project—

Ms. Goldie Ghamari: So let's just put it this way, then, if you don't want to get confused in the answer—how much time do I have left?

The Chair (Ms. Catherine Fife): There are five minutes still, and MPP Parsa is up as well.

Ms. Goldie Ghamari: Perfect.

Let's start with just the simple question of: Why was there more than double in a variance of over 20% for those projects sampled by the Auditor General? Where did that variance come from?

Mr. Ehren Cory: When any individual project is initiated, the PLMS provider goes out and does an initial assessment of the project. They scope out: It's the renovation of a washroom. What are the component elements of that? They log that in the system, and they put a price tag against that. That's done at the component level, so they're—

Ms. Goldie Ghamari: And those people are experts in their field, right?

Mr. Ehren Cory: Correct.

Ms. Goldie Ghamari: So they should have a general understanding of what that estimate should be.

Mr. Ehren Cory: Correct, and that is what they do. They do it at a component level, though, so they're pricing, "Okay, there's a sink replacement and retiling of this bathroom, and we have to redo the piping because there has been a leak and a flood." They do a component-level assessment. That goes into the system. That project then gets prioritized amongst all of the other projects that need to be done.

At that point, the next stage is to conduct an actual fuller business case on the project. At that stage, you might realize that, "Once we're doing that, we're also going to be replacing the windows in that bathroom, because we've been waiting for two years to do windows on that floor. We might also have to do the HVAC." You actually take it from a component level—there's a washroom needed—to a fuller budget estimate. That's step two.

Ms. Goldie Ghamari: Sorry. Are you telling me, so I just understand this clearly in my head, that Infrastructure Ontario enters into contracts with project management companies, or whoever, without actually knowing the full cost?

Mr. Ehren Cory: No.

Ms. Goldie Ghamari: So the 20% variance on the industry standard—

Mr. Ehren Cory: There has been no contract yet at that point.

Ms. Goldie Ghamari: Okay, so where is the 20% variance coming in? Because that's after the project is scheduled to be completed. After the contracts are signed, the bidder comes to you and says, "It's going to cost $1 million, plus or minus 20%." The government agrees, and so they move forward with them. Then all of a sudden, they come back later and say, "It's going to be 40% more than what we thought it would be." That's my question. Why is that allowed?

Mr. Ehren Cory: At this stage, we've signed no contract. The PLMSP—we've got a 10-year contract with them to provide services across the province, for everything from cleaning to project assessment. We've signed no contract to do the bathroom reno in my example yet.

Ms. Goldie Ghamari: Yes, I know, but that's not the stage I'm talking about. I'm talking about the final stage after all of these initial assessments are done, all of the prices are done, everything is done, the business case is done, and they come back and they say, "This is the price."

Mr. Ehren Cory: Right. Then they go out to tender and get bids from the market. At that point, the 20% is their pre-tender estimate compared to the project. We still weren't contracted, so their estimating skills—

Ms. Goldie Ghamari: Right. But then they come back, and a company says, "Okay. I can do it for this price," so that price is guaranteed. Let's say it's 20% more: "Fine; whatever."

The Chair (Ms. Catherine Fife): Two minutes left in this.

Ms. Goldie Ghamari: So the initial contract price goes up to $1.2 million. There's still a variance on that final price, that has been agreed to and signed upon, of over 20%. My question is, why has that happened?

Mr. Ehren Cory: I think there are a couple of reasons: One, the building conditions—remember, most of these are 50-year-old buildings. As expert as the PLMSP is at developing an estimate, they often don't account for some of the building conditions where the bidder says, "To do that work, I also have to deal with the fact that the windowsills are heritage," or, "The piping is much older than you think," or, "We're going to have to rewire while we're here."

Ms. Goldie Ghamari: Is this done before or after the contract is finalized?

Mr. Ehren Cory: Before. The 20%—

Ms. Goldie Ghamari: Okay. I'm talking about after. I'm talking about how you have a finalized contract with a finalized price. All of this back and forth is done. Everything is in paper. It's there. It's signed off on. Then, there's still a price variance at the end of the day. That's what I'm trying to get at, because essentially, to me, that's a breach of contract. If it's a breach of contract, going over that 20% variance, why are these companies then being rewarded? Why is this constantly happening in just this small sampling of projects?

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Ms. Toni Rossi: If I might, I'm going to try to explain it a little bit better. I think we've gotten past the initial estimate to the pre-tender, so we've got a pre-tender price. And you're absolutely right: The pre-tender price could be $100, and that pre-tender price is based on XYZ scope: "Bidder, go out and do it." When they're in construction or when they're working on that particular project, a ministry, a building condition—something actually changes, and we start to track that with our project charter changes. So I think I answered that—we talked a little bit about that earlier—as to why there are so many project charter changes. So if we take a look at the pre-tender budget—

The Chair (Ms. Catherine Fife): Ms. Rossi—I'm sorry—that concludes the 20 minutes, but you'll get a chance to come back to that, I think. Next round, we'll start with MPP Parsa.

On the official opposition: MPP Sattler?

Ms. Peggy Sattler: I'm just going to ask a couple of questions and then pass it along to my colleague.

I wanted to focus on recommendation 6, about deferred maintenance. Certainly, the auditor's report notes the consequences of deferred maintenance in terms of the impact on the delivery of service and the ability of ministries to fulfill their mandates. The auditor's report indicates that the value of deferred maintenance has more than doubled, between 2011 and 2016, from $420 million to $862 million.

The first question I wanted to ask is: What is the current estimate of deferred maintenance? Secondly, I wanted to hear more about the plans to reduce this maintenance backlog. We heard during the presentation on the table that was provided today, the chart, that under PLMSP, whatever money is left in the budget goes toward those prioritized maintenance projects. But that doesn't really seem like a plan, just to hope that there's going to be money left over and then to just allocate it wherever. Can you tell us both the current estimated value and the specifics of the plan to deal with the deferred maintenance backlog?

Ms. Toni Rossi: Okay, so maybe I'll start, to answer your first question, with the estimated value: Currently, it's approaching $1 billion, as of today. But of that $1 billion, over $500 million of that is directly related to the Queen's Park project. One of the elements of the plan—and I'll turn it over to the deputy minister in a minute to expand upon a larger plan to get the funding for the remainder—a key component and a key strategy of reducing that deferred maintenance is going to the ones that actually have the most in deferred maintenance, which is the Queen's Park complex. So we are addressing about half of that deferred with that particular project.

Mr. Kevin French: I hope that answers the question. I think the Auditor General's report is extremely helpful in pointing in certain directions, and we're following up—there's a mention of a previous recommendation.

I'll start, just to echo Toni's comments: The Queen's Park reconstruction project, which is the large complex across the street, has about half of the deferred maintenance tied up in that particular complex.

Second, which I mentioned in my remarks, is the age of the portfolio. The age of the government real estate portfolio is just over 50 years, so it's an older portfolio. In my remarks, I mentioned that we're looking at how we use some of those buildings in a better way, so actually looking at the space itself and creating a realty model that will enable better use of those buildings. The Auditor General has mentioned that. We've also had PricewaterhouseCoopers come in and provide us with advice about how we can move forward on a different realty model. In our response to the Auditor General's comments, it states that we're coming to the government with a proposal with options on how we can move forward on a different realty model.

Just to make that real: If you have a government-owned building in Guelph—we have one at 1 Stone Road, built 30 years ago; somebody can fact-check me about that length of time. How people work is different, and we're dealing with an asset that needs to be revitalized. What we're proposing to the government is a different way of managing those government-owned buildings. That will not only address the deferred maintenance—so we're still left with half a billion dollars in deferred maintenance—but it's also saying we need to use those government buildings in a better way. The Auditor General's report mentioned that. We've had outside advice on how we can do that, and that's what we'll be coming forward with.

I totally agree having a deferred maintenance problem and allowing it to build is not a good use of assets. I think that's where the Auditor General was largely coming from.

Ms. Peggy Sattler: Two more questions: When will this plan be ready? You said you're working on it—

Mr. Kevin French: Yes.

Ms. Peggy Sattler: —to present to the government first. And then second, the auditor also makes a recommendation about revising base rent. Is that also part of the plan?

Mr. Kevin French: It's a great question. We are coming forward with a plan to start implementing that in the next fiscal year. That's a significant change in how we manage the realty portfolio.

Part of it is what the Auditor General talked about as well: introducing more of a market mechanism into how ministries use their space. If it's not at a market rate, you don't get the market signal. You're not using the space as efficiently as possible.

Just going back to my example of 1 Stone Road, that space was developed in an era where you had offices. What is actually happening in the marketplace is more collaboration in spaces and the need to have fewer offices and a better use of space. So, staff like working in a space that allows them to work together. We like it from a realty portfolio because we can actually use the space more effectively. Those are both in play as we speak.

