



Auditor General
MANITOBA

Report to the Legislative Assembly

Oversight of Post-Secondary Institutions

Independent Audit Report

Website Version



October 2020

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October 2020

The Honourable Myrna Driedger
Speaker of the House
Room 244, Legislative Building
450 Broadway
Winnipeg, Manitoba R3C 0V8

Honourable Ms. Driedger:

It is an honour to submit my report titled, *Oversight of Post-Secondary Institutions*, to be laid before Members of the Legislative Assembly in accordance with the provisions of Section 28 of *The Auditor General Act*.

Respectfully submitted,

Original Signed by:
Tyson Shtykalo

Tyson Shtykalo, CPA, CA
Auditor General

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Auditor General's comments

Manitoba's public post-secondary institutions are an important part of the province's success. These seven institutions not only contribute economically, but also foster innovation and growth, and prepare learners for achieving their personal and professional goals.

This report brings together a number of audits we conducted over a four-year period, providing a comprehensive review of the oversight of post-secondary institutions in Manitoba, by both government (**CHAPTER 1**) and the governing boards of each institution (**CHAPTER 2**).

We completed these audits prior to the COVID-19 pandemic, which has had a significant impact on the post-secondary sector. Institutions had to move quickly to deal with immediate operational, financial and academic challenges, as well as plan for an uncertain future. Implementing the recommendations in this report, which are intended to improve government oversight of institutional accountability and strengthen board oversight of institutional performance, becomes even more important during these challenging times.

As an office we strive to positively influence public sector performance, and I believe many aspects of this report are also applicable to the wider public sector. Building mutually respectful relationships and improving communication between government, governing boards, and executive management is not just pertinent to the post-secondary education sector. Government can do more to support and enhance governance practices and relationships throughout the public sector. And while there is no one-size-fits-all approach, modernizing board governance in the public sector to reflect leading practices and strong oversight is essential.

I appreciate the cooperation and assistance of all institutions and the Department throughout this audit. I would also like to thank the many individuals interviewed who contributed their valuable insights to the project. I am pleased to note a number of improvements have been made by institutions and the Department since the time of our audit.

Our first follow-up on the progress made on implementing the 22 recommendations within this report will be as at September 30, 2021. I would like to thank my audit team for their diligence and hard work on such a wide-ranging and impactful audit report.

Original Signed by:
Tyson Shtykalo

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Auditor General



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Oversight of Post-Secondary Institutions

7 PUBLIC POST-SECONDARY INSTITUTIONS

- Assiniboine Community College
- Brandon University
- Red River College
- Université de Saint-Boniface
- University College of the North
- University of Manitoba
- University of Winnipeg



Annual provincial
funding of
approximately

\$700 million

What we found





Website Version

Main points

What we examined

Post-secondary education is an important contributor to the Province's success, not just economically but in creating an innovative and productive society that benefits all Manitobans, and that helps individuals achieve their goals and aspirations, both personally and professionally. Post-secondary education is delivered through a wide variety of programming at both public and private institutions throughout Manitoba. This report is focused on the oversight of the seven public post-secondary institutions that receive direct government funding and form part of the government reporting entity. This includes three universities, two colleges, and two university-college hybrid institutions. Within its own unique mandate, each institution offers different and diverse forms of learning – from humanities to the trades – in various regions across the province. Total annual funding to these seven institutions was approximately \$700 million at the time of our audit.

We chose to examine both government oversight of all public post-secondary institutions in Manitoba, and the oversight provided by the governing boards of each institution. As such, this report is organized into two chapters.

The public post-secondary institutions included:

- Assiniboine Community College (ACC)
- Brandon University (BU)
- Red River College (RRC)
- Université de Saint-Boniface (USB)
- University College of the North (UCN)
- University of Manitoba (UM)
- University of Winnipeg (UW)

Chapter 1: Government oversight of public post-secondary institutions

Our audit objective was to determine whether an appropriate accountability framework was in place for the oversight of public post-secondary institutions by government.

Given the significant amount of provincial funding, we chose to audit the processes that government had in place to support, and to provide oversight of, the financial and operational performance of Manitoba's seven public post-secondary institutions. Our audit criteria reflects leading public sector accountability practices and common expectations for a strong accountability relationship between any Minister and the board-governed entities within their portfolio. A well-constructed and implemented accountability framework ensures overall accountability of institutions to government, while empowering each institution to achieve its unique mandates and strategic priorities, within the overall strategic objectives identified by government for the post-secondary education system as a whole.

Chapter 2: Governance oversight by the governing boards of post-secondary institutions

Our objective was to determine whether opportunities existed to strengthen key governance practices in place at the seven public post-secondary institutions, especially with respect to the oversight of the President.

As with all public sector board-governed entities, we expect post-secondary institutions' governing boards to provide rigorous oversight of the financial and operational performance of the institution, and its executive management. One of the most important responsibilities of an institution's governing board is ensuring that robust accountability processes are in place with respect to the President, who is hired by and reports directly to the governing board. Strong accountability processes for the President not only ensure effective oversight by the board, but also serves to protect the President.

We reviewed each institution's governance processes, in light of leading board governance practices and previously-issued OAG reports on expectations for all governing boards of public sector organizations. We also conducted an audit of the Presidents' expenses, and a compliance review of the Presidents' employment agreements.

While we discuss common governance issues for all institutions in this report, we recognize that each institution differs in size, governance structure and board composition. Universities are also unique from colleges in that they operate under a bi-cameral governance structure where authority for academic matters rests with a university senate, while authority for financial, operational and administrative matters rests with a governing board. Our review of institution governance practices related solely to the financial, operational and management oversight provided by the governing boards at each institution. We did not include any academic-related matters, nor quality of education issues. Hence, we did not review the academic oversight practices and activities of any university senate, nor college council.

What we found

Chapter 1: Government oversight of public post-secondary institutions

Our audit concluded that an appropriate accountability framework was not in place for the oversight of public post-secondary institutions by the Department.

A clear and well-managed accountability framework between government and its board-governed entities ensures that roles and responsibilities are clear, that a shared understanding exists of strategic goals as well as the risks and challenges in achieving them, and that performance issues are promptly identified and appropriately managed. Strong accountability is best achieved through an open,

collaborative relationship based on trust and mutual respect. This ensures public monies are well spent in meeting the needs of Manitobans.

This Chapter includes 14 recommendations. Our conclusion is based on the major findings summarized below:

WEAK OVERSIGHT FRAMEWORK FOR POST-SECONDARY INSTITUTIONS

Roles and responsibilities of all parties not defined and documented (SECTION 1)

An effective accountability framework depends upon clearly defined roles and responsibilities. A properly constructed roles and responsibilities document creates a foundational agreement that all parties agree upon and can refer to for guidance when issues arise.

We found that the Department had not documented the key roles and responsibilities of all parties with respect to the oversight of the public post-secondary education system.

- The need for greater clarity in the accountability relationship had been identified in several prior reviews of post-secondary education, both

previously under the now defunct Council on Post-Secondary Education (COPSE) and more recently with respect to the Department.

- The level of ongoing organizational change in government's oversight of the post-secondary education system over the five-year period we reviewed, as well as the significant turnover of senior leadership and staffing personnel, creates a degree of uncertainty amongst all stakeholders. Given this, clarifying the roles, responsibilities and expectations of all parties would be timely.

Strategic objectives and priority outcomes for the post-secondary education system not defined or communicated (SECTION 2)

In any accountability relationship, it is critically important to create a shared understanding of strategic objectives and desired outcomes, as well as the risks and challenges in achieving them.

We found that the Department had not defined or communicated the strategic objectives and priority outcomes for the post-secondary education system in Manitoba. Once strategic and desired outcomes for the post-secondary education system are developed and communicated, the institutions can convey how their individual strategic and business plans contribute to system-wide objectives.

- A provincial strategy, which defines the strategic objectives and priorities for the post-secondary education system, had not been developed. The need for such an overall strategy had been previously raised to government in various prior reviews conducted in this sector. Developing such a strategy in a collaborative and inclusionary process with institutions and other key stakeholders in the education system helps to build strong relationships in the sector, based on trust and mutual respect.
- The Department did not issue mandate letters to each institution's governing board. It would

be timely to document how the post-secondary education system is coordinated, as well as the agreed-upon mandates for each institution and how each institution's specific goals and outcomes contribute to achieving system-wide objectives over a given time period.

- Most institutions provided their strategic plans, as well as other types of institutional planning

documents to the Minister, although not required by legislation to do so. However, as the Department had not yet developed its overall strategic objectives and priority outcomes for Manitoba's post-secondary education system, the institutions could not demonstrate alignment nor directly link their unique contributions to the achievement of overall system-wide objectives.

Weak monitoring of institutional operations and performance (SECTION 3)

Effective monitoring of institutional performance would require the Department to identify and clearly communicate its expectations and requirements for accountability reports. An effective monitoring process requires the establishment of results-based performance metrics to ensure oversight of institutions is at a strategic level and not overly operational.

We found that the Department's monitoring of institutional performance was weak, and it was not always clear how existing monitoring activities contributed to the effective oversight of the institutions' financial and operational performance.

- Results-based performance metrics had not been established. The Department had not reassessed the quantity and value of the information being routinely collected from institutions, and how it fits into an overall accountability framework for monitoring financial and operational performance. Reducing any redundancies and ensuring information requests are clearly related to the Department's role in monitoring institutional performance vis-à-vis results-based performance metrics would be useful.
- The Department's activities and processes were most often focused on inputs, such as

front-end programming and financial approvals. The Department did not have strong monitoring processes to review the outcomes of those inputs, nor to ensure accountability for results.

- The Department reviewed the institutions' financial information, but did not conduct in-depth analyses or evaluations to better identify any financial or operational performance issues or areas of concern. As part of a more robust monitoring process, the Department could use a risk-based approach to identify higher risk results areas upon which more fulsome analyses could be conducted. If areas of concern or any indications of poor performance or financial outcomes are identified, the Department should follow up with the institution(s) to discuss any planned or required remedies, and where necessary, request corrective action plans.
- The Department had no processes in place with respect to monitoring legislative compliance by post-secondary institutions. Our governance review noted instances of institutions' lack of compliance with their institutional Acts, *The Advanced Education Administration Act*, or other broad provincial legislation such as *The Public Interest Disclosure (Whistleblower Protection) Act*.

Limited reporting on system-wide performance (SECTION 4)

Each provincial department is required to issue an annual report that is tabled in the Legislative Assembly. Ideally, such annual reports should report to Manitobans on the department's progress in achieving intended outcomes.

We found that the Department's evaluation of the performance of the post-secondary education system as a whole was limited, so the Department cannot report to Manitobans on system-wide performance within its annual report. As the Department had not established system-wide strategic objectives nor performance metrics, data that it does obtain is not designed to allow for meaningful analytical evaluations of overall performance of the post-secondary education system.

- The Department did not collect accountability information from institutions in order to conduct an overall evaluation of system performance. We found almost no activities performed by the Department with respect to analyzing and evaluating the post-secondary education system overall.
- The Department's Annual Report did not report on the overall outcomes of the post-secondary education system in Manitoba, nor on progress towards desired outcomes for the post-secondary education system. The Department's Annual Report provided funding support and statistical information, but no analytics are performed nor trends provided, and none of the statistical information assists in evaluating or assessing performance of the post-secondary education system overall.

Communication processes to build strong, mutually respectful relationships require improvement (SECTION 5)

Building a strong relationship based on trust and mutual respect requires open communication and providing opportunities for two-way feedback. Relationships between government and post-secondary institutions should reflect a partnership approach that provides opportunities for consultation and collaboration. A coherent, consistent approach to communications should be in place that clearly identifies communication protocols, including an agreed-upon schedule of regular meetings, and clear processes to resolve disputes in a timely and effective manner.

We found no documented communication plan and protocols in place. Communication with institutions occurred on an as-needed basis,

with some institutions having more interaction with government officials than others.

- Governance literature often presumes that an effective relationship exists in the public sector between a Minister and the Board Chairs of their portfolio's board-governed entities. We found this not to be the case in the post-secondary education system. Some Board Chairs interviewed had never met the Minister, and for many, there was little to no relationship at all. The Minister holding an annual meeting with each post-secondary institution's Board Chair and President is an important opportunity to discuss common strategic goals and outcomes, as well as the performance of the

institution and the post-secondary education system overall.

- No protocols were in place for when issues arise between the parties, nor when concerns or allegations regarding a particular institution are brought forward to the Minister or Department. When there is evidence of poor performance by an institution in achieving its strategic objectives, its internal management of funds, or any other key aspect of overall performance including board effectiveness, the Minister and Department's oversight should ensure that such risks are being effectively managed within the organization. Processes should be in place to request required information, discuss remedies, and develop any needed corrective action plans, with timelines for resolution.
- A mutually respectful relationship also requires an effective communication process regarding the board member appointment process. Gaps existed in the Department's administrative processes to assist the Minister's Office with board member appointments, including not incorporating any communication processes that would ensure institutions are advised of new and revoked LGIC appointments in advance of the issuance of a public press release. This lack of timely notification (in some cases, even with the appointees themselves) impacts the effective functioning of the institutions' governing boards, and is not conducive to building a mutually respectful relationship with the institution.

Manitoba lacks central support and guidance for board-governed public sector organizations (SECTION 6)

The results of our audit caused us to review how other provincial jurisdictions support and provide guidance to board-governed public sector organizations. We found that many had established central agencies or branches within central departments to provide guidance and support on governance and accountability matters that are common to board-governed public sector entities.

- Manitoba does not provide such centralized support or guidance for its board-governed public sector organizations. As a result, each department is required to develop its own processes with respect to oversight and accountability of their board-governed entities. Some departments are better resourced to provide such support and focus on governance matters related to their board-governed entities, whereas some smaller departments are more limited in their ability to devote staff resources to such endeavors.

Chapter 2: Governance oversight by the governing boards of post-secondary institutions

Our governance review concluded that there is a need to modernize and strengthen key governance practices at the public post-secondary institutions, to ensure the governing board's oversight functions are being appropriately fulfilled, especially with respect to oversight of the President.

We found that board oversight at post-secondary institutions could be improved in a number of key areas that we consider important for effective oversight by a governing board. In our view, many of the governance challenges noted tend to be common issues for all public sector boards, especially with respect to strengthening the oversight practices related to the most senior executive within the organization. When issues or allegations related to the President or any senior executive are brought to the board's attention, the board has a responsibility to ensure that an appropriate, independent review is conducted as quickly as possible. This ensures any concerns are appropriately resolved, and weaknesses in accountability processes are identified and corrected.

The findings reported in this chapter reflect the governance practices and documentation in place during our specified scope period for each aspect included in our review. Each institution was provided detailed findings specific to its governing board, along with some suggested improvements to strengthen governance practices. We note that since the time of our review, some institutions have made changes to their governance practices to incorporate many of our suggested improvements. As noted in our prior governance reports, there is no one-size-fits-all approach to effective governance in the public sector. A board of directors can decide to fulfil its governance responsibilities and functions in a variety of ways, so each board must exercise judgement in developing and carrying out its role in a manner that ensures its due diligence and oversight responsibilities are fulfilled.

This Chapter includes eight recommendations, as well as highlights advice provided to the post-secondary institutions. Our conclusion is based on the major findings summarized below:

POST-SECONDARY INSTITUTIONS' GOVERNING BOARDS NEED TO MODERNIZE GOVERNANCE PRACTICES AND STRENGTHEN OVERSIGHT

Government appointments to institution boards not timely; Review of legislative provisions regarding board member appointments needed (SECTION 1)

Legislation establishes the size and composition of the governing boards of post-secondary institutions, with each varying widely in size, composition, and the number of internal and external stakeholders given the opportunity to appoint members. Regardless of which stakeholder is making the appointment, it is important that the process occur in a timely

manner, as a governing board cannot function effectively if hindered by vacancies or does not have a full complement of members with the required skillsets and diversity of perspectives.

- The timeliness of government's appointments through the Lieutenant Governor in Council (LGIC) process requires improvement. There is

also a lack of consistency with respect to how expired terms are handled.

- Regardless of the appointment process, institutions can contribute to the process by sharing their skills matrix and competency needs with the Minister, as well as any other external stakeholders who make appointments. While the specific choice of individuals appointed appropriately rests with the stakeholders making the appointments, enhanced consultation helps foster a

competency-driven appointment process that can contribute to board members being recruited with the diverse mix of skillsets and competencies that best suit the needs of the institution.

- Our review of the size and composition of the institution's governing boards noted a number of issues and legislative inconsistencies. There is a need to review legislative provisions regarding board member appointments, including the size and diversity of governing boards.

Stronger governance practices needed to enhance board oversight (SECTION 2)

Our review of the institutions' governance practices focused on several key areas and risk factors that we considered to be important for effective oversight by a governing board. This section of the report discusses a large number of governance practices requiring strengthening at post-secondary institutions, only a few of which are highlighted below. Each institution was provided detailed findings specific to its governing board, along with our suggested improvements to strengthen governance practices. The Department was also provided the detailed findings in order to enhance their support and oversight of institutions in ensuring follow-up actions are taken.

- No institution provided enhanced orientation training when a new Board Chair was appointed/elected to the position. Greater leadership responsibilities and key oversight activities fall to this position, especially with respect to oversight of the President. Training with respect to these increased responsibilities must be provided, regardless of the new Board Chair's length of time on the board or prior board experience. Further, a formal orientation

program, and ongoing governance training and development opportunities, should be provided to all board members throughout their tenure.

- Conflict of interest disclosure processes and the annual declaration forms for board members required strengthening at almost all institutions. As all board members bring a variety of personal and professional involvements to their board role, a conflict of interest can arise for any member during their tenure on the board. These should not be viewed negatively, but rather as an area to be discussed by the board in an open and transparent manner, so that mitigating actions can be taken to protect the integrity of the board's decision-making, and demonstrate the board's due diligence. While the onus for declaring a conflict of interest rests with the individual, the Board Chair has enhanced responsibility in ensuring conflicts of interest are managed appropriately. The Board Chair must review all disclosure forms and discuss any matters with the member, as well as document any agreed-upon mitigating actions to be taken.

- *In camera* sessions were not used appropriately at most institutions, with the President or other staff remaining at what should have been an opportunity to meet with only board members present. All board meeting agendas should include time reserved for the board to hold an *in camera* session, led by the Board Chair. The *in camera* session can be used to discuss a variety of issues to improve board functioning, including the effectiveness of meeting processes, any board information needs, and improving the board's relationship with management. The *in camera* session is not to reopen or continue discussion on matters decided during the board meeting, nor to pass board motions. The Board Chair takes responsibility for ensuring any information or requests that arise from an *in camera* session are shared with management, if required.
- A comprehensive review of institutions' board committee structure is needed, as we found weak practices and the lack of a clear rationale for certain committees at some institutions. While legislation for most institutions allows the governing board to establish committees as it deems necessary, legislation for the two colleges prescribes specific committees that must be established.
- Active involvement is needed by the governing boards in strategic planning and risk oversight. Strategic risk oversight is especially important of any new initiatives or capital projects that create significant risk for the institution. Some institutions had or were in the process of developing for-profit ventures in areas such as land development, retail development and community renewal initiatives. Board awareness and oversight of these for-profit ventures needed to be improved, with more fulsome reporting required to allow for appropriate oversight of the financial impacts and risk to the institution. As significant funding and staff resources are required to create and sustain such ventures until profitable, the institution's governing board must be prepared to make timely decisions regarding ongoing support, if return on investment is lacking or the venture does not fulfill its goal of providing revenue streams to the institution in a reasonable time period.
- At almost all institutions, the corporate secretary position was hired by and reported only to the President, rather than to the governing board. Having a trained governance professional serve as corporate secretary enhances a board's effectiveness, and is an important resource for the board on governance matters, especially when the board is required to deal with challenging issues involving the President. Leading practices suggest that this position have a dual reporting relationship, with functional reporting to the Board Chair, and only administrative reporting to a CEO/President. This type of dual reporting relationship is similar to suggested practice for other key positions whose work is conducted directly for the board, such as a chief audit executive.
- Many boards did not spend sufficient time in improving the effectiveness of their governance practices. Board evaluation processes required improvement. Evaluating the governing board's performance in fulfilling its governance functions and achieving its objectives should not be a perfunctory exercise, but lead to tangible improvements in board functioning. The evaluation process should be tailored to the institution's particular needs, and should change over time depending on those needs.

Accountability reporting requires significant improvement (SECTION 3)

Ensuring appropriate accountability reporting to stakeholders is a key responsibility of all governing boards. Publishing an annual report is an important method for communicating not only financial information, but how the organization's mandate has been achieved and its responsibilities have been carried out. Open and transparent reporting of overall performance serves to maintain public trust and confidence in the institution.

- The annual reports of most post-secondary institutions are insufficient, with only audited financial statements provided to the Minister for tabling in the Legislative Assembly each year. Given the substantial revenues derived from government, we believe all post-secondary institutions should provide more appropriate

and fulsome reporting of their performance to the Legislative Assembly, and ultimately, to the citizens of Manitoba.

- Ensuring the institution operates in compliance with legislation is a key responsibility of the board that requires improvement. While we did not review all provincial legislation that post-secondary institutions are required to fulfill, we noted some specific areas of non-compliance with legislation that came to our attention during the course of our review. Boards should request summary reporting each year from management certifying that all legislative requirements are being complied with, as well as any explanations/rationale provided if not in compliance.

Boards must ensure compliance with President's employment agreements (SECTION 4)

Recruiting and retaining talented senior executives in the public sector is important in ensuring public sector organizations are managed effectively and achieve strategic outcomes. There is no one-size-fits-all approach, as each organization and sector has its own set of challenges in recruiting experienced talent in a competitive market. Defining a compensation package that is fair but not excessive must be based on operating needs and constraints, as well as desired performance objectives. All public sector organizations have a responsibility to ensure that executive compensation agreements contain clauses that protect the organization, its resources, and the public interest. Responsibility for oversight of the employment agreement rests with the governing board, which must ensure processes are in place to implement the agreement in accordance with its contractual provisions.

Our review of all Presidents' employment agreements and compensation packages identified areas to strengthen future employment agreements, including clarifying key provisions to ensure the institution's best interests are well protected.

- In negotiating the President's employment agreement, the post-secondary institutions' governing boards must first and foremost ensure the best interests of the institution are protected. Once agreed to for a defined term, amending the employment agreement prior to its end date should be rare, and carefully considered by the board, with a documented business rationale for the need to renegotiate or amend provisions and external advice sought to ensure the institution's best interests are protected.

- We found lack of compliance with some provisions of the President's employment agreement at all institutions, to varying degrees. Employment agreements have a number of provisions where approvals must be provided by the Board Chair for specific activities and/or perquisites. Such approvals must be appropriately fulfilled on a timely basis.
- We found no institution provided newly-appointed Board Chairs a copy of the employment agreement, nor enhanced orientation training with respect to the oversight and approvals required. We also found inadvertent errors in the administration of the agreement at some institutions, as

it was not appropriately shared with the Human Resources and Finance departments responsible for implementing its clauses.

- Although most employment agreements required an annual performance evaluation of the President, we found it was not conducted at three institutions. Appropriate evaluation ensures that the activities of the President are aligned with and fulfill the board's strategic goals and priorities for the institution. Especially if the President is awarded any performance-based compensation adjustments, bonus payments and/or perquisites, it should be clearly linked to a fulsome documented performance evaluation.

Board oversight of President's expenses needs improvement (SECTION 5)

Like all public sector executives, leaders of post-secondary institutions are in a position of trust, with high ethical expectations. They must uphold this trust by using public monies prudently and with probity. Public scrutiny and interest in the most senior executive's expenses is always heightened. Hence, weak administrative practices and lack of timely and appropriate one-over-one approvals of a President's expenses creates risk.

As the President is accountable to the governing board, oversight and approval of their expenses must be provided by the board. The Board Chair is often delegated responsibility on behalf of the board to provide rigorous oversight of the President's expenses. Such one-over-one approval serves to best protect the President from any undue suspicion, as well as to protect the institution from any advantages potentially being taken. However, we found that the approval practices at all institutions did not ensure compliance with policy, which creates risk for the President.

- We found no institution had a board-approved expense policy for its President. All institutions required their President to follow the same general employee expense policy adopted for all institution employees. In our view, implementing a board-approved expense policy for the President, which recognizes the unique role and requirements of the position, and considers the need to withstand the test of public scrutiny in all expenses, would provide a more appropriate accountability framework, and clarify expectations and requirements, as well as the process for board oversight. Such a policy is not intended to lessen the expectations upon the President to provide appropriate business rationale for all expenses, as well as to include all supporting documentation and original receipts.
- We found a lack of clarity and considerable variation at each institution as to what is, or is not, considered a President's expense, and

hence what expenses should require Board Chair oversight and approval. As a result, we found the method of payment became the default definition of what expenses received Board Chair approval, rather than the type of expense. Determining a definition of a President's expense requires a differentiation between what is a direct expense incurred by the President in fulfilling their role, versus what is an institutional or administrative expense incurred in the President's name or by the Office of the President. We found inconsistency on how these expenses were handled, even within the same institution.

- No Board Chair was provided orientation training specific to their role in approving the President's expenses and ensuring that policy requirements are being complied with or expenses are appropriately supported. We were told that in most cases expenses were approved based on personal judgement in assessing the reasonableness of the expense.
- We found oversight of President's expenses was impaired by weak administrative practices and supporting documentation. Many of the non-compliance issues we noted were due to administrative processes not ensuring the documentation provided to support the President's expenses met the requirements of the general employee expense policy they

were required to follow. We believe the onus is on the President to provide robust, forthcoming, and transparent information regarding business purposes for all expenses incurred. Especially if the expenses claimed are related to travel, hospitality or entertainment where public scrutiny may be elevated, or where an expense is an exception to policy in any way, the business rationale and purpose for the expense should be clearly documented to demonstrate due regard for the use of public monies. This high standard of documentation not only strengthens the President's accountability, it sets an example for the organization and demonstrates tone from the top of high ethical standards.

- Institutions' expense policies and procedures could be strengthened by having clear and unambiguous requirements in key areas. Lack of such clarity puts increased reliance on the personal judgement of the approver in determining reasonableness of an expense. This may result in inconsistent approaches, which creates risk for the institution, and risk for the President, in that expenses may be perceived differently by each Board Chair, and further, may be perceived negatively under public scrutiny even though approved by a Board Chair.

The Province of Manitoba welcomes the “Audit of the Oversight of Post-Secondary Institutions” report, covering the period of 2010 to January 2018 by the Office of the Auditor General. The Department of Economic Development and Training is committed to working with our universities and colleges to continue to strengthen our post-secondary sector. The review will help guide our collective efforts to build a system of advanced education that leverages our strengths, grows our economy and delivers a brighter future for Manitoba as a whole.