We have the Queen's Park reconstruction project. We have better use of the government offices that we own to help drive better efficiency, but I also think better work for our staff to work in. Looking at the realty model and changes happening over a two-year period—and then finally, what the committee may want to talk about, and it certainly is part of the recommendations, is the disposition of surplus property, which I mentioned in my opening remarks.

Surely we can move through the process by which we dispose of assets in a more effective way—the Auditor General had some helpful comments—and that also helps drive down our ongoing costs. If we have surplus assets that we're not maintaining the security for—in some cases, we have to heat the building that's empty—we want to move through that process in a quicker way. The Auditor General had recommendations on that as well.

Ms. Peggy Sattler: Okay. Just one final follow-up question. When you're talking about looking at potentially using government assets in optimal ways, is customer service one of the things you're looking at? Because I know, as an MPP in London, I've had complaints about the ServiceOntario offices—no public washroom facilities, no seating. A lot of elderly people use these ServiceOntario offices. Would those kinds of issues be part of the deferred maintenance or maintenance considerations, and also part of looking at how to optimize the use of the government assets?

Mr. Kevin French: Maybe I'll start and then I'll turn it over to Toni, who may want to add.

The first clarification in a ServiceOntario network is the public offices and our private offices. Certainly in our public offices, how we use the space both for staff but also how we face our customers definitely would be part of that discussion. And it's not just ServiceOntario, it would be some of our social assistance programs as well. Absolutely, when we look at how we use those government-owned buildings for public offices that we operate, that would definitely be part of what we're looking at as far as the government portfolio.

Is there anything else to add, Toni?

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Ms. Toni Rossi: No, I think you've hit it. When we look at public-facing buildings, we actually work and do a functional program with the ministry or with the client. All of them have raised those concerns within the functional program. So we build and then we'll operate and maintain to that level of service, based on what the ministry need is or what the client need is for the public.

I think the deputy talked a little bit further on office specifically. It's a bit more generic. It is not public-facing, other than the AODA offices, which have a set standard.

So we create the PSOS, or the output specifications, based on the program that we work with, with the ministry.

Ms. Peggy Sattler: Okay, thank you.

The Chair (Ms. Catherine Fife): MPP French, just so you know, you have just over 10 minutes left.

Ms. Jennifer K. French: Thank you. Welcome back. Nice to see you. I appreciated the follow-up letter based on some of our lines of questions. But it's nice to have another opportunity to get some things on the record and clarified.

I think we're probably going to be having a fair bit of discussion today about vendors of record, and a fair and accessible bidding process—not just how it is, but how it's perceived. Because I think that if you're going to talk about value for taxpayers, there should also be that kind of transparency that reassures the taxpayers that it is indeed happening. I don't know that we're there yet.

I had asked questions about penalties, and performance of the vendors. Specifically, I know we had talked about past performance. Mr. Cory, we were talking about someone who had actually been assessed as being a lower score, but you identified that it was acceptable, that their lower score was still fine.

But I wanted to say, to my colleague's question about customer satisfaction, that particular project manager, or project manager as discussed in the Auditor General's—sorry. In the report, they received scores as low as 25% for customer satisfaction, half of the projects being within 20% of budget, and 74% of projects being completed on time. To an outside observer, I don't see how those are positive performance measures—I was going to say "indicators"—so if you can walk us through a bit of that.

I would like to be clearer on what the penalty structure looks like. I recognize that there are four that you've kind of given us that example, or given us that table, but I would like to know that penalties are meaningful and consistent, so if you can speak to that, please.

Mr. Ehren Cory: Sure. Thank you for the question. This discussion really revolves around the column on the chart that is the PMSP world. This is the world where we hired the two providers across the regions, who in turn go out and procure. We talked about consequences. Let me just come back and address your question.

On any individual project, the two PMSPs, depending on which region of the province it would be in, would go out and hire architects, engineers and general contractors to deliver a project. The performers of the work are scored, on every single project, on how they do, including lateness, changes and poor quality, and that affects their ability to win future bids. That system we've had in place since 2015 and feel very good about.

The question you're asking is a different one. It's about the PMSPs themselves, the two of them, who we hire on a five-year contract to manage all those projects for us. The Auditor General's recommendation basically said, "When you go out again in 2019"—because that's the next time we intend to go out and hire those people, and it's two, if we keep the province in two regions, or maybe more, if we divide it into more—"make sure that you're also scoring them based on an aggregate of the program they've delivered for you for the last five years."

That's the recommendation that came from the auditor. We fully buy into it, and will.

It's a procurement that happens on a five-year cycle, so the best way for us to do that, in the next procurement of the two or more PMSP providers, is to make sure that part of their score is based on their previous performance. We fully accept that and think it's very aligned with what we do on a project-by-project basis, but to do that for the two PMSP providers themselves is absolutely something we're going to do in our next procurement.

Ms. Jennifer K. French: Okay, so that is yet to be determined, what the criteria will be—

Mr. Ehren Cory: What weighting.

Ms. Jennifer K. French: Yes. I'm wondering what market comparatives you'd be looking to, because in the conversation last time, where you did say that it was considered good and very acceptable and above what you would consider a minimum score—if I'm going to hear about a 25% for customer satisfaction, nothing about that sounds like a good or acceptable way to conduct business.

So I'm wondering what the market comparatives are, and are we going to be having this conversation after it has been re-evaluated and we're still—it sounds really generous, and with public money we want to make sure that it's fair.

Ms. Toni Rossi: Yes, we will absolutely start looking at market comparatives.

I would say, and to clarify, it isn't the entire program of projects that that particular vendor had with the 25% customer satisfaction score; it was a sampling of projects—so individual projects, some are better, some are worse. I think it's important to distinguish between individual projects and satisfaction on some, and the entire program.

Certainly, when we take a look at market indicators and across, depending on the project, any scores in the 70 range would be something that we would be looking towards.

Mr. Ehren Cory: I can agree with you. I don't think 24% customer satisfaction is an acceptable level.

Ms. Jennifer K. French: Or 25%.

Mr. Ehren Cory: Or 25%.

Ms. Jennifer K. French: Would penalties, then, be the same—would it be across all of them? You can redirect that.

What changes are being made, or have been made, to the key performance measures to improve the performance of project management companies? This is what we were just talking about.

Mr. Ehren Cory: Right now, the penalties—if they miss or underperform on those key performance indicators, we withhold money from them, so they have fee at risk. We withhold money when they fall below the targeted performance on key performance indicators.

As Toni described, we've been increasing how much of their fee is at risk for performance. In the first version of the contract it was 15%; in the current version, one of the two is 25% and the other is 45%. One of the Auditor General's recommendations is, "You should be pushing both of them to that higher level. It's strange to have different regions of the province at different levels of money at risk for performance." The reason why it was that way in 2014 is because we let the market competitively bid—"How much of your fee are you willing to put at risk"—and different regions of the province came back with different answers. The Auditor General team's response is, "Next time you should enforce everyone to the higher level." As I say, that's our plan for—the next procurement is 2019. That's something we're going to look at, what the right level is. Do we put them both at what it's currently at—45% fee at risk, is it 50%, or what?

The answer to your question is, the penalty is, they have fee at risk that we withhold from their payments if there's underperformance on the KPIs, and we're assessing how to continue to ratchet up that performance.

Ms. Jennifer K. French: It does seem a bit strange to me, and maybe I'm oversimplifying this, to let them choose their own punishment. I know what I would choose my punishment to be, and it wouldn't be the 45%.

The fee at risk, is that—you've said that you can withhold the fee. Do you? On how many cases do we actually see this penalty employed? It's a threat, it's there—but is it? How often, on how many of these cases, do we actually see withholding of fees?

Ms. Toni Rossi: We do withhold the fees. Both of our project management service provider companies, as well as our PLMSP, have actually had fees taken and not given over the numbers of years that we—I don't have the exact numbers per year—

The Chair (Ms. Catherine Fife): Two minutes left in this question.

Ms. Toni Rossi: Maybe they do.

The other thing I think is really important to add on the key performance indicators is, the way the contract is let, we can change those KPIs over the life of the contract. When we start seeing our PMSPs consistently hitting 100%, it's time to change them, and we do that. We actually try to find a better outcome from a value-for-money perspective and from a taxpayer perspective, whether it's better time, better schedule—whatever the program might be, we look at those KPIs.

Ms. Jennifer K. French: I wonder, too, when it comes to penalties—this is part of a bigger conversation; I'm not arguing against withholding fees or the threat to withhold fees, but are there other penalties that can happen? I know we've talked about not allowing people to bid again, but based on the last conversation it doesn't sound like that is something that happens often.

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When I think about the prompt-payment conversation and the folks who are doing the work—whether that's good work, whether it's up to snuff, all of that stuff—you still have workers and families that are being impacted by the penalty structure. Are there eyes on this system that are factoring in how it plays out in our communities? Because I don't just want to withhold fees without other penalties or threats being on the table. It might deter someone from not being what they need to be for the province.

Mr. Ehren Cory: I appreciate the question. It's a nuance, but that is kind of why our program is set up the way it is. On an individual project, the contractor on the ground doing the work has relatively little money at risk. They don't have fee at risk. The only risk they have is that they have to post some kind of bonding. If they do shoddy work, we would have the right to call in the bond. That's standard construction practice. But on that project, they don't actually have money at risk.

The Chair (Ms. Catherine Fife): On that note, we're going to move on, but you can continue that questioning set next time. We're going to continue with MPP Ghamari, and then we'll go to MPP Parsa right after that.

Ms. Goldie Ghamari: Thank you. It seems that generally Infrastructure Ontario seems to have an issue with cost predictability overall. Would you agree with me on that?

Mr. Ehren Cory: I think we have room to improve, for sure, in the quality from initial estimate to final budget. Yes, for sure.

Ms. Goldie Ghamari: When did it first come to your attention that there is this cost predictability issue when it comes to project management?

Mr. Ehren Cory: I'm sorry, can you repeat that?

Ms. Goldie Ghamari: When did this issue first come to you? When were you first made aware of this cost predictability issue between the initial bid and the final price?

Mr. Ehren Cory: First, not to diminish it at all, but our primary focus has historically been on ensuring that, from contract signature—once we get a bid—to project completion, we stay on budget.

All of the estimating—if you think of a project, there is an initial estimate, the business plan. Then there's a pre-tender estimate, which is right before we go out to bidders: our last estimate internally of what it's going to cost. Then we go out and get bids. Now we actually have a signed contract. If you're following the flow, now you have a post-tender number. You have an actual bid. Our historical focus has been on making sure that the project gets completed—all variations, changes, etc.—and we protect that number, because that's the signed contract.

To your earlier question, MPP Ghamari, that's where you have a contract signed; you have a fixed price and we want to get it. And just to be clear on that, that is not the 22%. In our business, the industry standard is for somewhere between 5% and 10%. The best practice is, at most, 5% to 10% post-contract changes: variations, changes in scope, etc. That is what we manage to do across all of our programs—in our big P3s and all the way down to our small—and we remain in that range.

Ms. Goldie Ghamari: No, I understand. Thank you for that explanation.

In the Auditor General's report, it says that the final step in the process after the post-tender estimate is the actual cost. This actual cost is determined after project completion. My question to you, then, is: Between the post-tender estimate and the actual cost, what is the price variance on a project-by-project basis?

Mr. Ehren Cory: That's within the 5% to 10% range, and we are in that range.

Ms. Goldie Ghamari: Okay, so the 22% or, what the Auditor General quoted, referenced the—

Mr. Ehren Cory: It was from pre-tender.

Ms. Goldie Ghamari: That's from pre-tender—

Ms. Toni Rossi: Pre-tender to actual.

Ms. Goldie Ghamari: Okay. Which is higher than the industry standard.

Mr. Ehren Cory: Correct, which, to your earlier question, speaks to the quality of estimation, not the quality of contracting, if you will.

Ms. Goldie Ghamari: But you also said that part of that is contractors will come back and they'll say, "Oh, this needs to be done, that needs to be done, this and that and that." Not to disparage any contractors—my uncle is one, and he does a lot of home renovation—but I think it's well known that sometimes contractors will want to do upgrades or things like that.

What sort of quality controls or internal checks does Infrastructure Ontario have to ensure, when a contractor comes back or a project manager comes back, and all of a sudden the project price has gone up 100%, that it's being checked to make sure it's valid?

Mr. Ehren Cory: I really appreciate the question. It is one of the biggest things that Infrastructure Ontario is set up to manage.

What you've described is often called, in the industry, "scope creep." It's the concept that once you're in there, the contractor will identify: "While I'm here, don't you also want me to do this? And maybe we could upgrade this a little." Any of us who have had work done—as you say, I have great respect for contractors, but this is quite standard.

So a lot of our checks and balances are designed around this, and there are two main ones that I'll just call out. First is the contract that we sign itself. Our goal, wherever possible—and that goes back to MMP Parsa's question earlier, actually, when I said that sometimes going slower goes faster. We focus very intensely on making sure that, before the contract gets signed, all of those changes are out in the open and the scope has been finalized. That's step one: Make sure the scope gets fixed, as much as possible, in the contract itself.

Step two is to make sure that there's a good process for controlling change after the fact. Again, it depends a little bit on which—

Ms. Goldie Ghamari: Right. So what I'm asking is, what is that process?

Mr. Ehren Cory: There's a change control process. It varies a little bit, frankly, between a P3s and the PMSP—the different columns of this sheet—but they're all the same—

Ms. Goldie Ghamari: Who ultimately makes the final decision as to whether or not to increase the project? Would it be Infrastructure Ontario? Would it be the external project manager? Who makes that decision—

Mr. Ehren Cory: The answer is us, working in conjunction with the ultimate owner. If it was a hospital, it would be us working with the hospital. If it was an office building, it would be us working with MGCS. That's who—it's never the contractor—and we have to sign off on those.

Ms. Goldie Ghamari: I have in front of me—and I apologize; I'd be happy to give you this copy. It's a document prepared by the federal government and the Industry Cost Predictability Taskforce, back in 2012. Are you familiar with that document? It's called the Guide to Cost Predictability in Construction. Are you aware of that document, or have you looked at it?

Mr. Ehren Cory: I'm not familiar—

Ms. Goldie Ghamari: Okay. I won't question you on it, because, obviously, that's not fair.

I'm just looking over the recommendations that the federal government came up with. They actually created a task force to look at these issues, because they were having issues federally as well. One of the recommendations they have is to ensure that estimates are produced by qualified individuals, such as CIQS or Gold Seal qualifications. The people who are doing the same thing for Infrastructure Ontario—do they have the same qualifications?

Ms. Toni Rossi: Yes.

Ms. Goldie Ghamari: Okay. Are those employees of Infrastructure Ontario, or are they outside contractors?

Ms. Toni Rossi: In the case of the PMSPs, it's actually the project management service providers who have those qualifications as project managers.

Ms. Goldie Ghamari: Okay. Looking at the chart, just to clarify that in my head, the PMSPs—there are only one or two, correct?

Ms. Toni Rossi: Two.

Ms. Goldie Ghamari: Okay. Have you ever, let's say, hired someone externally, just to review what they're doing, to see if it's valid or not?

Ms. Toni Rossi: Thank you for that question. We actually have hired, on a couple of occasions—but most recently, we hired a third-party consultant to come in and take a look at all of our cost-estimating processes. Hanscomb was the third-party consultant that came through. They have, in fact, verified many of our processes to be valid. They have verified industry benchmarks and standards on how and what we do.

Similarly to what the Auditor General had done, they have provided continuous improvement opportunities, coupled with the improvement opportunities that we're getting from the Auditor General. We're constantly finding ways to just keep bettering the process.

I think there is commitment and, actually, proof in the consistent, continuous improvement of all of these projects, year over year, project over project, time over time.

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Mr. Ehren Cory: If I could quickly add one thing to that, we've identified that, besides the service providers and third parties, we need to build a stronger capability in this area. So we've started hiring quantity surveyors and cost estimators at Infrastructure Ontario, not just for the PMSP column of this chart, but the same thing applies also to the P3s—so that we not only are relying on those experts who have cost and quantity surveyors, but we have our own internal. That's a capability we are focused on as part of this recommendation.

Ms. Goldie Ghamari: Just one final question—this would be relating to the vendor performance program. My understanding is that this vendor performance program is new and is currently being implemented. Is that correct? This was not the case in the past.

Mr. Ehren Cory: It is new on our P3s, since 2017. We were previously using one on the PMSP projects to score the individual contractors and vendors who do the work. That one started a few years earlier. But we've only recently—so that it is "new" is really related to migrating that same concept to P3s.

Ms. Goldie Ghamari: How are you looking at improving the way that this performance program is going to assess the current PMSPs or the P3s? Because as indicated in the Auditor General's report, one of them was consistently underperforming, or they were going through litigation with hospitals or arbitration or whatever, and they're still being awarded contracts.

Mr. Ehren Cory: There are a few ways we're trying to improve it. One: The Auditor General recommended that we extend it not just in the construction period but also in maintenance. Right now, we don't have a vendor performance program to assess the maintenance period. So remember, in a P3, when we hire them—

Ms. Goldie Ghamari: And that's going to happen?

Mr. Ehren Cory: So we agree, and we are now working on how to implement that. That's one change per the auditor's recommendations.