Improving governance and accountability is a high priority and the department accepts all of the recommendations in the report. It is imperative that we have systems in place both at the individual institution-level and in the oversight of colleges and universities by the Province that ensures public funds are expended appropriately and the financial and operational performance of public post-secondary institutions is of the highest standard. We are pleased to share that significant work is already underway to address many of the recommendations that improve accountability, such as:

- Providing strategic direction to Manitoba’s post-secondary education system through the first-ever **mandate letters** to our publicly-funded colleges and universities, in December 2019. These letters articulate shared goals, priorities and expectations.
- The recent release of Manitoba’s **Skills, Talent and Knowledge Strategy**, which is essentially a post-secondary strategy that provides clear objectives for the sector and commits to significant collaborative action to improve outcomes. Many of the actions in the plan are well underway, and directly relate to important recommendations of this OAG report.
- Establishing the **Premier’s Economic Opportunities Advisory Board - post-secondary education sub-committee** that will enhance strategic direction to the post-secondary sector, and strengthen alignment with the province’s labour market needs and priorities.
- Working collaboratively with institutions regarding the **student-level centralized data model** that will track student success, build our data capacity and intelligence, and move to enhanced measuring and reporting on outcomes.
- The development of an **outcomes-based funding approach** for Manitoba’s post-secondary education system, which will serve as an essential component of an accountability framework going forward. This will also focus operations on clear priorities, increase transparency, and measure and report on performance. Design of this model is underway, in collaboration with college and university leadership.

- Tabling **The Summary Budgeting Act**, which would enhance financial accountability and oversight of other reporting entities including universities and colleges. This would promote transparency, accountability and value for public dollars.
- Publicly funded post-secondary institutions, along with the Other Reporting Entities across the broader public service, are now **presenting directly to Treasury Board ministers**, a practice that has been helpful in other jurisdictions to promote fiscal accountability. This commenced with the first ever presentation by the University of Manitoba to Treasury Board for the 2020/21 Estimates.
- Maintaining **regular, on-going engagement with post-secondary institutional leaders** across the system and at different levels, including regular budget meetings.
- Holding in-depth consultation and **board governance training** with our post-secondary partners on board governance, responsibilities, composition and appointments.
- Launching a plan to create a central public servant-led **secretariat to enhance training, reporting, processes and supports** in an on-going fashion for all of Manitoba's boards, including those of the post-secondary sector.
- Strengthening our internal process to ensure that **Lieutenant Governor in Council board appointments occur in a timely manner**.

While notable work has been completed or is in progress, there is still work to be done to strengthen governance and accountability, by the department and by each individual institution. We look forward to improving Manitoba's post-secondary education system as we continue to advance our shared goals of increasing positive outcomes for students; building the skilled workforce needed to drive Manitoba's economy forward; and promoting a high quality of life for all of our residents, while ensuring financial accountability.

The department will take a collaborative approach to addressing the recommendations, and continue to work closely with our post-secondary institutions who are essential partners in achieving success. Together, we will ensure Manitobans have the right skills, talent and knowledge to succeed in their careers, enjoy a high-quality life, strengthen communities and grow the economy.

Assiniboine Community College

Assiniboine Community College is appreciative of the work of the Office of Auditor General (OAG) in its Audit on Oversight of Post-Secondary Institutions. While Assiniboine is generally pleased with its level of compliance during the observation period, there were several observations that the institution has embraced as ways to strengthen governance and administrative practices that contribute to good oversight.

Assiniboine shares the enthusiasm of the OAG for the importance of having a diverse Board of Governors capable of providing oversight to the public institution. While the Board has long had a skills matrix and periodically developed names for the government to consider for appointments, it recognizes that there could be more routinized and forceful communication of these needs to government as part of the appointment process to ensure advice is taken into consideration in a more timely fashion.

The Board has already acted to strengthen administrative practices including changing the location of public meetings from the only boardroom the college has across five campuses to its cafeteria to allow greater public access and comfort. And while the Board has always been involved in the hiring process for the corporate secretary, they are now included in the annual performance evaluation process as well.

The college shares the view of OAG that the committee structure of the board is antiquated and needs reform. This structure is largely dictated by *The Colleges Act*, which at this point only applies to Assiniboine as every other institution in the province has its own act. The college would look forward to working in a genuinely collaborative manner with Manitoba Economic Development and Training on a new act which allows for a modernized governance system and that removes the prescription and paternalism that is not necessarily characteristic of some of the other post-secondary acts in the province.

It is recognized that self-evaluation is an important area for the board to improve, and this shall be a priority in the year to come. Over the past two years, the board has strengthened administrative efforts to ensure better documentation of conflict of interest information.

Regarding the oversight of the President, while the Board wants the President to be actively involved in community and province, it has taken steps to ensure that there is better formal documentation in minutes and otherwise regarding approval for President to be involved in efforts such as the recent K-12 Review Commission. Further, while it is noted that Assiniboine has a dedicated policy for President expenses, the college plans to modernize the policy approach based on the advice of OAG.

Overall, the college believes it is important to strike a new relationship with Manitoba Economic Development and Training. That relationship should acknowledge and respect the important history and traditions of the post-secondary sector. It should involve genuine collaboration and dialogue about direction and not just tactical issues of implementation. That relationship should be the foundation of building a parity of esteem of institutions in the province, where institutions are treated equitably (e.g. ownership of assets) and where institutions with positive track records for good governance and administration are acknowledged.

Brandon University

Brandon University (BU) welcomes the Audit Report from the Office of the Auditor General (OAG) and extends its appreciation for having had the opportunity to participate in the review of oversight of the post-secondary institutions in Manitoba. We also wish to acknowledge the members of our Board, past and present, who, throughout the period of the audit review, have embraced enhancements to Board governance and oversight at BU, many of which have been informed by focused discussions with the OAG.

BU has made notable advancements in several areas addressed in the Report. In particular, BU has initiated substantial changes to committee structures. A new Audit and Risk committee, separate from Finance and containing only external members, eliminates the appearance of conflict of interest from internal members serving in this capacity. The Audit and Risk committee will oversee internal audits of the institution, furthering this oversight function. In addition, a new Human Resource Committee (again with external members only) underscores the oversight function of the board in matters of compensation and terms and conditions of employment.

Another significant advancement is the introduction of general procedural by-laws to formalize many existing governance practices of the Board. While mentioned in the Report, BU also wishes to specifically note the changes we have made to the oversight of expenses of the President. BU is committed to advancing its efforts in response to the OAG's specific advice to post-secondary institutions and to on-going improvements of its governance and oversight practices.

Brandon University looks forward to collaborating with the Department in response to the OAG recommendations. We value a full and diverse Board, one that is reflective of the students and community we serve, and recommendations related to Board appointments and composition of are particular interest. Collaboration is a powerful vehicle to drive forward these recommendations and we look forward to productive, long-lasting, and successful collaborations with the Department and our partners in the post-secondary sector in Manitoba.

Post-secondary institutions play a vital role in advancing Manitoba's economy, culture, and reputation, and Brandon University in particular makes unique contributions outside of the Winnipeg capital region

and in southwestern Manitoba. We welcome opportunities to collaboratively evolve so we can continue to best serve the people of Manitoba through education, research, creative works, and community engagement.

Red River College

Red River College welcomes the opportunity to respond to the findings of this audit report.

As noted, many of the relevant audit findings are based on events from as long as ten years ago. The audit process itself was launched in 2015 and has taken almost five years. Through this time, much has changed in Manitoba, and for Red River College.

We are pleased to report that nearly all of the recommendations in the report applicable to Red River College have been addressed, including changes to the policies and procedures for our Board of Governors. Some were implemented following the 2015 Provincial Review of Red River College, some came about in discussions that occurred throughout this audit, and others were the result of the natural evolution of the Board's policies and practices over the past decade combined with changes in RRC's board membership and college leadership. We look forward to providing the Department with an action plan outlining how the Board of Governors has addressed areas for improvement identified in the detailed institutional report.

We have reviewed the section of the report on Governance Oversight of Post-Secondary Institutions and agree with the recommendations regarding post-secondary institutional governance outlined in Chapter 2.

We also look forward to working with Manitoba Economic Development and Training as they implement the recommendations for the Department in Chapter 1. We anticipate our strong relationship with department officials will be further enhanced as we work through the recommendations that will bring consistency to Manitoba's post-secondary education sector and alignment in addressing labour market needs and government priorities.

Thank you for the opportunity to respond to this report.

Université de Saint-Boniface

L'Université de Saint-Boniface (l'USB) apprécie avoir eu la possibilité de participer à cette revue traitant de la gouvernance dans les établissements postsecondaires de la province, notamment les échanges avec les membres du Bureau du vérificateur général du Manitoba tout au long de ce processus.

L'USB accorde depuis longtemps une grande attention aux questions traitant de gouvernance et a pu au cours des ans mettre en place un ensemble de règlements, de politiques et de pratiques formant un cadre robuste qui démontre le souci institutionnel accordé à cet enjeu important. À cet égard, nous souhaitons

souligner que plusieurs pratiques à l'USB étaient déjà conformes aux recommandations du présent rapport dès le début de cette vérification. Au cours des dernières années, dans un souci de renforcement continu de son cadre de gouvernance, inspirée par les entretiens avec les membres du Bureau du vérificateur général du Manitoba et en prévision de cette publication, l'USB a incorporé diverses améliorations suggérées dans ce rapport.

L'USB accueille donc les recommandations de ce rapport adressé au ministère du Développement économique et de la Formation dans un esprit de collaboration et avec le souci constant d'avoir recours et de mettre en oeuvre des pratiques exemplaires en matière de gouvernance et de redevabilité. De notre perspective, il est impératif que tout changement éventuel soit fait de façon concertée avec les établissements, et ce afin notamment de respecter les particularités propres au secteur et de prendre en compte les concepts importants que sont l'autonomie des établissements, la structure de gouvernance bicamérale, ainsi que les principes reconnus de liberté académique et de gouvernance collégiale qui sont au cœur de notre réalité universitaire et font partie de notre ADN.

Nous incitons vivement la Province à travailler en étroite collaboration avec les collèges et les universités dans la mise en œuvre des diverses recommandations de ce rapport et de tirer profit de l'expertise considérable disponible au sein de nos établissements et de leurs Bureaux des gouverneurs respectifs, surtout étant donné que ce rapport traite essentiellement de gouvernance. L'USB s'engage à travailler de concert avec le ministre, tous ceux et celles qui oeuvrent au sein de l'appareil gouvernemental et bien sûr les collègues des autres établissements postsecondaires de la province afin de veiller à l'amélioration des processus liés à la gouvernance et la redevabilité.

University College of the North

University College of the North (UCN) appreciates the work and effort that has been put into developing a report that presents a comprehensive picture of post-secondary governance in Manitoba. UCN is confident that the report will create a stronger post-secondary system for all Manitobans.

UCN agrees with the observations and recommendations pertaining to Government Oversight of Public Post-Secondary Institutions. UCN is looking forward to working with Manitoba's Department of Economic Development and Training to contribute to the development of objectives for the post-secondary system and working towards a related system of performance management to assess progress against those objectives. UCN also welcomes the opportunity to work with the Department to enhance oversight, align strategic priorities, and to develop a strong, mutually respectful relationship.

While UCN looks forward to achieving these outcomes, we note the difficulty in aligning concept with implementation. Universities, and Colleges (and University Colleges) are complex, nuanced, and multi-faceted institutions. They serve multiple constituencies including governments, students, employers, communities, broad economic sectors, and many other interests as they seek to contribute to societal

success and a productive, innovative, learned citizenry. The strength, value, and relevance of post-secondary institutes are shaped by, and within, these relationships.

With respect to the observations regarding Governance Oversight by the Governing Boards of Post-secondary Institutions, UCN is in general agreement with, and accepts, the recommendations as presented.

UCN has already undertaken a number of initiatives to strengthen its Governance practices. Most notably, we have established a governance committee of the Governing Council, and have hired a consultant to assist in reviewing governance processes with the overall goal of transitioning the Governing Council from a “hybrid” policy governance model to a traditional governance approach, which includes:

1. Articulating Governing Council duties:
 - i. Accountability/Fiduciary duty
 - ii. Strategic leadership
 - iii. Risk identification and mitigation
 - iv. Board and senior leadership competency and diversity
 - v. Principles of Indigenization related to governance
 - vi. Evaluation
 - vii. Compliance
 - viii. Structures
2. Strengthening Governance Council procedures and policies
3. Implementing board training and development aimed at strengthening university governance
4. Refining annual goal-setting and performance appraisal for university college president
5. Adopting a new conflict of interest policy.

Boards play a vital role in setting institutional direction and strategy, providing oversight, risk mitigation, and monitoring the performance of the CEO. UCN believes that governing boards are the connection between the community and the institute, helping to ensure the relevance of the institution to local (and provincial, and national) needs. This connection is vital to the effectiveness of the system.

Overall, UCN believes that in providing appropriate guidance and oversight, all parties must understand the unique role of each institution and the value that institutional autonomy and local governance brings to the relevance equation. Each of Manitoba’s seven public post-secondary institutions serve a unique mandate, region, demographic, and purpose. A shared understanding of how each institution operates will create a foundation that will build a united vision of oversight and accountability.

UCN looks forward to working with other post-secondary Institutions and the Department of Economic Development and Training to co-create a system that is appropriately complementary in terms of striking a balance between governance, oversight, and institutional independence.