Two: We have had vendor performance, as I said, on the PMSP delivery side for years, and more recently on the P3s. They aren't the same system. Historically, there would be some risk that someone could do a bad job on a small project and it wouldn't be reflected in their score on a big project, and vice versa. So that's change number two. It's got to all talk to it; you can't have that happen. So we're making sure that the program is consistent across, from big to small. You can imagine affiliated companies, right? You have a smaller subsidiary doing some of the smaller work and a bigger company doing some of the bigger. We want to make sure that there is consistency. That's change number two.

Number three: On what we call traditional project delivery—those usually in the $10-million to $50-million range of projects, where we go out and procure directly; we don't use the PMSPs and it's not a P3 project either—we need to implement the same kind of vendor performance program. We have not, historically, had one.

So that's three improvements we're making.

Ms. Goldie Ghamari: I think that answers most of my questions. I guess the only outstanding concern and issue for me is what Infrastructure Ontario will be doing to reduce that percentage between the pre-bid and the final, actual price. Maybe it's just me, but I find it a little bit problematic that the actual cost of the project is determined after project completion, because that leaves very little room for Infrastructure Ontario to penalize those vendors that are going over budget, over that standard industry price. I think that's something that really needs to be looked at, because otherwise, there is really nothing for Infrastructure Ontario to go after.

Thank you. It's been really helpful, and I'd be happy to pass over this Guide to Cost Predictability in Construction document for you that was prepared by the federal government in 2012.

Mr. Ehren Cory: Great. Thanks.

The Chair (Ms. Catherine Fife): Thank you very much. MPP Parsa?

Mr. Michael Parsa: Thank you very much. I appreciate it.

Your point system, if you don't mind: From the time that an outfit enters a bid and to the final project that you talked about—you referred to it as your point system. When the discrepancy is—and you repeatedly work with the same outfits, in most cases, right?—does that affect their point system, if they're off by 20% from the initial bid, and if that's ongoing on repeated bids in the future, does that affect their relationship with you?

Mr. Ehren Cory: Right, so that's a really interesting question. Just going back a second: The 20% that we've been talking about, that's the difference between what we, internally—it has nothing to do with them at that point. We do an estimate right before we go to market and say, "Okay, we've now scoped out this bathroom reno or this new hospital"—it could be anything. We get a third party to give us an estimate, "What do you think it's going to cost to build?" Then we go out and get the bids. The fact that the bid sometimes comes in 20% higher and sometimes 20% lower—because, especially on the P3s, the bidders find innovative ways to do it faster or differently, so the fact that it comes in higher or lower than what our own internal estimate is, is not their fault.

I think where MPP Ghamari is going is we need to do a better job of making sure our—the better our estimate is—

Mr. Michael Parsa: That was my—

Mr. Ehren Cory: Yes. But the consequence for the bidder—what we care about on the bidders and what we measure them on is the difference between what they bid and what they finally deliver for. That, to answer your question, does affect their score, if it's their fault.

There are times when we make changes. We say, "Oh, we didn't recognize—we want to add"—scope changes, if they're our fault, you can't blame the contractor for that, but when it's on their side, yes, that's where we hold them accountable.

Mr. Michael Parsa: Back to the last discussion. We talked about the process of having less—I didn't understand that, because I come from a business background and, for me, more competition usually brings down the price.

Could you please reiterate that point for me, because you talked about the process and you said if there are less bidders—you said if there are two bidders, the price will be lower. I don't understand, competition usually brings down—

Mr. Ehren Cory: For sure. Thank you. Very fair question.

Remember, what this is bidding for is for someone, for the next five years, to be our project manager. They're, in turn, going to go out and—we're outsourcing to them, project management, in many ways, so their job is going to be to hire architects and engineers and get construction and get a price. They're going to charge us a percent fee for that. They're not giving us a price for the construction; in fact, we're hiring them for the next five years to manage what will end up being 5,000 projects—1,000 projects a year.

So what they're bidding is a fee that they're going to earn to do that work for us on our behalf. The more volume of work that they get in that bid—remember, it's 1,000 projects a year, so about 5,000 projects. If we split it up between two bidders, they're each going to be managing between 2,000 to 3,000 projects with a core group of 20 or 25 people, a core staff. The economies of scale really matter.

Let me go in extreme: If we hired one of them for the whole province, I bet we'd get an even cheaper bid.

Mr. Michael Parsa: So you're saying that the volume increases on their end as opposed to you just distributing the weight between 10 project managers. Is that what you're saying?

Mr. Ehren Cory: On an individual project—

Mr. Michael Parsa: The final price will be less—

Mr. Ehren Cory: Just so we're clear, when they, then, go out—I've hired two of them for the province. Now it's the next day and I say, "We now have a project for you. Replace a roof in Sudbury." They go out and get 10 bids, so they get a ton of competition on pricing for the roof replacement. They, then, charge a percent margin on top of that, and it's that margin that we're getting those big firms to compete on.

There is a trade-off. If you do fewer companies with more volume, they'll lower that fee. That's the part I'm talking about. We still want maximum competition on the individual projects. As I say, we would go out—it depends on the size of the project, but to 10—

Mr. Michael Parsa: What's the fee? How much is the fee?

Ms. Toni Rossi: So there are two different fees.

Mr. Ehren Cory: For PMSPs.

Ms. Toni Rossi: Yes. There are various fees depending on the region and the size of the project value. I was going to actually go into individual things—

Mr. Ehren Cory: Just a range.

Ms. Toni Rossi: I'll give you the range. It's between 3% and 10%, again, depending on the locations, the size of the actual project itself—so if the project is $2 million versus a project that's $100,000, there would a range between that 3% and 10%.

Mr. Michael Parsa: Thank you. Last question—do I have time?

The Chair (Ms. Catherine Fife): Two minutes.

Mr. Michael Parsa: I have two minutes. Okay.

The cost of surplus properties and the maintenance cost to Ontario, can you tell us what that's costing us?

Ms. Toni Rossi: As of today, in and around $9.6 million is what it costs to continually operate and maintain those surplus properties that we have on our books.

Mr. Michael Parsa: So, $9.6 million?

Ms. Toni Rossi: Yes. That includes things like—

Interjection: A year?

Ms. Toni Rossi: A year.

Mr. Michael Parsa: These are the surplus buildings.

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Ms. Toni Rossi: These are the surplus buildings. Some of them are vacant and some of them are not, but that includes things like the security around them and the utilities—keeping those buildings up and running and ready to get out onto the disposition list for divestment.

Mr. Ehren Cory: The biggest expenses, I think, Toni—it would be safe to say—would be around utilities, because we often have to keep some minimum amount of heat in the building. Utilities, security fencing and security lighting are the main drivers of cost.

Mr. Michael Parsa: Okay. Thank you, Madam Chair.

The Chair (Ms. Catherine Fife): There's one minute. MPP Miller.

Mr. Norman Miller: I'll follow up on MPP Ghamari's question, then, on recommendation number 12. To quote you, you're working now to implement with regard to the AFP maintenance agreements—that the demerits and the system you had was just in place for construction but not for the actual maintenance. Can you talk more about what you're doing to implement that?

Mr. Ehren Cory: Yes, thank you. We're currently working on the mechanics of how that should work. In each case, what we have to figure out is what the types of issues are that happen in the maintenance period that should cause deductions. What triggers a deduction; how long it lasts is an interesting question. In our construction world, any infraction you incur, so if you trigger one of our infractions, there's a—

The Chair (Ms. Catherine Fife): Thank you very much.

Perhaps you can continue on that.

Interruption.

The Chair (Ms. Catherine Fife): MPP Wai, I'm so happy you freed that sandwich from that package. It was quite a process.

Mrs. Daisy Wai: I'm sorry.

The Chair (Ms. Catherine Fife): That's okay. We just need a little humour here. It's my job.

MPP French? MPP Sattler.

Ms. Peggy Sattler: Just a quick question to follow up on Mr. Cory's responses, both to MPP Ghamari and MPP Parsa: You talked about the involvement of a third party—a third party to give an estimate that you can compare against the bids, and third-party evaluators. Who are these third parties, and how are those third parties selected? Is there an open process to become a third party?

Mr. Ehren Cory: Two main types: First, under the PMSP contract, the third party that we're talking about is part of the PMSP contractor's job. They are the person doing that. They were procured in the procurement that we described, every five years, competitively.

Ms. Peggy Sattler: So you refer to them as the—the contractor becomes the third party?

Mr. Ehren Cory: The PMSP provider, the project manager for us: They're the party that develops the estimate for us, and then they go out to the market and get up to 10 bids, which is where we get the final price from—the low bidder—from the contractor. The third party that I was referring to there is the project management provider.

In the case of a larger project, a P3—if we were doing a new transit line, a new hospital or a new courthouse, we would hire a qualified third party, and we would run a procurement just for that. They would be cost estimators and quantity surveyors. There are companies—engineering firms, broadly speaking—whose job it would be to take the project as we've designed it—we've got a conceptual design for the hospital, and they would price that design and provide us with that. That would be our pre-tender estimate. Then we would get the winning bids and be able to compare them.

Ms. Peggy Sattler: Okay, and that pre-tender estimator is selected through an RFP process?

Mr. Ehren Cory: Yes.

Ms. Peggy Sattler: Okay.

The Chair (Ms. Catherine Fife): MPP French.

Ms. Jennifer K. French: On that, with these folks who are helping to make these larger projects happen—the P3s—to circle back to the last time when we were talking about hospitals and jails and some of these big projects that have a lot of problematic, disappointing outcomes and costly outcomes: Who is—I'll say "to blame," but who is responsible for when that contract is drafted, when everything is put into place? For example, the jail example with the windows that were condo windows instead of jail windows and nobody told them that it needed to be jail glass in a jail—things like that.

These third parties: What exactly is their role, and if things don't go well and the province is paying for it, is there a penalty concept or something for them?

Interruption.

Ms. Jennifer K. French: It's 1:55.

Interjection: Whoever's phone didn't turn on—

Ms. Peggy Sattler: Mine didn't go off.

Ms. Jennifer K. French: Yes, you've got your warning there.

Interjections.

The Chair (Ms. Catherine Fife): Okay. So that happened.

Mr. Ehren Cory: Maybe—

Ms. Jennifer K. French: I wandered all over in that question.

Mr. Ehren Cory: No, no. If you could clarify, though, it would be very helpful for me.

Ms. Jennifer K. French: As I was following along there with the concept of third party on a P3, you said that there is a procurement process to choose these folks who are going to be responsible for different parts of the project, estimating or what have you. If at the end of the project, after it's been built and handed over, we find out, "Oops, look at all of these problems"—and I could go back and list all the things I had before or provide you with a whole whack of new complaints about different hospitals or jails or some of these massive projects—do the original third-party people who you were relying on have any responsibility, or is it just the taxpayer now who's on the hook for covering the costs?

Mr. Ehren Cory: I understand. The way that a P3 project works, they are design-build projects. Let me talk about that very briefly.

In a design-build, instead of us separately hiring a designer, an architect and an engineer and designing the project, specking it out to 100% design and then tendering that—which would be what you might think of as traditional procurement—in a P3, we collectively, the government side, develop what's called an output specification. Instead of specifying that the flooring needs to be this type of linoleum, the room needs to be 12' by 8' etc., we specify functional requirements, as they're often called, or performance that we need from the hospital or the jail or the court. Then the bidders design to that standard. There's a process for them to say, "Here's what we're considering, from a design perspective," and we can provide them feedback if it's off-track, but that's the process that goes on. They are responsible for the design and the construction cost and the maintenance.

We, collectively, government, provide the output specifications. In any example, the government, the owner of the asset—this is not Infrastructure Ontario's role; if it's a hospital, it's the local hospital; if it's a jail, it's the ministry of corrections—would work with them to design the output spec. If there are gaps in the output specification, to answer your question, those would be—

Ms. Jennifer K. French: Yes, and when there are—

Mr. Ehren Cory: When there are gaps in the performance or inconsistencies in the output specification, that is the responsibility collectively of the owner of the asset.

Ms. Jennifer K. French: So it's the government. If we don't design it properly, initially, we're on the hook to pay the costs when something is not what it should have been.

Mr. Ehren Cory: If there's something that we didn't include in the initial scope that we then decide we want—

Ms. Jennifer K. French: Like jail glass in a jail. You didn't spec that, so we're on the hook for it at Toronto South, for example. Okay. I hear that.

That actually brings me to what I had wanted to talk about with bidders and vendor of record and things like that. You had mentioned architects. I met briefly with the architects when they came here to Queen's Park. I don't remember my numbers, but they had brought forward that it's really challenging for the average architectural firm, which is maybe one architect or a small firm that wants to get a toehold and be a part of design and infrastructure—they can't get into the process, in terms of whether it's insurance coverage or liability challenges. They can't even get into this game. That's one example—again, I'm sorry I don't have my numbers or my thresholds. How does one get onto that vendor of record list? Because it seems that it is not competitive if people can't even get into the game.

Ms. Toni Rossi: We do go out with an open RFP. In fact, we were out with an open RFP for architects, engineers and general contractors fairly recently. That gets evergreened and refreshed every year. There are certain specifications and certain requirements that are needed from each of those firms to ensure that they can meet the standards and the quality of what we need to be delivering on behalf of government.

Any architect at any time can sign up for that particular RFP. We then get into a service agreement with that architect. That becomes the vendor of record and they then are used by the project management service providers.

1400

Ms. Jennifer K. French: Specifically what I had heard from them is that it's only the big dogs that are able to get into this fight—because of insurance, things where they can't actually get what they need. If I'm mistaken, I'm not—that's what I had heard from the small and mid-size.

Mr. Ehren Cory: I think the issue is just that if you go back to our table that we distributed, there's a huge spectrum of projects: from $5,000 to $5 billion.

Each of our qualifications tries to qualify the right capabilities, the right expertise, for the type of project. We do sometimes hear the same thing from industry, MPP French, where architects' construction companies might say, "We wanted to be able to bid on that hospital and we weren't able to because we weren't big enough, you deemed us not insured enough," etc. Our answer to that is that we're trying to stream the right, qualified, capable firms to each type of work. There is a huge range in our work, though, so there's room for all.

Ms. Jennifer K. French: Is there room for looking at all parts of a project? If it's always the cheapest, I wonder if that really is the best measure of value, if the cheapest results in either cutting corners or missing steps or things like that, whereas opening it up to fresh ideas might actually save us money in the long run as a province, as a taxpayer.

Something from the Auditor General's recommendations and notes: Before 2013 or 2014, all vendors of record could be invited on projects over $100,000. Then it was changed and there were limitations put on. But because it was all vendors of record invited—I think we had talked about this briefly last time. Can you quickly remind me why that was changed to put limits on certain project thresholds—on numbers of vendors who are able to compete? Because if it's all automated and it's automatically generated and it's random and a computer is doing the work, then I won't accept that it's a cumbersome process if it's "press a button" and anybody qualified can—so, can you tell me what the rationale was to limiting that and to not re-evaluate opening it? Or are we re-evaluating that?

Ms. Toni Rossi: Thank you. Maybe I'll just step back. When we say "random," it is random within that vendor of record that we have. What we have done with the 10 is we've now realized, since 2011, that when it was open to everybody, number one, not everybody bid; number two, you weren't getting necessarily those that were in the region that needed to be there. If you have a project in Sudbury and you've got a vendor of record of 70 on the list, the Toronto organization is not going to bid to that.

What we planned and did through our Biddingo system was to take a radius approach. So within a project—if it's in Ottawa or if it's in Windsor or wherever it happens to be—the 10 vendors that are next on the list that are closest within that radius are who we invite to bid.

Ms. Jennifer K. French: So it's jurisdictional-regional.

Ms. Toni Rossi: We started with a good jurisdictional-regional because we found that that actually was most cost effective for the vendors themselves; it ends up being in the price if somebody is coming from Toronto and needs to go to Ottawa. And when we talk about random, it's random within parameters, and the system generates that opportunity.

Now, 10 we felt was a very open opportunity, to have a number of bidders in there. That's a competitive process with vendors that are on our pre-qualified list, so we know that the vendors can do the work in the region and areas that are appropriate for that particular vendor. When they sign up, they actually tell us which regions and areas they want to do. They also let us know which types of projects they want to do.

Mr. Ehren Cory: The other reason for the change, though—just going back, excuse me—is that when it was open to all, it actually was quite a disincentive to many to bid. If you know it's 30 people bidding—they have to do work. It's not about if it's onerous for us; it's about the contractors. They actually have to prepare a quote, go look at the work and price it. If they think they have a one-in-30 chance in winning or something, it starts to be very demotivating to them. So in addition to the geographic radius point Toni made, there's a balance. We want to get best value for the taxpayer, we want lots of competition; but over a certain threshold it starts to actually decrease the number of bidders who will bother, so that's the balance. That's part of why we cap the number at 10.

Ms. Jennifer K. French: Okay, you've capped it at 10, but of those different—I don't know how to say it—project thresholds, I've got that breakdown of three, so from $25,000 to $249,999 etc., are you getting 10? Are you finding that you're having 10 bidders, or are you seeing that there are still only a few?

Ms. Toni Rossi: I think we have been seeing that we get 10 in certain areas and regions. In other areas and types of projects we would get less, just because that particular region either has less in the region or they are already doing work. It depends on their threshold of ability to bid.

Ms. Jennifer K. French: Okay, but is there an internal process or is there a way to actually investigate to ensure that that is the case, that your answer that you just gave me is that it is one of those two things? Because if there aren't many bidding, are there other obstacles to prevent them from bidding?