University of Manitoba

The University of Manitoba (UM) was pleased to participate in this audit and appreciates the opportunity it provides to discuss governance and oversight with members of the Office of the Auditor General and with other Post-Secondary institutions in Manitoba. The university sector in Manitoba is predicated upon the ideal of autonomous, bicamerally governed universities, with independent Boards of Governors and Senates; recognizing this key differentiator is essential. The recommendations and advice provided in the report have already, and will continue to, contribute to improving governance and oversight.

Since representatives of the Office of the Auditor General first met with the UM respecting this audit in 2016, the UM has made changes to our governance and oversight practices based on those conversations and in anticipation of this report, many of which were enhancements to the robust processes already in place. Of the 27 specific pieces of advice made to institutions, 14 were either in place prior to the audit, or have been implemented during the audit, six are in progress and seven remain to be acted upon. UM is committed to responding to all of the advice provided with the shared objective of improving governance and oversight processes.

UM respectfully disagrees with the observations expressing concern about university Presidents serving as voting members of the governing board. Having a president as a voting member of both the governing board and the Senate is respectful of the bicameral nature of university governance and reinforces the complementary nature of the governing bodies. Any conflicts that may arise, can, and are managed appropriately. As noted in the report, it is a common practice at Canadian universities and does occur in other private and public organizations.

We welcome many of the recommendations made to the Department, and look forward to working with the Minister, the Department, and our fellow institutions to continue to improve governance processes. We urge that in implementing the recommendations, the Minister and Department work closely in partnership with institutions, and make use of the significant expertise within our Boards and our institutions. With regard to specific recommendations, we would suggest that the following recommendations be given priority:

- Recommendation 10 – the opportunity for regular interaction between Board Chairs, Presidents and the Minister would be excellent to discuss the accomplishments of the institutions, major issues and initiatives, and to provide on-going advice to the Minister on the skill sets needed on the governing boards.
- Recommendations 12, 13 and 15 – the process surrounding LGIC appointments to governing boards continues to be challenging. UM would welcome a more timely, transparent, and collaborative process where the Board, via its chair and Governance Committee could suggest skill sets and specific individuals for consideration by the Minister and engage in direct conversations about the needs of the governing board.

- Recommendation 16 – the composition of governing boards of post-secondary institutions in Manitoba varies widely. An examination that involves the institutions would be welcome, particularly if it would ensure the opportunity for each Board to appoint a small number of board members itself to ensure necessary skill sets are in place.
- Recommendation 21 – UM would recommend that any guidance provided to universities on compensation be developed in conversation with the institutions, and as the report rightly notes, be “appropriate to the sector”.

University of Winnipeg

The University of Winnipeg would like to thank the Office of the Auditor General (OAG) for its review of oversight of post-secondary institutions in Manitoba. The review and its recommendations support continuous improvement efforts already underway at the University with respect to internal control, accountability and governance. Many of the recommendations applicable to the University of Winnipeg have already been implemented, and the implementation of others is well under way.

Each of Manitoba’s universities and colleges have distinct roles to play with respect to the Province’s short, medium and longer-term goals. The University of Winnipeg has been working closely with government, other post-secondary institutions, the business community, indigenous communities and other partners to ensure it plays a unique and valuable role within Manitoba’s post-secondary system. The Horizon Manitoba initiative is a good example of the results of this collaboration.

Strong universities enhance Manitoba’s competitiveness and reputation nationally and internationally. It is important for Manitobans to know that views expressed by faculty are based on solid research, data and evidence, and that universities are autonomous and responsible institutions. We look forward to further engaging with the Department to implement its recommendations in a collaborative manner, as outlined in the report, to ensure Manitoba’s post-secondary system continues to provide value to Manitobans.



Introduction

Post-secondary education is an important contributor to the Province's success, not just economically but in creating an innovative and productive society that benefits all Manitobans, and that helps individuals achieve their goals and aspirations both personally and professionally. Post-secondary education is delivered through a wide variety of programming at both public and private institutions throughout Manitoba.

At the time of our audit, responsibility for the post-secondary education system was held by the Minister of Education and Training, and delivered through the Post-Secondary Education and Labour Market Outcomes (PSELMO) branch of Manitoba Education and Training (the Department). The Department is responsible for fulfilling the oversight responsibilities of *The Advanced Education Administration Act (The AEA Act)*, which is the statute governing post-secondary education in Manitoba.

This report is focused on the oversight of the public post-secondary institutions that receive direct government funding and form part of the government reporting entity (see box). This includes three universities, two colleges, and two university-college hybrid institutions. Within its own unique mandate, each institution offers different and diverse forms of learning – from humanities to the trades – in various regions across the province. Total funding to these seven institutions was \$697.8 million, as per the Department's 2017/18 Annual Report. **Appendix A** provides background information on each institution and the amount of provincial funding received.

Each of the seven post-secondary institutions has degree-granting authority and is required to operate within not only *The AEA Act*, but also the provisions of their institutional statute, as noted below. These statutes establish the governance structure of each institution, including the composition of their governing boards.

- Assiniboine Community College: *The Colleges Act*
- Brandon University: *The Brandon University Act*
- Red River College: *The Red River College Act*
- Université de Saint-Boniface: *The Université de Saint-Boniface Act*
- University College of the North: *The University College of the North Act*
- University of Manitoba: *The University of Manitoba Act*
- University of Winnipeg: *The University of Winnipeg Act*

The Office of the Auditor General is responsible for auditing the Province of Manitoba *Summary Financial Statements* included in the Public Accounts. The Public Accounts represent the consolidated operations and financial position of the **Government Reporting Entity** of Manitoba (GRE). The GRE represents all of the provincial government's resources, and the resources of the entities which it controls as defined by the Public Sector Accounting Board. There are over 130 entities within the GRE. In the education sector, this includes school divisions, universities, colleges, and other related organizations.

2019 OAG report, *Public Accounts and other financial statements*, www.oag.mb.ca

We initiated this audit as a result of several factors, including the media-reported issues at Red River College (RRC) that led to the departure of a former President in 2014, and the release of the Province's report entitled, *Review of Specific Financial and Human Resource Practices at Red River College*, in January 2015 (Provincial Review). The OAG had also received a number of citizen concerns regarding RRC at that time, with several individuals advising us that attempts had been made to raise concerns to the RRC Board of Governors, to the Minister, and to the Council on Post-Secondary Education (COPSE), with no actions perceived to have been taken by these bodies.

We chose to audit the processes that the Department had in place to support, and to provide oversight of, the financial and operational performance of public post-secondary institutions. Our audit criteria reflects leading public sector accountability practices and common expectations for a strong accountability relationship between any Minister and the board-governed entities within their portfolio. Our report concludes on practices in place by the Department as of January 2018, but the scope of our review included oversight practices and policies dating back to 2010.

We also conducted a detailed governance examination of RRC's Board of Governors in order to assess the board governance practices in place, both during the tenure of a former President (2010 -2014), and after the January 2015 issuance of the Provincial Review. We identified some key risk factors and weaknesses in governance oversight, especially with respect to the board's oversight of the President. As these tend to be common governance challenges for public-sector boards, we chose to expand our work and conduct a review of the governance practices of all seven public post-secondary institutions' governing boards.

Our review of institution governance practices related solely to the financial, operational and management oversight provided by the governing boards at each institution. We did not include any academic-related matters, nor quality of education issues. Hence, we did not review the oversight processes and activities of any university senate nor college council.

We note that universities in Manitoba operate under a bi-cameral governance structure, where the authority for academic matters rests with a university senate, while authority for financial, operational and administrative matters, as well as the oversight of executive management, rests with the governing board. This form of shared governance provides for academic autonomy over matters such as admissions policy, curriculum, degree requirements and granting of degrees, as well as recommendations for new academic programs. Section 2(6) of *The Advanced Education Administration Act* also protects academic autonomy by specifying that the Minister "*may not interfere with: the basic right of a university or college to formulate academic policies and standards; the independence of a university or college in fixing standards of admission and of graduation; and the independence of a university or college in the appointment of staff.*"

This report is organized into two chapters:

- **Chapter 1: Government oversight of public post-secondary institutions** – reports on our audit of government oversight of the seven public post-secondary institutions. Given the significant amount of provincial funding to these institutions, we expect a clear accountability framework to be established with the institutions' governing boards to ensure public monies are well spent in meeting the educational needs of Manitobans. A well-constructed and implemented accountability framework ensures overall accountability of institutions to government, while empowering each to achieve its unique mandates and strategic priorities, within the overall strategic objectives and priority outcomes identified by government for the post-secondary education system as a whole.
- **Chapter 2: Governance oversight by the governing boards of post-secondary institutions** – reports on our review of the governance oversight provided by the governing boards at each of the seven public post-secondary institutions. We expect all governing boards to ensure rigorous oversight of the financial and operational performance of the organization, and to implement robust accountability practices with respect to oversight of the President.

We acknowledge the excellent co-operation and support received throughout all aspects of our audit from the Department, and each of the post-secondary institutions. This audit began with an initial review of the now defunct COPSE in 2015, followed by a detailed governance examination of RRC's Board of Governors in 2016. Subsequently, we conducted our governance review of the seven public post-secondary institutions throughout 2017 and 2018. We returned to the Department after our institutional reviews and re-focused our audit on the Department's oversight practices and activities related to the seven public post-secondary institutions.

The findings reported in the following chapters reflect the oversight practices in place during the specified scope period for each aspect of our review. Since that time, we note that many institutions have made changes to strengthen their governance practices as a result of our review, and that the Department has taken steps to address some of the recommendations noted in the following chapters.

We note that **subsequent to our audit**, the PSELMO branch and the oversight responsibilities for post-secondary institutions were assigned to the Minister of Economic Development and Training.



Website: www.auditor.gov.mb.ca

CHAPTER 1
Government
Oversight of Public
Post-Secondary
Institutions



Audit objective

Our audit objective was:

- To determine whether an appropriate accountability framework was in place for the oversight of public post-secondary institutions by government.

Scope and approach

Our audit examined government's accountability framework for the seven public post-secondary institutions in Manitoba. The audit examined the oversight practices and policies of the responsible department at the time, Manitoba Education and Training (the Department). We reviewed processes and activities in place from 2010 when post-secondary education was overseen by an intermediary body called the Council on Post-Secondary Education (COPSE), to January 2018 when oversight was provided by the Department's Post-Secondary Education and Labour Market Outcomes (PSELMO) branch. Subsequent to our audit, the PSELMO branch and the responsibilities for oversight of post-secondary institutions were reassigned to Manitoba Economic Development and Training.

In conducting our audit, we:

- Reviewed legislation, policies, procedures, reports and correspondence, as deemed necessary throughout this scope period.
- Reviewed COPSE's processes and activities, and later the Department's processes and activities, related to the annual funding and estimates submissions, tuition and course fee approvals, programs of study approvals, institutional data collection and analysis, and management of other post-secondary education issues.
- Reviewed all COPSE minutes and meeting packages, and interviewed former Council board members in place at the time of dissolution.
- Interviewed Department management and staff, as well as selected former COPSE staff, to obtain their opinions and perspectives, and examined supporting documentation and files provided to support oral comments.
- Interviewed a variety of other external stakeholders within the post-secondary system, including board members and administration at the post-secondary institutions.
- Conducted a literature review of leading practices research and reports on accountability and oversight frameworks, including a review of other provincial jurisdictions specific to the post-secondary education system.

Established in 1996, the **Council on Post-Secondary Education (COPSE)** was an independent body comprised of government-appointed Council members, and supported by a professional secretariat. The COPSE reported directly to a Minister, and was to act as an intermediary between government and the post-secondary institutions, allocate operational and capital funding for the sector, approve any new or expanded academic programming, and oversee tuition and fees.

Our audit was initiated in 2015, at a time when the oversight activities and responsibilities for post-secondary institutions were transitioned to the Department from the COPSE.

The Minister announced the dissolution of the COPSE in April 2014, and *The Council on Post-Secondary Education Act* was formally repealed in June 2014. *The Advanced Education Administration Act* was amended to provide the Department with responsibility for many of its provisions.

After conducting our initial procedures and a review of the former COPSE's oversight of Red River College, we moved to conduct a detailed governance examination of RRC's Board of Governors in 2016. We later expanded our review to all public post-secondary institutions, which was conducted in 2017 and 2018 (see Chapter 2). We returned to

the Department in late 2017, and re-focused our audit on the processes that the Department had in place to support and to provide oversight of the financial and operational performance of public post-secondary institutions, in order to ensure overall accountability to government. Acknowledgement of the audit criteria within our audit plan was received in July 2018. The scope of our review includes oversight practices and policies from 2010 to January 2018.

Various reorganizations over that time period had led to the establishment of the Post-Secondary Education and Workforce Development division within the Department. The division had responsibility for all aspects of post-secondary education, with the Post-Secondary Education and Labour Market Outcomes (PSELMO) branch assigned responsibility for oversight of post-secondary institutions. Excluded from our audit are the oversight activities provided by the Department related to other aspects of the post-secondary education sector, such as student aid, apprenticeship, and international education.

We excluded the Manitoba Institute of Trades and Technology from our audit, as it did not have an accountability relationship with the PSELMO branch, and was primarily funded through the Public Schools Finance Board (K-12 funding). Also excluded from our audit were the private religious and denominational post-secondary institutions, which receive some provincial grant funding but are not directly funded by government. These include the Canadian Mennonite University, Steinbach Bible College, Booth University College, and Providence University College and Seminary. Private vocational institutions that are regulated by government, but do not receive provincial funding, were also excluded.