Ms. Toni Rossi: Yes, I think that's actually a very good point and question. One of the things that we tend to do with the OGCA or with the contractors' grouping or associations across, we work with them very closely to understand what the needs are of those particular organizations. In fact, in the trending that we're doing, if we're finding that we're not getting as many bids in certain regions or from a certain thing, we'll open up the process to get more.

We do a bit of a market sounding, and we do a bit of a market outreach.

Ms. Jennifer K. French: It's probably not the right question to say, what percentage of the bids? Because I realize that the answer will be that region to region and project to project, it's different. But of the folks who are bidding, who have access to this process, you have that column to consider, and then you have all of the folks who are added to the list by a project manager, so people like, in your example, who had worked on another floor of an apartment or whatever who have been added.

I'm trying to remember what I had read in the Auditor General's report, but it looked increasingly like there was either an advantage or, just on a percentage basis, the ones who had been added to the list who had not been generated were getting most of the projects—I don't know if "most" is fair; more of. What percentage, and who is reviewing that?

Ms. Toni Rossi: Yes, two steps. One, we don't just randomly add a bunch of bidders. It's normally one manual add to that 10, or to the random selection, first off. Second off, they're added because they actually either know the project, know the spot, have that expertise, but more importantly, they are in an open bid, so there is a competitiveness in there. They have to have the lowest bid.

In the cases where—and it's not the majority—that particular manual-add bidder was added, they likely were that low bid and that provided best value for the taxpayer because we've got a manual-add that we would take a look at. I think one of the things the Auditor General did find was—

Ms. Jennifer K. French: Yes, who was looking at that and the staff versus IO and all of that.

Ms. Toni Rossi: Correct. And so I think we've worked with the Auditor General on that recommendation to just make sure that that process, again, from a documentation—this is a documentation, a conversation on continuous improvement on documentation, less of a value-for-money, because that actual bidder is still in the process of needing to bid to that particular job and scope. They have to still win, and the winning is the lowest bid.

Ms. Jennifer K. French: So the winning is always the lowest bid, as opposed to the best—

Mr. Ehren Cory: In that type of procurement.

Ms. Jennifer K. French: As opposed to the best bid, just so I'm clear on wording.

Ms. Toni Rossi: In the PMSP type of procurement, because we have a vendor of record, we have pre-qualified all of those contractors, architects and engineers to be suitable and great companies to be able to actually bid on our work. In those particular cases, in the PMSP world, yes, we tend to ensure that it is that second wave of price.

Ms. Jennifer K. French: And that's in keeping with some of the recommendations about consistent risk criteria and consistent measures, and that is becoming more and more accessible. Taxpayers would actually be able recognize that and start to have some renewed faith in Infrastructure Ontario and some of these processes?

The Chair (Ms. Catherine Fife): Two minutes left in this question set.

1410

Mr. Ehren Cory: I would just reiterate, perhaps, two things: (1) We have improved our processes around the documentation of why manual adds happen and our sign-off of those, because the process needs to be that if a PMSP out in the field says, "We have a manual add," we want to be very clear on what's the rationale. Is it geographic? Is it skill set? Is it familiarity of the asset? All of those things—but we want to actually have that document that had been approved by us; (2) we are improving our analytics and our capabilities to do data analytics. It's one of the areas the Auditor General's team was pushing. As you outsource this, you need to make sure you're constantly increasing your analytics skills to do trending and analysis. That's something we're working on very hard.

Ms. Toni Rossi: If I can, just one last add, because it isn't consistently only the lowest bid. In fairness, the majority are always lowest bid, but there may be some projects that are so unique that they need to actually have various technical expertise. So we will put a percentage of the evaluation on either technical—so it's not 100% the whole bid being the lowest price. Again, in some cases, it depends on the project itself, but the majority are low bid.

Mr. Ehren Cory: For sure on our larger projects and in the P3s, it's not all price. It's technical design and price. It is "price" for 30 years, including all of the maintenance. It's meant to be true best value to the taxpayer over the long term.

Ms. Jennifer K. French: But that's just with the P3s. That's not with the traditional procurement that we're stuck with the 30 years, where if there was a mistake made at the beginning because there wasn't the expertise in design, we actually aren't on the hook for 30 years, with a traditional.

Mr. Ehren Cory: As Toni said, in those projects, our biggest gate is, "You wouldn't get on the VOR if you weren't qualified in design." The whole point of the VOR program is to pre-qualify technically capable firms.

The Chair (Ms. Catherine Fife): Thank you. That's a good stop.

Ms. Jennifer K. French: I wish I had more time.

The Chair (Ms. Catherine Fife): The government now has 15 minutes, and then the opposition will have 15 minutes in this last question set. MPP Miller.

Mr. Norman Miller: Just a follow-up on the question I asked at the end of the last session, which was on recommendation 12, where you said you were now working to implement, with regard to how currently the vender demerit process is only administered throughout the construction process. Could you speak more about how you intend to implement the maintenance evaluation process and how this will be included in the evaluation of the vendor for future projects? You were talking about the time review as well—

Mr. Ehren Cory: That's right. How long—

Mr. Norman Miller: —the construction; it was two years that demerits were around—

Mr. Ehren Cory: Correct. Thank you. That is exactly what we're designing right now. Our team in procurement is working on what are those same rules—how do you apply the same logic—but to the maintenance period. That is questions like, "How long does a demerit last for? Who does it impact?" Because remember, there is a consortium. There is the person who designed the building, who constructed it and who's now doing the maintenance.

If you have a maintenance problem in a building two or three years in, the first challenge is, is it a construction problem or is it a maintenance problem? The reason we do P3s is because we don't try to sort that out. We've contracted with one consortium to deliver the asset for 30 years. Frankly, if two years in it's not performing—this would be a real example: humidity in the building. Hospital humidity control is very important for infection control and all sorts of things. If the humidity system is not working perfectly, we start deducting money, because we make a monthly payment to them to maintain the building. It's up to them to figure out who that hits. Does it hit the maintenance company, who maybe isn't doing a good enough job on building controls, or does it hit the constructor, who maybe two years ago didn't do a perfect job in designing the HVAC system?

In our model, that's kind of the point of the P3: to have that be a problem that they need to solve and they need to sort out. Is it a construction problem, in which case they've got to get the constructor back—it's like having an extended warranty—or is the maintainer doing something wrong from the building system perspective?

Now, when we want to apply a demerit to that, it starts to get tricky, doesn't it? Who is the person you're hitting? Maybe it's both. Again, maybe the logic, as you say—"You partnered together. That was your choice."

That's the sort of question, MPP Miller, that we're currently trying to sort out so that when we roll out to the industry a program of vendor performance with demerits for the third-year maintenance period, those are the questions we need to answer, because you want to make sure that you're targeting it at the people who can actually control things, that it's measurable, that it's fair and that it can be explained. What we do on the construction side is every month, we send a letter to every construction company saying, "You have the following demerits." We want it to be black and white, defensible and unambiguous, essentially. That's what we're working through on the maintenance side.

Mr. Norman Miller: Thank you. That's a very good example. I was going to ask you for some practical example that might make sense to me.

Mr. Ehren Cory: Yes.

Mr. Norman Miller: Thank you for the table you did, too, because that helps un-complicate. For those of us who don't look at this every day, it makes it a lot more understandable.

Mr. Ehren Cory: Thank you.

Mr. Norman Miller: I think that MPP McDonell wants to ask a question.

Mr. Jim McDonell: Just to continue on with that question, would it make sense that—

The Chair (Ms. Catherine Fife): MPP McDonell, you're up now. Then it's MPP Wai, I believe.

Mr. Jim McDonell: Okay, sorry.

First off, your main contractor: You're right; it's whose problem it is. But the main one, maybe, is the two-month leeway that it's not his problem. But if they haven't fixed it in two months, it becomes their problem. Something like that.

As far as vacant land, what lands around the province do you not look after?

Mr. Ehren Cory: Do we not look after?

Ms. Toni Rossi: Perhaps I can just qualify. The portfolio that we look after, we call the "general real estate portfolio." It includes offices, jails, courthouses and some labs. What we do not have a mandate to do is school boards, hospitals, or any of the other broader public sector. Some other agencies have their own realty authority and control—LCBO, Metrolinx, OLG. Yes, the MNR lands are a big portion. Notwithstanding that it's under the same title—under the GREP title, general real estate portfolio title—the actual lands themselves, the provincial parks, MNR manages.

Mr. Jim McDonell: One example would be—there's a tract of land between Cornwall and Iroquois that runs along the seaway. Would that be—

Ms. Toni Rossi: That is not ours. We looked into that.

Mr. Ehren Cory: We looked into that, based on your question at the session. That is not in our portfolio.

Mr. Jim McDonell: Queen's Park, the park itself: Is that something that you look after as well?