Audit criteria

The Province provides approximately \$700 million in direct funding each year to the seven public post-secondary institutions. Given the significant amount of provincial funding, we expected that a clear accountability framework would be established by the responsible department, which was Manitoba Education and Training (the Department) at the time of our audit.

We expected the Department to have strong processes in place to support, and to provide oversight of, the financial and operational performance of post-secondary institutions. A well-constructed and implemented accountability framework ensures overall accountability of institutions to government, while empowering the institutions to achieve their unique mandates and strategic priorities, within the overall strategic objectives and priority outcomes identified by government for the post-secondary education system as a whole.

Our audit objective was to determine whether an appropriate accountability framework was in place for the oversight of public post-secondary institutions by the Department. We used the following criteria, which reflects leading public sector accountability practices and common expectations for a strong accountability relationship between any Minister and the board-governed entities within their portfolio.

Criteria	Sub-criteria
1. Clarity of roles and responsibilities: Roles and responsibilities outlining the accountabilities of all parties are clearly established and documented.	1.1 The Department should identify and define the key roles and responsibilities of all parties with respect to oversight of the public post-secondary education system. These parties should include, but are not limited to: • The Minister • Deputy Minister (and department officials, as required) • Board of Governors of the post-secondary institution • President of the post-secondary institution (and administration, as required) 1.2 The following parties should be required to review and sign the roles and responsibilities document, and any amendments made to it: • The Minister • Board Chair of the post-secondary institution • President of the post-secondary institution 1.3 To ensure relevancy, the roles and responsibilities document should be reviewed and renewed on a periodic basis.

2. Strategic alignment & establishing expectations: The Department has communicated the strategic objectives and priority outcomes for the post-secondary education system in Manitoba to the post-secondary institutions and other stakeholders. Post-secondary institutions can then demonstrate alignment of their strategic and business plans with overall government objectives for the sector.	2.1 In consultation with the institutions, the Department should develop and document its strategic objectives and priority outcomes for the post-secondary education system in Manitoba. • The strategy should be approved by the Minister, be communicated with the institutions, and made publicly available to all stakeholders. • The strategy should be reviewed and updated on a periodic basis. 2.2 The Minister should provide mandate letters to each institution that includes government's specific goals for the institution and key outcomes to be achieved over an applicable period. Mandate letters should be: • Signed and acknowledged by the institution's Board Chair and President. • Made public. 2.3 The Department should require all accountability reporting from institutions to identify alignment with government's strategic objectives for the post-secondary education system.
3. Monitoring of financial and operational performance of institutions: The Department has established the reporting requirements from institutions that provide sufficient and appropriate financial and performance information. The Department analyzes and evaluates the information in order to identify any areas needing improvement, and to request corrective action plans from the institutions, as necessary.	3.1 The Department should identify and communicate its expectations and requirements for all accountability reporting from institutions. • These requirements should be based on what information the Department requires to monitor institutions' financial and operational performance against established goals. • These requirements should also specify any accountability information required by the Department to coordinate and assess performance of the post-secondary education system as a whole. 3.2 The Department should have processes in place to analyze and evaluate institutional financial and operational performance against established goals. • When analysis of accountability information identifies any areas of potential concern or where improvement may be required, discussions to be held with institutions to request corrective action plans as necessary. 3.3 The Department should have processes in place to ensure institutions' compliance with legislation, regulations, and any ministerial directives. • When required, discussions to be held with institutions to remedy any areas of non-compliance.
4. Evaluating and reporting on overall performance: The Department reports publicly on its progress towards intended outcomes for the post-secondary education system.	4.1 The Department should have processes in place to evaluate and assess the performance of the post-secondary education system as a whole. This should be used to drive ongoing improvement in the system overall, in order to ensure it meets the needs of Manitobans. 4.2 In its annual report, the Department should report publicly whether it has met its targets and progress towards intended outcomes for the post-secondary education system.

5. Relationship management & communication: Open communication, and strong relationships based on trust and mutual respect, exists between the Department and the post-secondary institutions' boards and administrations.	5.1 The Minister and the Department should develop and implement a relationship management and communication plan with the institutions that reinforces strategic collaboration and feedback on performance outcomes for both the institutions individually, and the post-secondary education system as a whole. Some key areas the plan should include are: • The relationship protocols and process between: – The Minister and the institutions' Boards of Governors. – The Deputy Minister (and Department staff, as necessary) and the institutions' Presidents (and administration, as necessary). • Clear processes to resolve concerns in a timely and effective manner. 5.2 The Department should develop an effective communication process with the institutions, regarding the Lieutenant Governor in Council (LGIC) appointment process for board members. • On behalf of the Minister's office, the Department should: – Request institutions provide board member skills/competency needs to help inform the LGIC appointment selection process. – Advise institutions of new board member appointments and revocations, prior to public news release.
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Weak oversight framework for post-secondary institutions

A clear and well-managed accountability framework between government and its board-governed entities ensures that roles and responsibilities are clear, that a shared understanding exists of strategic goals as well as the risks and challenges in achieving them, and that performance issues are promptly identified and appropriately managed. Strong accountability is best achieved through an open, collaborative relationship based on trust and mutual respect. This ensures public monies are well spent in meeting the needs of Manitobans.

Our audit concluded that an appropriate accountability framework was not in place for the oversight of public post-secondary institutions by the Department. Our audit criteria reflects leading public sector accountability practices and common expectations for a strong accountability relationship between any department and their board-governed entities.

As discussed in the following sections, our conclusion is based on:

- Roles and responsibilities of all parties were not defined and documented (**SECTION 1**)
- Strategic objectives and priority outcomes for the post-secondary education system were not defined or communicated (**SECTION 2**)
- Weak monitoring of institutional performance (**SECTION 3**)
- Limited reporting on system-wide performance (**SECTION 4**)
- Communication processes to build strong, mutually respectful relationships require improvement (**SECTION 5**)

The results of our audit caused us to review how other provincial jurisdictions support and provide guidance to board-governed public sector organizations. We found:

- Manitoba lacks central support and guidance for board-governed public sector organizations (**SECTION 6**)

1 Roles and responsibilities of all parties not defined and documented

Leading practices stress that an effective accountability framework depends upon clearly defined roles and responsibilities. A properly constructed roles and responsibilities document creates a foundational agreement that all parties agree upon and can refer to for guidance when issues arise. Such documents are commonly used in the public sector, and have a variety of names including terms of reference, roles and responsibilities records, and memorandums of understanding.

We noted that government has recognized the importance of having clearly defined roles and responsibilities as an appropriate component of an accountability framework for other board-governed public sector organizations in Manitoba. This is done in a variety of ways depending on the department. For example, we noted that Manitoba Health had a documented accountability framework and policies on its website with respect to health authority governance and accountability, which outlined government expectations for regional health authority boards' governance, responsibilities, and accountability. As another example, *The Crown Corporations Governance and Accountability Act* requires a documented "Roles and Responsibilities Record" between the responsible minister and each of his or her crown corporations. The Act further specifies the content of the Roles and Responsibilities Record, which must be signed by all parties and made public, as well as reviewed and renewed after three years.

British Columbia issues an Accountability Framework Standards Manual and Guidelines, and publishes online the Institutional Accountability Plans and Reports provided to the Minister from all post-secondary institutions.

Alberta issues a Roles and Mandates Policy Framework for Alberta's Publicly Funded Advanced Education System.

Ontario issues a Governance and Accountability Framework for colleges of applied arts and technology. Ontario also uses memorandums of understanding to outline accountability relationships with various board-governed public sector organizations, such as the Higher Education Quality Council of Ontario.

Our review of other provincial jurisdictions also noted that similar requirements for documented accountability frameworks have been established for public sector organizations, including post-secondary institutions (see box).

No roles and responsibilities document in place

We found that the Department had not documented the key roles and responsibilities of all parties with respect to the oversight of the public post-secondary education system. As noted in our audit criteria, the roles and responsibilities document should be determined in consultation with each post-secondary institution, and signed by all parties.

The need for greater clarity in the accountability relationship had been identified in several prior reviews of post-secondary education, both previously under the now defunct Council on Post-Secondary Education (COPSE) and more recently with respect to the Department. Various

reviews conducted of the COPSE since its establishment highlighted gaps in the post-secondary system of accountability, including that its role was not being fully fulfilled; that system integration and

coordination was not being done effectively; and that there was a need to enhance monitoring of the institutions. In November 2011, the COPSE produced a document to address these issues, entitled *Manitoba's Post-Secondary Accountability System*, which acknowledged the need for greater clarity and proposed a plan to address those gaps. More recent reviews, such as the *Manitoba Colleges Review* in 2017, also highlighted gaps in the accountability relationship.

Given ongoing organizational changes, clarifying roles and responsibilities would be timely

Since 2014, there has been significant structural change in government's oversight of the post-secondary education system. There has also been numerous changes in leadership personnel.

Prior to 2014, the COPSE had delegated authority to oversee and coordinate Manitoba's post-secondary education system. The COPSE had been established in 1996, and was an independent body comprised of government-appointed Council members, supported by a professional secretariat. The COPSE reported directly to a Minister, and was to act as an intermediary between government and the post-secondary institutions, allocate operational and capital funding for the sector, approve any new or expanded academic programming, and oversee tuition and fees. As previously noted, the COPSE was dissolved and *The COPSE Act* repealed in June 2014. COPSE's functions were merged into the then Department of Education and Advanced Learning.

The Advanced Education Administration Act (The AEA Act) was amended in 2014 to provide the Department responsibility for many of COPSE's functions and to outline a broad framework for post-secondary education financing and accountability. The Advanced Learning Division within the Department was created with the former COPSE Secretariat staff and maintained COPSE's main activities, including distributing funding to institutions, overseeing tuition and fees, and program approvals.

In 2016, a change in Government led to further departmental reorganizations. The Department of Education and Training, which included both K-12 education and post-secondary education, took on other education, immigration, and workforce/labour portfolios. In 2017, the Post-Secondary Education and Workforce Development Division (PSEWD) was established within the Department, with responsibility for oversight of post-secondary institutions assigned to the Post-Secondary Education and Labour Market Outcomes (PSELMO) branch. We note that subsequent to our audit, in 2019 the PSELMO branch was moved out of the education portfolio to a newly formed department, Manitoba Economic Development and Training.

Along with all the structural changes since 2014, there have been numerous changes in staff and leadership, including the loss or redeployment of most of the former staff of the COPSE Secretariat. At the time of its dissolution, the COPSE had approximately 17 staff positions, organized into four units. By the time of our audit fieldwork, the Department's PSELMO branch operated with only five staff positions, some of which were vacant. Our interviews with the post-secondary institutions noted the significant loss of corporate knowledge regarding the sector, given that former staff of the COPSE Secretariat had moved on or taken other positions within education.

At the leadership level, there has been constant and significant change in personnel. As of the publication of this audit report, the leadership level had seen six changes in Minister, as well as five changes in Deputy Minister. The Assistant Deputy Minister (ADM) directly responsible for post-secondary education has also changed five times. Initially, post-secondary education was led by a designated ADM position, however after the numerous structural reorganizations noted above, the ADM of PSEWD division became responsible for a number of branches, of which PSELMO is just one. This results in the risk of reduced focus and attention being paid to post-secondary education issues.

This level of organizational change over a five-year period, both structurally and with respect to turnover of senior leadership and staffing personnel, creates a degree of uncertainty amongst all stakeholders within the post-secondary education system. The ongoing turnover and depletion of staff resources was raised as an issue in many of our interviews with the institutions, former COPSE Council members, as well as current and former Department/COPSE staff. Given the extent of the changes, improving clarity with respect to the roles, responsibilities and expectations of all parties would be timely.

Once in place, a roles and responsibilities document should be reviewed and modified as necessary over time to ensure it accurately reflects the accountability relationship and requirements in place. The Department should establish a schedule for periodic review and sign off by all parties. We suggest a timeframe of three to five years.



Recommendation 1

We recommend that a roles and responsibilities document be developed outlining the accountabilities and responsibilities of all parties with respect to oversight of the post-secondary education system in Manitoba. We further recommend this document be:

- Signed by all parties (the Minister, the institution's Board Chair and its President).
- Reviewed and renewed on a periodic basis, and made publicly available.

2 Strategic objectives and priority outcomes for post-secondary education system not defined or communicated

In any accountability relationship, it is critically important to create a shared understanding of strategic objectives and desired outcomes, as well as the risks and challenges in achieving them. The Department should develop strategic objectives and desired priority outcomes for the provincial post-secondary education system in consultation with all post-secondary institutions, as well as other key stakeholders in the education system. Such a collaborative and inclusionary process helps to build strong relationships within the sector, based on trust and mutual respect.

Once strategic and desired outcomes for the post-secondary education system are developed and communicated, the institutions can convey how their individual strategic and business plans contribute to system-wide objectives. This demonstrates how each institution's unique contribution to post-secondary education in Manitoba impacts and supports the provincial objectives for the post-secondary education system overall.

We found that the Department had not defined or communicated the strategic objectives and priority outcomes for the post-secondary education system in Manitoba. As detailed in the following sections, we found:

- A provincial strategy for post-secondary education was not developed (**SECTION 2.1**).
- Mandate letters were not issued (**SECTION 2.2**).
- Most institutions provided strategic plans to government, although not required to do so (**SECTION 2.3**).

2.1 Provincial strategy for post-secondary education not developed

Section 2(3)(a) of *The Advanced Education Administration Act* specifies that the minister is “to set direction and determine priorities for the government's support of Manitoba's post-secondary education and advanced learning system.” We found that an overall strategy, which defined the strategic objectives and priorities for the post-secondary education system, had not been documented nor made publicly available.

The need for such an overall strategy had been previously raised to government in the various reviews conducted in this sector. For example, in the *Manitoba Colleges Review* (2017), it was highlighted that no strategic mission or goals had been provided by government, to which the sector as a whole and individual institutions could be held accountable. This report recommended that well-articulated goals be put in place by both government and the institutions. The former COPSE had also previously identified the need for overall strategic objectives for the sector, as a means to design and implement an appropriate accountability framework that establishes planning, measurement and reporting processes for the institutions. In its 2011 document, *Manitoba's Post-Secondary Accountability System*, the COPSE noted the necessity of such an accountability framework to “ensure that individual PSE institutions are accountable to the Government for their performance related to the strategic objectives of the Government; and ensure that the Government is accountable to the public for the performance of the PSE system and that it is achieving the objectives to which the Government has committed.”

In June 2015, the former Government issued a documented strategy, *“Manitoba’s Post-Secondary Education Strategy: A Partnership for Excellence and Student Success”*, which was developed with the now defunct Minister’s Advisory Committee on Advanced Education. Although still on the Department’s website at the time of our audit, we were advised that this strategy had been deemed inactive and was no longer being used. We were told that the Minister and officials had verbally conveyed to institutions a broad strategic outlook for post-secondary education that was tied to labour market outcomes, and to an overall economic development strategy being developed for the province. However, at the time of our audit scope period, this had not yet been developed.

We note that even once an overall provincial economic strategy is developed, the Department will need to articulate how this relates to and impacts the post-secondary education sector overall. Any broader strategic objectives and priority outcomes expected within the post-secondary education system will then need to be developed. It was emphasized in our discussions with institutions that a broad strategic definition of post-secondary education in Manitoba is needed, beyond solely economic development and labour market demands, as the effectiveness of post-secondary education overall cannot solely be assessed through economic indicators.



Recommendation 2

We recommend that the Department develop and document its strategic objectives and desired priority outcomes for the post-secondary education system in Manitoba, in consultation with all post-secondary institutions and other key stakeholders in the education system. This should be reviewed and renewed on a periodic basis.

2.2. Mandate letters not issued

Our audit found the Department did not issue mandate letters to each institution’s governing board. Section 2(4) of *The Advanced Education Administration Act* notes that the Minister *“is to advise and assist each university and college in developing a clear mandate to ensure that (a) Manitoba’s post-secondary education and advanced learning system is coordinated and appropriately integrated; and (b) unnecessary duplication of effort and expense within the system is avoided.”* We found no activities by the Department related to providing such assistance and advice in mandate clarification and coordination of system-wide objectives.

Given the structural changes that have occurred since the dissolution of the former COPSE, it would be timely to document how the post-secondary education system is coordinated, as well as the agreed-upon mandates for each institution and how each institution’s specific goals and outcomes contribute to

achieving system-wide objectives over a given period of time. Mandate letters that are developed in consultation with each post-secondary institution can be used to widely communicate such refreshed mandates and specify desired strategic and priority outcomes for each institution over a given time period.

We noted that government has recognized the importance of issuing mandate letters as an appropriate component of an accountability framework for other board-governed public sector organizations in Manitoba. As another example, mandate letters are issued to the governing boards of Regional Health Authorities and other board-governed health organizations, as well as Crown corporations. These are publicly available on the government's website.

Our review of other provincial jurisdictions also noted that mandate letters (British Columbia -see box) or letters of expectations (Alberta) are being issued to post-secondary institutions.

British Columbia publishes its mandate letters for all universities and colleges online: www2.gov.bc.ca/gov/content/education-training/post-secondary-education/institution-resources-administration/mandate-letters



Recommendation 3

We recommend that the Minister and Department, in conjunction with the post-secondary institutions, review and update as needed each institution's mandate as per Section 2(4) of *The AEA Act*. In doing so, we recommend that the Minister publicly issue agreed-upon mandate letters that clarify refreshed mandates, as well as any strategic goals and priority outcomes for the institution to achieve over an applicable timeframe. Mandate letters are best developed in consultation with each post-secondary institution, with signed acknowledgement of the institution's Board Chair and President.

2.3 Most institutions provided strategic plans to government, although not required to do so

We found that most institutions provided their strategic plans, as well as other types of institutional planning documents (for example, capital plans, Campus Master Plans, etc.) to the Minister. All institutions published some form of strategic planning document, with most issuing five-year strategic plans. We noted that when provincial priorities are articulated, most institutions reference these or similar objectives within their strategic plans. However, as the Department had not yet developed or communicated its overall strategic objectives and priority outcomes for Manitoba's post-secondary education system, the institutions could not directly link their individual strategic plans to overall system-wide objectives.

We found there is no legislative requirement for the institutions to prepare and submit their strategic plans to the Department, nor was it formally requested. Further, no guidance has been provided by the Department with respect to what is to be included in strategic plans. This is not conducive to the Department being able to report its progress towards desired outcomes for the overall post-secondary education system in its annual report to Manitobans.

We noted that obtaining copies of strategic plans is a common requirement in the legislation and accountability frameworks established for other board-governed organizations within Manitoba's public sector. For example, *The Regional Health Authorities Act* requires the regional health authorities to "prepare, implement and publish on the authority's website a regional strategic plan" and specifies what is to be included in the plan. As another example, Section 7 of *The Crown Corporations Governance and Accountability Act* requires that Crown corporations prepare and make public an annual business plan, and specifies the information to be included. Further, the Act requires it be consistent with the corporations' mandate, any guidelines issued by the minister, and any applicable mandate letters.

Once a provincial strategy for the post-secondary education system has been developed and communicated, each institution would then be able to demonstrate how their own unique strategic and business plans consider and support provincial priorities. Other institutional reporting to the Department, such as the annual estimates submissions, program proposals, and any funding requests, could also be an opportunity for institutions to demonstrate alignment with overall strategic objectives for the post-secondary education sector. We noted that some institutions do attempt to link program proposals and funding requests to broader provincial goals. However, given that the overall strategy and priority outcomes have not been documented and communicated, the institutions could not demonstrate alignment nor directly link their contribution to the achievement of sector-wide objectives.



Recommendation 4

We recommend that once sector-wide strategic objectives are communicated, the Department develop institutional reporting guidance in conjunction with the institutions. In developing this guidance, we recommend that it include the submission of institutions' strategic plans with any required plan components, and how institutions' strategic plans align with and contribute to the achievement of overall strategic priorities and system-wide outcomes.

3 Weak monitoring of institutional operations and performance

To ensure the significant investment in public post-secondary institutions is achieving the desired institutional and system-wide outcomes, the Department must monitor the financial and operational performance of institutions. Effective monitoring of institutional performance would require the Department to identify and clearly communicate its expectations and requirements for accountability reports. An effective monitoring process requires the establishment of results-based performance metrics to ensure oversight of institutions is at a strategic level and not overly operational. Guidance or templates can be provided as necessary to ensure consistent and useful reporting. Care is required to ensure the administrative burden on institutions for accountability reporting is reasonable.

We found the Department's monitoring of institutional performance was weak. It was not always clear how existing monitoring activities contributed to the effective oversight of the institutions' financial and operational performance. As detailed in the following sections, we found:

- Results-based performance metrics were not developed to monitor each institution (**SECTION 3.1**).
- The Department's oversight activities were focused on inputs and program approvals, not outcomes (**SECTION 3.2**).
- There were no processes to monitor institutional compliance with legislation and regulations (**SECTION 3.3**).

3.1 Results-based performance metrics not developed

Section 2(5)(a) of *The AEA Act* indicates that “after consulting with a university or college, the minister may require the university or college to enter into a memorandum with the minister respecting the development and implementation of accountability measures in respect of the government support provided to it, including performance measures for assessing the use of that support.” We found no such memorandums with institutions, nor other documented description of the accountability requirements and performance measures for assessing each institution's financial and operational performance.

The Department requests accountability information from the public post-secondary institutions through a variety of processes. At the time of our audit, much of the accountability information requested by the Department had been largely unchanged from what was required under the former COPSE. We found that the Department had not reassessed how all accountability information provided fit into an overall accountability framework for monitoring the financial and operational performance of institutions. Results-based performance metrics, which would ensure oversight of institutions was at an appropriately strategic level, had not been established. Working collaboratively with institutions in developing key performance metrics and institutional reporting requirements would strengthen the accountability relationship.

In our interviews with institutions, we found that the purpose and intended use of all information requested by the Department was not always clear, especially when it was a one-off request. Several institutions noted that if they were provided with a better explanation of the Department's need for the requested information, it would help them provide better quality information. Some institutions also

requested that if comparative analyses were prepared by the Department, such analyses should also be shared with the institutions to assist them in understanding their institution's performance. In reviewing some specific examples of one-off requests, we found that the request was often to assist Department staff in the preparation of ministerial briefing notes and materials to provide legislative and policy support to the Minister. When requesting the information from institutions, the Department should clarify the reason for its requests.

It would be timely for the Department to reassess the quantity and value of the information being routinely collected from institutions. Reducing any redundancies and ensuring information requests are clearly related to the Department's role in monitoring institutional performance vis-à-vis results-based performance metrics would be useful. This would ease the administrative burden placed not only on the institutions and their administration, but also on the Department's PSELMO branch whose size and level of staff resources have been reduced considerably since the dissolution of the COPSE.



Recommendation 5

We recommend that the Department, in consultation with each institution, establish results-based performance metrics and the related information requirements to monitor financial and operational performance of institutions based on those metrics. Guidance and templates should be provided to institutions to ensure reporting information is provided in a consistent and useful format.

3.2 Department's oversight activities focused on inputs and program approvals, not outcomes

We reviewed some of the key oversight activities performed by the Department related to institutional accountability. We found it was not always clear how the Department's monitoring activities contributed to the effective oversight of the institutions' financial and operational performance. The Department's activities and processes were most often focused on inputs, such as front-end programming and financial approvals. The Department did not have strong monitoring processes to review the outcomes of those inputs, nor to ensure accountability for results.

Annual funding to post-secondary institutions was not results-based. At the time of our audit, institutions simply received the prior year's block funding amount, plus a percentage increase (or decrease). We noted that the block funding method limited the ability of the Department to clearly identify whether funds were being used for intended purposes. Further, the financial reports provided by institutions were not designed to demonstrate accountability for performance outcomes.

Reassessing the Department's monitoring activities in order to ensure oversight of institutions is provided in a more strategic manner that is focused on results and system outcomes would be useful. By becoming more strategic in the monitoring of institutional performance, the Department could provide better oversight of the institutions and the sector overall, as well as ensure appropriate accountability for the investment made in each institution. Further, a more strategic approach could eliminate low value reporting and process activities, thereby reducing the staff effort required. Some examples of low value activities and gaps in monitoring processes are provided below.

- We noted that, while all institutions are required to submit balanced annual budgets, only Red River College and Assiniboine Community College are required to receive ministerial approval of their budgets each year, as per Section 27(2) of *The Colleges Act* and Section 29(1) of *The Red River College Act*. This process has been in place since the colleges were established as board-governed entities in 1992. We found no clear rationale for why ministerial approval is considered necessary for these particular post-secondary institutions.
- The Department requests that a significant amount of information be attached to the institutions' annual estimates submissions. As considerable effort is required by institutions to provide the information, our discussions with institution officials noted it was not clear how the information was used nor what value it provided the Department, given the block funding approach and standardized funding increases. The Department also holds a consultation meeting annually with each institution as part of the funding process to discuss the estimates submission. Given the standardized funding approach used, institutions perceived this consultation as having little impact on actual funding.
- Section 9.3 of *The AEA Act* requires that institutions not incur any liability or make any expenditures beyond the unexpended amount of the grants made to it, and its estimated revenue from other sources to the end of the fiscal year, unless first submitted to and approved by the Minister. However, when Red River College, which initially submitted a balanced budget, had a deficit operating result of \$2.2 million in 2013/14, ministerial approval was neither sought nor given. The COPSE did not follow up with RRC to request any corrective action plans be provided. While balanced budgets may not be achieved due to a variety of circumstances, the Department should follow up on such instances to ensure business rationale and variance explanations are clear, and remedies are implemented.

An **annual report** is an important accountability document for all stakeholders. We noted that some government departments issue guidance or specify requirements for annual reports to their board-governed entities. For example:

- *The Regional Health Authorities Act* requires RHAs to submit an annual report to the minister and publish it on their website. Section 38(2) of *The RHA Act* further specifies what information the report must contain. Manitoba Health has also issued guidance on the annual report sections and content to be included. This includes the requirement for reporting disclosures under *The Public Interest Disclosure (Whistleblower Protection) Act*.
- Section 10(1) of *The Crown Corporations Governance and Accountability Act* requires crown corporations to submit an annual report on their operations, and specifies what must be included.

- Section 9.6(4) of *The AEA Act* requires that each institution submit “an annual report of its operations during that fiscal year that includes audited financial statements and any other information that the minister requests.” The Minister is required to table the annual reports in the Legislative Assembly. However, our review found that the majority of institutions only provided the Minister with their audited financial statements, rather than a fulsome annual report on operations or performance (see **SECTION 3.1** in Chapter 2). The Department had not issued any guidance nor expectations for annual reports of post-secondary institutions. Given the substantial public monies invested in the public post-secondary institutions, all institutions should provide comprehensive annual reports of their performance to the Legislative Assembly, and ultimately, to the citizens of Manitoba.
- The two colleges and UCN are also required to “publish an annual academic report that includes student information respecting enrolment, attrition, graduation and graduate employment placement, in accordance with guidelines provided by the Minister.” However, we found no guidelines had been provided for these

reports, and hence, a wide variety of practices existed. The annual academic reports were not used significantly in the Department’s oversight processes regarding the colleges and the rationale for the ongoing requirement was not clear. We also noted inconsistencies with respect to the university-college hybrid institutions, as UCN’s legislation required publishing an annual academic report, but it was no longer required within USB’s legislation.