Ms. Toni Rossi: Yes. The Macdonald Block, the four buildings, but the Legislature is—

Mr. Jim McDonell: The land, the park itself which is just north of Wellesley.

Ms. Toni Rossi: No, that's under the Legislative Assembly contract.

Mr. Jim McDonell: Okay. So you have nothing to do with that part of it, but it is the Legislative Assembly that would look after that?

Ms. Toni Rossi: Correct.

Mr. Ehren Cory: Correct. This building and that. We've kind of got from the other side of the street—Whitney, Frost and going east into Macdonald Block—but the Legislative Assembly controls this precinct.

Mr. Jim McDonell: Okay. Those were my questions.

The Chair (Ms. Catherine Fife): Okay, thank you. MPP Wai?

Mrs. Daisy Wai: Thank you. I apologize. There might be some questions asked that I don't know whether I am repeating the same thing or this has been answered before, but I am—

The Chair (Ms. Catherine Fife): Could you please move a little bit closer to it, or bring your mike closer to you so that we can hear you?

Mrs. Daisy Wai: I'm referring to the notes that I have and some concerns that I have from our previous meeting. The one thing that I couldn't understand how that could happen is that there is a contract that had already expired in 2015 and we still continue to let the project go, and also that we're approving invoices without the details. So those are the two things that really stand out. I couldn't understand how that happened, and maybe you can help me or fill me in on that.

Ms. Toni Rossi: Sorry; I'm trying to understand—just the project that expired in 2015? What did occur in 2014-15 is, we went out with our PMSP, our second generation. So it did expire, but we went out and re-procured. Two vendors won those two procurements based on the two regions. If I'm understanding correctly, there was an expiry of our first wave, our five-year contract of three PMSPs. Then we went back out to the marketplace and have contracted with two others. That contract is a five-year contract, and it will expire in 2019.

Mrs. Daisy Wai: I see. What is the lapse between when the contract has expired to the time that you have a new contractor? I believe I have this information, as we were having that briefing.

The Chair (Ms. Catherine Fife): Do you have a document in front of you that you can reference to the committee?

Mrs. Daisy Wai: I have it written down in here, in my documents.

The Chair (Ms. Catherine Fife): It's in your personal notes?

Mrs. Daisy Wai: Yes, it's in my personal notes.

The Chair (Ms. Catherine Fife): Perhaps the auditor is—

Ms. Bonnie Lysyk: I'm not sure.

The Chair (Ms. Catherine Fife): The auditor is not sure where you are in the report.

Miss Kinga Surma: It's to do with recommendation 5.

Mrs. Daisy Wai: Yeah. Recommendation 5, we're continuing with. My next question, though, is also regarding recommendation 5—how much of that is done so far after that?

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The Chair (Ms. Catherine Fife): Thank you.

Ms. Toni Rossi: Thank you. That's much better context. We were on the project management context, so—

Mrs. Daisy Wai: Oh, okay.

Ms. Toni Rossi: No, no. Apologies.

What's referred to here is over the years, IO has contracted separately with each individual ministry. In technical terms, we called it the OAA, which is our service-level agreements with individual ministries.

As part of the work that we are doing with government right now—those contracts are on overhold; they have expired but they are on overhold. The services are still being generated; we still do all of the work on their behalf; we're working very closely with each of the CAOs in the programs, but one of the things that we're working with MGCS and government on is a better and greater model with respect to services in general.

I think earlier, the deputy referred to the realty operating model. That model will start to solidify the new services or the performance measures that will be new, and it will solidify our ability to be able to fund those in a way that today is not being funded.

I will say, though, MPP Wai, that one of the things we have done—and I think I mentioned this in our last meeting—is we've made it very transparent to all of the individual ministries on our customer portals so once they go in, they can actually see all the services that they are getting in that particular building very transparently. They can see what they're being charged for those individual services, and at any time, if they have any question or comment or dispute about any of the charges, we are there and we walk them through, very diligently, what those charges are.

Mr. Ehren Cory: But I just want to re-emphasize—thank you for the question. Toni, you referred to them as a contract. I guess they're a form of contract, but it's a really a service agreement between us and a ministry that defines the services we'll provide: Your offices will be cleaned once a week and the water will be tested on an annual basis etc.

The Auditor General was right to point out that a bunch of those had expired and we needed to renew them. That's the process we've gone through, ministry by ministry, to set those agreements. It's not a contract with the external world; it's internal to government.

Mrs. Daisy Wai: Oh, I thought this is with the external supplier. You're referring to the ministries.

Mr. Ehren Cory: No, this is our service agreement with the various ministries on the services we're getting on their behalf.

Mrs. Daisy Wai: Okay. Then the recommendations there—how much of those are done so far on recommendation 5?

Ms. Toni Rossi: Currently, we're working together with MGCS to take a look at all of those individual agreements to actually find a way to have them collectively operated through an ongoing realty operating model.

What I would say is—the three things, "Renew all operating and maintenance agreements between itself and the client ministries"—that's part of the realty operating model agreement that we are putting in place; "Implement its plans to provide ministries and agencies with timely information"—that, we actually have done. They have access in real time to be able to go into their customer portal and see their building and their particular building-level services—when the cleaning is happening, how often does the trash get put out, when we are doing landscaping. Then we have also worked very closely both with our property and land management service provider and the CAOs, the chief administration officers, within the various ministries if they had any other questions on those invoices. They are quite transparent and able to see what services they are getting, why the costs are the costs, and then they can go into the customer portal—it's a database where they can then see their services they're receiving.

With respect to the agreements, we're working now to put the right agreement in play in a broader strategy and context.

Mrs. Daisy Wai: So you're saying that those invoices are being reviewed and they are okay with it?

Ms. Toni Rossi: Yes.

Mrs. Daisy Wai: Okay. I'm fine with my part of the questioning.

The Chair (Ms. Catherine Fife): Okay. Any further questions from the government side?

Mrs. Daisy Wai: How much time do we still have?

The Chair (Ms. Catherine Fife): You still have two and a half minutes and four seconds.

MPP Miller?

Mr. Norman Miller: I think we're fine.

The Chair (Ms. Catherine Fife): Oh, you're done. Okay. MPP Wai, are you sure?

Mrs. Daisy Wai: I'm fine.

The Chair (Ms. Catherine Fife): Thank you very much. Going over now to the official opposition for the 15-minute cycle; MPP Sattler.

Ms. Peggy Sattler: Thank you very much. I wanted to pursue a little bit more your comments to, I think it was MPP Miller, where you gave the example of humidity control as an example of something that you would want the contractor to follow up on as part of the maintenance side of the P3 agreement. I'm looking specifically at recommendation 11 in the auditor's report. She pointed out that because the financial penalties on the contractor vary widely—some can be 100 to 1,000 times greater, depending on the type of maintenance failure—the private sector contractors may be "motivated to designate failures as something other than an availability failure."

"Availability failure," I gather, has the most severe penalty, so contractors are trying to get around being saddled with dealing with an availability failure. How exactly are you dealing with this problem of the different types of failures? The financial penalties, according to the auditor, were not entirely effective in keeping the contractors fulfilling their maintenance obligations under the agreements.

Mr. Ehren Cory: Thank you. We have completed a review. To your question, you're absolutely right. An availability failure means that the asset isn't available for the purpose it was designed for: The courthouse is not able to hold proceedings, that sort. That's an availability failure. A service failure, on the other hand, is that something isn't working but it's still able to be used.

There was some ambiguity and, as you say, the risk that contractors would try to classify something as a service failure. We have done a few things: One is, we've gone through our agreements and clarified the types of things that fall under availability versus service failures, to make that much cleaner.

Ms. Peggy Sattler: So there are only two types of failures?

Mr. Ehren Cory: There are others, but they're the place, this recommendation, where the ambiguity existed, so we've really tried to clarify in the contract documents themselves what qualifies as an availability failure.

Second, we've developed a training program for our hospitals so that they understand the contractual tools at their disposal, because remember, the hospitals are the signatory to the contract. They sometimes are the ones getting into these debates with the contractors, at least at the face. We've been working on training hospital building management teams to make sure they understand what their rights are: "No, no, that is an availability failure and you should be withholding the maximum penalty," if that's appropriate.

So those are the two things we've done: clarify the documents and additional training on our side to make sure that we understand and are fully enforcing our contractual rights.

Ms. Peggy Sattler: And these disputes about whether it is an availability failure or another kind of failure, are those the disputes that have ended up in court in the past?

Mr. Ehren Cory: No, they have not. If that dispute exists, there is an escalation process in the contract that could lead to getting an adjudicator or something, so there is a stepped level of adjudication. They have not resulted in lawsuits, no, to the best of my knowledge, ever.

But I should clarify one thing and just remind that in the hospital model in particular, remember the hospitals are the face of the 30-year contract. They're in the lead in managing those disputes, and we support them.