- Ministerial approval is required before a university or college can establish, make significant modifications to, or cease to provide programs of study involving money granted under the Programs of Study Regulation, referred to in Section 9.7(1) of *The AEA Act*. Even though amendments were made to the Programs of Study Regulation to streamline the process in 2015, our discussions with institutions found the process was still considered too slow and not structured in a way that met the operational timing needs of institutions. We noted that the necessity to provide program approvals is an input-focused approach, rather than a results-based approach to oversight. Further, we found no subsequent monitoring occurred by the Department to ensure that approved programs were actually implemented, nor were follow-up reports provided by institutions on the results achieved with new programs. The Department should review its approach to and the necessity for program approvals.

NO PROCESS FOR FOLLOWING-UP ON AREAS OF CONCERN

An effective accountability framework would require that the Department analyze and evaluate results-based accountability information submitted by institutions in order to identify any potential areas of concern or required improvements. Any identified performance issues would be discussed with the specific institution, along with potential remedies. Where necessary, the Department would request corrective action plans be submitted by the institution and monitor its implementation.

We found the Department reviewed the institutions' financial information, but did not conduct in-depth analyses or evaluations to better identify any financial or operational performance issues or areas of concern. As part of a more robust monitoring process, the Department could use a risk-based approach to identify higher risk results areas upon which more fulsome analyses could be conducted.

When areas of concern or any indications of poor performance or financial outcomes are identified, the Department should follow up with the institution(s) to clarify its understanding of issues and to discuss any planned or required remedies. A process for corrective action should be established where needed, which includes timelines for completion.



Recommendation 6

We recommend that the Department, in consultation with the institutions, develop monitoring processes that are focused on results-based performance metrics for the institutions, and monitor progress towards achieving overall strategic priorities and system-wide outcomes.

- If any areas of concern or other indications of poor performance or financial outcomes are identified, we recommend the Department request corrective action plans from the institution with timelines for completion, and provision of periodic update reports to the Department until resolved.

3.3 No processes to ensure institutional compliance with legislation and regulations

Ensuring compliance with legislation and regulations is an important component of a strong accountability framework. We found that the Department had no processes in place with respect to monitoring legislative compliance by post-secondary institutions.

As discussed in **SECTION 3.2** (Chapter 2), our governance review of each institution found instances of lack of compliance with legislated requirements in their institutional Acts, *The AEA Act*, or other broad over-arching provincial legislation, such as *The Public Interest Disclosure (Whistleblower Protection) Act*. Some examples are provided below:

- In 2017, *The AEA Act* was amended to include a section on Sexual Violence Policies applicable to all institutions. *The AEA Act* specifies requirements for the development and content of the policy, as well as provisions for training, incident reporting, complaint procedures and response protocols. Further, Section 2.3(5) requires each institution's board to “undertake a comprehensive review of the policy that includes consultations with students” every four years. We noted that the Department issued and made available on its website, a guidance document to assist institutions in developing and implementing sexual violence policies, which is a good practice. However, at the time of our review, not all institutions had complied with the requirements. The Department did not have processes in place to ensure compliance with the initial policy requirement, nor with the ongoing legislated requirements for consultation, training, establishing protocols and conducting comprehensive reviews.
- *The Public Interest Disclosure (Whistleblower Protection) Act* (PIDA) applies to almost all public bodies, including universities and colleges (as specified in the PIDA Regulation). There are numerous requirements under PIDA including that policies and procedures for receiving and investigating disclosures be put in place, widely communicated to employees, and a Designated Officer appointed. Further, Section 29.1(3) of PIDA requires that reporting on disclosures be included in the annual report of the public body. Our governance review of institutions found poor compliance overall with the requirements of PIDA and a general lack of awareness of the legislation. At all but one institution, we found little involvement by the governing boards in dealing with any issues disclosed (see **SECTION 3.2** in Chapter 2).
- We noted that Section 39(4) of *The Colleges Act* and Section 22(4) of *The Red River College Act* requires the governing boards of Red River College and Assiniboine Community College to seek ministerial approval for “the process adopted by the board for the appointment, review and removal of a president...” During the scope period for our review, we found that RRC had sought and received ministerial approvals for their presidential search processes when required. We did not review ACC in this regard as the most recent presidential hiring process dated back several years prior to our scope period. However, neither college had ever sought or received ministerial approval for any presidential review or removal process, and the Department had never requested it. The need for such a detailed level of ministerial involvement in board processes requires review (see **SECTION 3.2** in Chapter 2).

- We further noted recent legislative amendments and directives where the Department will need to seek assurance of compliance in future. For example, recent amendments made to *The AEA Act* allows for tuition increases, but only to a defined limit (the calculation of which is specified in legislation). The Department must ensure that each institution complies with this maximum allowable tuition increase in the future. The Department advised us that this would be included as part of the annual funding procedures. We further noted that specific directives were issued in the 2018 funding letters to institutions, including to “implement a 15% reduction in management administrative positions.” At the time of our audit, no processes were yet in place to confirm such reductions were achieved. We were advised it would also be included as part of the annual financial procedures.



Recommendation 7

We recommend that the Department develop a process to obtain assurance from institutions of compliance with all applicable legislation and regulations.

- When compliance issues are identified, we recommend the Department communicate its concerns with the institution(s), and if necessary, request corrective action plans be provided regarding planned remedies and timelines to achieve compliance.

4 Limited reporting on system-wide performance

Each provincial department is required to issue an annual report that is tabled in the Legislative Assembly. Ideally, such annual reports should report to Manitobans on the department's progress in achieving intended outcomes. For the post-secondary education system, this would include the Department reporting publicly whether it has met its targets and progress towards intended outcomes. To do so, the Department must have processes in place to evaluate and assess the performance of the post-secondary education system as a whole. This could then be used to drive ongoing improvement in the system overall, in order to ensure it meets the needs of Manitobans.

We found that the Department's evaluation of the performance of the post-secondary education system as a whole was limited, so the Department cannot report to Manitobans on system-wide performance within its annual report. Robust system-wide performance metrics have not been developed to assess progress towards desired system-level outcomes for post-secondary education in Manitoba. As the Department had not established system-wide strategic objectives nor performance metrics, data that it does obtain is not designed to allow for meaningful analytical evaluations of overall performance of the post-secondary education system. Detailed analysis and evaluation of performance metric data would assist in long-range planning, both for the Department and for institutions, in order to ensure the post-secondary education system continues to meet the future needs of Manitobans.

As detailed in the following sections, we found that:

- The Department conducted limited analyses to evaluate system-wide performance (**SECTION 4.1**).
- The Department's Annual Report does not report progress towards desired outcomes for the post-secondary education system (**SECTION 4.2**).

4.1 Limited analyses conducted to evaluate system-wide performance

Section 2(3)(d) of *The AEA Act* specifies that for the purposes of carrying out his or her role to lead government's advanced learning activities, the Minister "*is to monitor and evaluate, and conduct research and analysis about, post-secondary education and advanced learning.*" We found almost no activities performed by the Department with respect to analyzing and evaluating the post-secondary education system overall.

At the time of our audit, the Department did not collect accountability information from institutions in order to conduct an overall evaluation of system performance. The Department received financial reports from individual institutions as noted in **SECTION 3.2** (Chapter 1), but did not assess and report on the fiscal performance of the sector overall. Further, the Department had not identified the accountability information required in order to assess overall performance of the post-secondary education system. Once such system-wide performance metrics are established, related accountability information will be required from the institutions to enable such assessment. The required information should be clearly communicated to the institutions, and efforts made to ensure the administrative burden on institutions for such reporting is reasonable. Guidance or templates should be provided as necessary to ensure consistent and useful reporting.

The importance of the Department assessing the overall performance of Manitoba's post-secondary education system was noted in many of our discussions with institutions. Institutions observed that the Department must lead and coordinate this type of evaluation in order to have a broader system perspective. Such analysis would facilitate more informed decisions regarding the need for growth or reduction of Manitoba's post-secondary education system, and would also assist in long-range institutional planning. It was emphasized in our discussions that a broad strategic definition of post-secondary education in Manitoba is needed, as the effectiveness of post-secondary education overall cannot solely be assessed through economic indicators and labour market outcomes.

Prior reviews conducted within this sector also noted the need for evaluation of the performance of the overall post-secondary education system. We found past reviews and audits of the COPSE had agreed that system-wide objectives were absent, and needed to be established for the system overall as well as for individual post-secondary institutions. As previously noted, the COPSE had acknowledged this gap in the post-secondary system of accountability in its 2011 document, *Manitoba's Post-Secondary Accountability System*. We found the Department had taken no actions since the dissolution of the COPSE to move forward to address these gaps.

LACK OF QUALITY ASSURANCE PROCESSES IN PLACE

Further, our review found a lack of a quality assurance processes in place for post-secondary education programs and the post-secondary education system overall. We noted that other provincial jurisdictions such as British Columbia, Alberta, Saskatchewan and Ontario have created independent bodies to assess the quality of post-secondary education.

The need for quality assurance was discussed in the Manitoba Colleges Review (2017), which recommended that a system of independent quality assurance was required in Manitoba to create “a sensible accountability framework.” The review noted that “...the purpose of external quality assurance is to provide assurance to funding agencies (mainly government) and ultimately the public, that the processes used by colleges to maintain and improve program quality are both rigorous and consistently implemented.” In order to create an external quality assurance process, it was suggested that the Department consider using the services of specialized external agencies in other provinces, under a fee for service arrangement, to conduct such reviews in accordance with Manitoba policies and standards (which would need to be created).



Recommendation 8:

We recommend that the Department develop processes to evaluate and assess performance of the post-secondary education system as a whole. This must be linked to the strategic objectives and desired outcomes that have yet to be established for the post-secondary education system.

- We further recommend robust system-wide performance metrics be established in conjunction with the institutions, and accountability information from institutions collected in a manner that allows for the overall evaluation of the post-secondary education system in Manitoba.

4.2 Department's Annual Report does not report progress towards desired outcomes

The Department's Annual Report does not report on the overall outcomes of the post-secondary education system in Manitoba. The Department's Annual Report at the time of our audit indicated that the goal of the PSEWD Division, which included the PSELMO branch as well as others, was *"to ensure that Manitoba has a diverse, skilled, adaptable, and productive workforce that is responsive to social, economic and labour market needs."* There was no specific reference to post-secondary education, nor were any goals articulated for the PSELMO branch.

The Department's Annual Report provides information on the total amount of funding support provided to post-secondary institutions. This totalled \$697.8 million in the 2017/18 Annual Report of Manitoba Education and Training. Other than providing a breakdown of the overall allotment of this funding (see box), no further information with respect to colleges and universities was reported.

The Department's 2017/18 Annual Report provided the following breakdown of the total funding to universities and colleges of **\$697.8 million**:

- Funding grants totaled \$513.5 million to the three universities and two university-college hybrid institutions, of which \$9.8 million was capital funding.
- Funding grants totaled \$143.6 million to the two colleges and the college component of l'Université de Saint-Boniface, of which \$1.8 million was capital funding.
- Funding of \$11.3 million was provided to four institutions to support Access programs, which provide post-secondary educational opportunities to under-served groups who may face barriers to post-secondary education (examples included indigenous persons, single parents, refugee students, and students from low socio-economic backgrounds).
- Funding of \$6.3 million was provided to Manitoba students to study elsewhere in professions where labour market demand has been identified but training is not provided in Manitoba (examples included veterinary medicine, optometry, nuclear medicine, clinical genetics and cardiovascular perfusion programs).

The Department's Annual Report also provided information on 19 performance measures overall, which are intended to *"provide Manitobans with meaningful and useful information about government activities and their impact on the province and its citizens."* We noted that only three of these performance measures were related to post-secondary education. These reported statistical information in three key areas: enrolments (number of students); completion (credentials granted); and tuition costs (uptake of government student loans and bursaries, and the debt load of students accessing financial assistance). A comparison is made to the same statistics two decades ago in 1999/2000, by simply indicating an increase or decrease. The value of providing this comparative information is not made clear. No analytics are performed, nor trends provided, and none of the statistical information assists in evaluating or assessing performance of the post-secondary education system overall.

The Department's website provided a one-page infographic entitled *"Post-Secondary Facts and Figures,"* which exhibits enrolment statistics

(number of students); completion (credentials granted); and student demographics (age/gender). Institution-specific statistical tables are also provided online. Previously, the COPSE published a large statistical compendium that provided a wider variety of institutional information. This was last produced in 2014 (data for the years ending in 2013). The Department advised that producing this compendium resulted in a long time lag, causing the published information to always be out of date. Hence, Department officials indicated they had streamlined the information in order to provide 'real-time' data online as quickly as possible. However, our audit found that as of March 2019, the most recent statistical information available was from March 2017 (already two years out of date at the time of our audit). We found this time lag to be excessive as the Department requests this information be provided by the institutions each June as part of the annual estimates submission.