Ms. Peggy Sattler: Okay, I'm going to pass it to my colleague.

The Chair (Ms. Catherine Fife): MPP French.

Ms. Jennifer K. French: I'm going to try not to have a coughing fit.

Just continuing along that, because I know that we have a lot already on the record about the hospital model and a lot of the challenges and whatnot, in terms of what you just said, Mr. Cory, working with the hospitals or educating the hospitals—I forget how you worded it—about what they are contractually obligated either to do or allowed to do or encouraged to do, or all of those pieces, I think we had talked about the feedback that also needs to come from them to inform Infrastructure Ontario so that these 30-year contracts are done differently to ensure that the client ministries actually know what it is that they're getting and that the hospitals know what they're getting. I think it's leading up to recommendation 5, but looking at the invoices that don't have a breakdown of services or service types, that client ministries don't know what they are entitled to or what they're paying for, what they're getting—all of that stuff.

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So that's a part of that partnership that will be fixed? Or am I—

Ms. Toni Rossi: So if I might, what Ehren was talking about earlier was the education to the hospitals about their P3 contract. What we've described was actually education to all of our ministries, the chief administrative officers, about what they get in their individual buildings, the GREP buildings, not the hospitals. I think it's fair to say what IO is really focused on is ensuring that our clients know exactly what they are getting and know how to use the tools that they have to their ability.

Ms. Jennifer K. French: The flip side of that—what they're getting seems to be insufficient for their needs, based on the complaints and based on the feedback, as I understand it. Is there the reverse of that happening, that you are taking what you are hearing from the client ministries and not just saying, "Well, this is how to read the contract. This is how to know what's in it"? How do you put better in the contracts to ensure we're not in this muddle and that they have what it is they need, not just understand what there is that they have?

Mr. Ehren Cory: I think the heart of your question is a big part of why an agency like ours exists. It's so that, if we've done 110 procurements now on the P3 side, each and every one, we're able to learn from the one previous.

To use the example we were just talking about, our current contracts are much clearer than earlier ones around what counts as an availability failure, to go back to MPP Sattler's question. So we are constantly trying to take that feedback from our partners—hospitals, courts, jails, MTO and Metrolinx—and improve our documents, our contractual mechanisms, the clarity of those, to improve. We do that on every project informally, but also to your question, we have done formal things to do that in a more consistent way, like get together a round table of hospitals that have projects with us to get their feedback.

Ms. Jennifer K. French: And going forward, is there going to be a mechanism—because I appreciate that if something has been signed and we're waiting for the renegotiation, re-evaluation or the end of that or whatever, are we making a change somewhere so that, before we have to wait for the end of the new contracts, there is some kind of mechanism to not just throw good money after bad or to step in and say, "This isn't working; this is problematic"? Or are we just, "Oh, well, wait 30 years," or whatever? Because I don't like that answer, and I don't think taxpayers would either: "Just tough it out for the next 30 years regardless of how expensive or how much of a tangle it is."

Ms. Toni Rossi: I think I would say yes on the PLMSP and on the PMSP, absolutely. Every time we go in and do a new project and we understand the exact scope, we then consistently put that across and we upgrade all of our contracts.

Ms. Jennifer K. French: But those aren't 30-year arrangements.

Ms. Toni Rossi: Those are not the 30 years—

Ms. Jennifer K. French: I am more thinking of P3 because I think you can tell from my demeanour how I feel about that versus the traditional. I'd love to have a sit-down and have a longer conversation about this.

Mr. Ehren Cory: Great; me too.

Ms. Jennifer K. French: Oh, good.

Mr. Ehren Cory: On that point, just to go back to something I said in the first session, we don't start out ideologically. Our goal isn't to do P3s; our goal is just to deliver projects the best way possible, with the best value for the taxpayer over the long term.

The reason we use the P3 model for big projects is because we think the value of three things: Number one, integration, from design to construction and construction to maintenance, creates huge value. Instead of us as government going out and hiring a designer, taking those designs, giving them to a contractor and then the contractor says, "Well, you haven't told us where to put this vent. We're going to have to wait while you decide and we're going to charge you," that integration risk is not something that owners should bear.

Number two, life-cycle thinking: We want people to build stuff that—even if you spend a bit more on it up front. I think you've made this point, actually, earlier in this session: Best value is not the same as low cost. We want people to build us assets that will last and be high quality. If they can spend more up front and reduce the 30-year bill, we want them to be rewarded for that. That's the second reason.

The third is, the P3 model gives them a ton of room for innovation. As long as we set a good performance spec, and you've raised examples of a "what if we don't?"—but by and large, we focus a lot on giving a great output specification, but letting bidders innovate.

Then there's a financing cost, which is the cost of getting those three things. Our job is to weigh if it's worth it. Our estimation is that on big projects that are large-scale—greenfield projects in particular—there's a great trade-off between those benefits I've described and the cost. That's why we do them.

You asked a question—

Ms. Jennifer K. French: But I don't really see consistent measures. When you're factoring in risks and estimates, it seems to be column A versus column B; or for P3 versus traditional projects, the measures are not consistent in terms of cost or risk and whatnot. It's hard to compare apples to oranges. That's not a thing. That doesn't work for Ontarians. When we're finding out how expensive it has been, are we looking at the entire life of a project?

I don't know. I'm feeling a bit spun on this part. I think it should be a clearer process. I would like to be reassured that the measures, all the way along, are consistent and are not interpretable by individuals, that there are some kinds of comparators and whatnot that are consistent with the market that we can rely on and not just cross our fingers.

Mr. Ehren Cory: I would reassure you that at the outset of any project, the first thing we do is assess for the nature of the project, given its size and its complexity. Is it a greenfield, stand-alone asset or a renovation of something existing? Based on all of those factors, we go through a model selection process to decide what's the right way to deliver this project. In that table we gave you at the start, which column does it best fit into?

We showed some dollar ranges on that table to give you a sense of what fits where, but the truth is, it's not as black and white as that. Our first job is to figure out, is this project better suited as a P3, as traditional delivery, or to have the PMSP do it? A $50-million project, just to pick an example, could technically fall into any of those three columns. You could say that it might make most sense as a P3, it might make most sense traditionally or—although, it's a big stretch, because generally the PMSP caps out at about $10 million—but I'm saying that theoretically, our job is to figure out which model type fits. Which is the right hammer for this nail? I can reassure you, that's the process we go through.

Ms. Jennifer K. French: How many minutes do I have?

The Chair (Ms. Catherine Fife): Two minutes.

Ms. Jennifer K. French: Okay. If only we had more time.

I had wanted to go back to some of the project management pieces. There's a specific question that I wanted to follow up on that was about penalties and incentives. It's specific and not in keeping with what we were just talking about.

I recognize that being on budget and all of that is important, but the auditor noted that only $275,000 of the $56.5 million in management fees paid to project managers was for completing projects on budget. As we're looking at future contracts, what is Infrastructure Ontario doing to provide sufficient incentives for those project managers to complete projects on time, on budget and meeting expectations—we've talked about penalties—in terms of the incentive side?

Ms. Toni Rossi: From an incentive perspective, the KPIs that we have put into place, I think, help.

We talked a little bit about our contracts and our ability to actually work with our project management service providers, with our PLMSP. We do that in partnership. At the end of the day, we are here to provide either the best project or program or space that we can for anybody that's in it. Our project management service providers are, in fact, incented by not having any of their fees taken off at risk. They're incented by being a part of the dialogue and the understanding of what the client actually needs. We spend a lot of time together from a governance perspective. We spend a lot of time together, I'll say, annually, but I want to break that down: We do quarterly meetings with them. We do monthly project meetings with them. We actually talk about the contract quite a bit. We look at the key performance indicators. I know that's a—

Ms. Jennifer K. French: Is any of that public along the way?

Ms. Toni Rossi: Define "public": Do we put it on our website or on all of our minutes at this stage?

Ms. Jennifer K. French: Is it just financial or is there a little bit of reputational challenge or threat that could happen if it was consistent? Is there anything that is shared with the broader public to have an understanding if they are not keeping up or meeting milestones etc.?

Ms. Toni Rossi: Public, no. We have not gone out and done press releases—

The Chair (Ms. Catherine Fife): On that note, that is the time.

I did have a question, though. You did provide a chart for the committee, the IO procurement.

Ms. Toni Rossi: Yes.

The Chair (Ms. Catherine Fife): Is this public? Is it up on your website?

Interjection.

The Chair (Ms. Catherine Fife): It's not right now?

Ms. Toni Rossi: It's not, but it can be.

The Chair (Ms. Catherine Fife): It's actually a helpful chart.

I want to thank the delegations for coming in once again and answering our questions. I think there are still lots of questions, but I very much appreciate your time and your energy.

This committee will go in camera. We will ask the members of the public to please leave the room. Once again, thank you very much.

The committee continued in closed session at 1441.

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