Our discussions with post-secondary institutions, as well as the Department, noted concerns with data quality and the need for improvement in student level data. We were advised that Manitoba is not as advanced relative to other jurisdictions regarding data quality and investment in its database, which inhibits more robust analytics being conducted. This weakness limits the data's usefulness for informing system-wide strategic or policy decisions, and several institutions noted that effective oversight of the system cannot occur without it.

Our review of other provincial jurisdictions noted more robust annual reporting by government departments on the performance of their post-secondary education system. For example, the annual report for Alberta's Ministry of Advanced Education discusses the priority outcomes for the ministry and then provides an analysis of results with key strategies related to each outcome, as well as reporting on key performance indicators for each priority area. British Columbia's Ministry of Advanced Education publishes its Annual Service Plan report which provides performance measures and reporting on results. Ontario's Ministry of Training, Colleges and Universities provides the results and outcomes of the ministry's work in supporting and achieving the overall government priorities for post-secondary education, including reporting on key performance indicators for the sector overall.



Recommendation 9

We recommend that the Department report on the performance and results of the post-secondary education system overall in its annual report to Manitobans.

5 Communication processes to build strong, mutually respectful relationships require improvement

There is no shortage of governance literature discussing the importance of building an effective relationship between government and its board-governed entities (see box). Building a strong relationship based on trust and mutual respect requires open communication and providing opportunities for two-way feedback.

"Effective communications need to be two-way and offer opportunity to give genuine feedback. ...Both sides need to take care to manage any announcements which have potential implications for the other. ...There is widespread agreement that good relationships are characterised by trust and mutual respect, by communication and by being clear about what we expect from them and what they can expect from us."

UK Institute for Government, *It Takes Two: How to create effective relationships between government and arm's-length bodies*, <https://www.instituteforgovernment.org.uk/publications/it-takes-two>

A coherent, consistent approach to communications should be in place that clearly identifies communication protocols, including an agreed-upon schedule of regular meetings. Relationships should reflect a partnership approach that provides opportunities for consultation and collaboration. Communications should be open, honest and constructive, with clear expectations and a 'no surprises' policy observed on both sides. Clear processes must be in place to resolve disputes in a timely and effective manner.

The board member appointment process is also an important aspect of the relationship that requires a strong communication process to be in place. Government's recruitment and appointment process should serve to strengthen board governance by ensuring that appropriate skills and competencies are represented on the board

and that appointments are made in a timely fashion. The board-governed entity should also assist government's appointment process by taking a proactive approach in providing their board member competency requirements and skills matrix to help inform the selection process.

As detailed in the following sections, we found:

- A communication plan that reinforces strategic collaboration and feedback was needed (**SECTION 5.1**).
- Lack of an effective communication process regarding board member appointments (**SECTION 5.2**).

5.1 Communication plan that reinforces strategic collaboration and feedback needed

We found no documented communication plan and protocols in place. Communication with institutions occurred on an as-needed basis, with some institutions having more interaction with government officials than others. We were advised it was dependent on the approach/style of the particular Minister, Deputy Minister, and Assistant Deputy Minister (ADM), as well as the approach taken by the particular institution and their President.

ENHANCED RELATIONSHIP REQUIRED BETWEEN MINISTER AND BOARD CHAIR

Governance literature often presumes that an effective relationship exists in the public sector between a Minister and the Board Chairs of their portfolio's board-governed entities. We found this not to be the case in Manitoba's post-secondary education system. Some Board Chairs we interviewed had never met the Minister, and for many, there was little to no relationship at all. We noted numerous examples where communication between the Minister and the institutions was handled directly through the President, without the inclusion of the Board Chair.

The Minister holding an annual meeting with each post-secondary institution's Board Chair and President is an important opportunity to discuss common strategic goals and outcomes, as well as the performance of the institution and the post-secondary education system overall. Such meetings allow for discussion of challenges and concerns, from both perspectives. Ministers need to understand each institution's unique context and contribution, as well as challenges faced. Each Board Chair and President must also understand how their institution fits into the achievement of a provincial strategy and the Department's priority outcomes for post-secondary education. These discussions should not only occur with the President, as was the case at the time of our audit. Board Chairs indicated in our interviews that this would be welcomed, as would a periodic meeting or forum for all Board Chairs to learn from one another and discuss common challenges in chairing a post-secondary institution.

The OAG's 2009 *Study of Board Governance in Crown Organizations* emphasised the importance of ensuring effective communication, consultation and collaboration between ministers and their board-governed organizations. It was advised that meetings should occur on a routine basis between the responsible Minister and both the Chair and the CEO of public sector organizations, as well as the opportunity be provided for Ministers to meet and interact with the full board annually.

We found that only one institution invited its Board Chair to attend the annual pre-budget consultation meeting with the Department's Deputy Minister and officials. For most institutions, the Board Chair was not involved at all. We were told that the COPSE in past years would hold these annual meetings with the institutions' Board Chairs and members, as well as the President and administration. However, as COPSE's funding discretion changed to a block funding approach, and the Department assumed oversight responsibilities after the dissolution of the COPSE, this annual pre-budget consultation meeting became more of an administrative formality.

Relationships at all levels can also be strengthened

There should also be regular and ongoing communication between the Deputy Minister (and Department officials as required) and the institutions' Presidents (and administration as required). Our interviews found these relationships and lines of communication needed to be clarified and improved.

After the dissolution of the COPSE, we noted that the Deputy Minister had begun attending the annual pre-budget consultation meeting with institution Presidents and administration. We were advised that the relationship between the Deputy Minister and institution Presidents was continuing to evolve with more involvement over time. Given the numerous personnel changes that have occurred at the Deputy Minister and ADM level over this period, we were told that more work needed to be done. Having a more defined communication plan and protocols would assist.

Our interviews found that, at the administrative level, there was also room to improve and clarify the communication processes. We noted that the Department does not provide a direct contact person/ liaison for institution administrators, nor the governing boards' corporate secretaries. Knowing who to contact at the Department would be useful when information is required or issues arise. Given the numerous staffing changes since the dissolution of COPSE, it would be useful if the Department provided a contact list to institution administrators with the names and responsibilities of key staff.

Institutions also deal directly with Manitoba Finance each year as part of the consolidation of the public accounts. These relationships should also be clarified, as confusion can occur for institutions as to whether requested information is for Finance or the Department. The Department's financial analyst should be a resource/link for institutions, and work closely with Manitoba Finance to understand what is being asked of institutions, in order to ensure no redundancy. As previously noted in **SECTION 3.1** (Chapter 1), concerns were raised in our interviews with respect to the amount of financial information requests received from government, some of which were perceived to be repetitive and redundant. Our review of specific examples provided by institutions found this sometimes occurred in the Department's efforts to quickly prepare ministerial briefing notes, rather than referring to previously provided information on file. Department staff should clarify the reason for such information requests, and how the information will be used.

Communication between government officials and all stakeholders within the post-secondary education system could also be improved. When the COPSE was dissolved, an Advisory Committee on Advanced Education was established to *"advise the minister on development of post-secondary strategy and new education partnerships"*. This advisory committee included various stakeholders in the post-secondary education system, and was involved in the creation of the former Government's strategy, *"Manitoba's Post-Secondary Education Strategy: A Partnership for Excellence and Student Success"*, which was released in 2015. The advisory committee was eliminated through an amendment to *The AEA Act* in June 2018, as part of an overall reduction of government-appointed boards. No alternative approach to create lines of communication or solicit input or involvement with the stakeholder community in the post-secondary education system has since been established.

We did note that the Department holds regular meetings with the Vice Presidents-Academic from all institutions through the Post-Secondary Academic Coordination Advisory Group. This practice was a continuation of the COPSE's VP-Academic Roundtable meetings.

CLEAR PROCESSES NEEDED TO COMMUNICATE AND RESOLVE ISSUES IN A TIMELY MANNER

As unforeseen issues or conflicts can always arise in any accountability relationship, having a communication plan and protocols in place prior to such issues occurring is beneficial. We found no protocols in place for when issues arise between the parties, nor when concerns or allegations regarding a particular institution are brought forward to the Minister or Department.

The communication plan should address these types of situations, noting what should be communicated with who and when. The Department should also have clear processes for resolving issues in a timely and effective manner. When there is evidence of poor performance by an institution in achieving its strategic objectives, its internal management of funds, or any other key aspect of overall performance including board effectiveness, the Minister and Department's oversight should ensure that such risks are being effectively managed within the organization. As noted in **SECTION 3** (Chapter 1), processes should be in place to request required information, discuss remedies, and develop any needed corrective action plans with timelines for resolution.

As an example, when issues and concerns regarding management practices at Red River College became a topic of ongoing media scrutiny throughout 2013 and 2014, we believe there were a number of missed opportunities for the Minister and/or the COPSE to take steps to ensure RRC's Board of Governors was appropriately investigating concerns and managing the reputational risk to the institution. Our review of the COPSE noted that ministerial briefing notes regarding RRC were prepared and the COPSE formally requested all institutions to provide copies of their expense policies, but no review or analysis was conducted nor further enquiries made with RRC. Our review of Council meeting minutes throughout this time frame also noted that no discussions were held regarding RRC and related issues. Even RRC's final operating deficit of \$2.2 million for the 2013/14 fiscal year did not result in any action being taken by the COPSE.

Throughout this period, our Office received a number of citizen concerns regarding RRC, with several individuals advising us that attempts had been made to raise concerns to the COPSE, to the Minister, and to RRC's Board of Governors. Yet no actions were perceived to have been taken by any of these bodies. The OAG requested a meeting with government officials in April 2014 to discuss our consideration of conducting an investigation on concerns received. Subsequent to this meeting, the Minister announced the province's Internal Audit Services and Civil Service Commission would conduct the *Review of Specific Financial and Human Resource Practices at Red River College*, which was publicly released in January 2015. In our view, the allegations received and the ongoing media scrutiny should have prompted more timely action to be taken by the Minister and the COPSE.



Recommendation 10

We recommend that the Minister and Department take steps to improve communication processes at all levels, especially the quality of the relationship with the Board Chairs of each institution. At a minimum, we recommend the Minister hold an annual meeting with each Board Chair and President.

- Institutions also have a role to play in ensuring a strong, mutually respectful relationship exists with the Minister and the Department. Institutions developing communication plans and protocols to keep the Minister and Department informed of emerging issues, and any new or changing circumstances that may be pertinent to government, is also important.



Recommendation 11

We recommend that the Department, in consultation with the institutions, establish protocols to address significant issues/concerns that may arise, including when allegations of wrongdoing regarding an institution are brought forward to the Minister or Department.

5.2 Lack of an effective communication process regarding board member appointments

A mutually respectful relationship requires an effective communication process with institutions regarding the Lieutenant Governor in Council (LGIC) board member appointment process. In conducting our audit, the post-secondary institutions raised significant concerns with respect to the lack of communication to institutions when new LGIC appointments were made or revoked.

We found that the Department does not incorporate any communication processes that would ensure institutions are advised of new and revoked LGIC appointments in advance of the issuance of a public press release. Letters are mailed to appointees and copied to the institution's Board Chair. The institution's President receives a letter advising of the new appointees' contact information. Revoked appointees are also sent a letter that is copied to the Board Chair. However, during this period, the press release announcing the appointments may have already been released.

Our discussions with the institutions' corporate secretaries identified numerous issues and difficulties that had arisen as a result of the lack of timely notification to institutions of new and revoked appointments. Examples included instances of hearing about new appointments from external sources or through the media. One institution noted receiving a media call requesting information on a new board member,

when they did not yet know that a new member had been appointed. Another institution noted how revocations of board members without being advised in a timely manner resulted in administrative difficulties. Corporate secretaries noted examples where they were placed in the awkward position of having to apologize on government's behalf for the inappropriate communication process.

This lack of timely notification (in some cases, even with the appointees themselves) impacts the effective functioning of the institutions' governing boards, and is not conducive to building a mutually respectful relationship with the institution. Concerns were also noted that it impacts the new board member's first impressions of the institution and creates needless difficulties in the smooth transitioning of board members. The institution being advised prior to the public announcement would allow the corporate secretaries to welcome the new member soon after the announcement is made and initiate the required administrative and onboarding processes. Further, corporate secretaries should have a direct contact person at the Department to contact for required information or when issues arise.

We discussed this issue with two other departments and a Crown corporation and found a communication process was in place to contact or advise their board-governed entities of changes in board membership, prior to the public press release being issued.



Recommendation 12

We recommend that the Department develop an effective communication process with the institutions regarding the Lieutenant Governor in Council (LGIC) appointments for board members. As part of this communication process, the Department should advise institutions in strict confidence of new board member appointments and revocations, after the Order-in-Council has received final approval and prior to the public announcement being issued.

GAPS EXISTED IN THE DEPARTMENT'S PROCESSES TO ASSIST MINISTER'S OFFICE IN BOARD MEMBER APPOINTMENTS

The LGIC appointments to post-secondary institutions' governing boards are made through Orders-in-Council (OIC), based on recommendations made by the Cabinet Committee on Agencies, Boards and Commissions (ABCs). The decision-making process is the purview of the Minister and Cabinet. However, the Department performs a number of administrative tasks to assist the Minister's office.

The Department tracked the terms of all LGIC appointees and kept a log of upcoming vacancies. A quarterly report was to be prepared for the Minister to identify pending LGIC vacancies. We found that the Department did not maintain a complete and up-to-date list of the full board membership for post-secondary institutions. The Department's tracking log only included the LGIC appointments, with no information maintained regarding board members appointed to the institution's governing board by other stakeholders.

As a result, the information that is provided to the Minister and the Cabinet Committee on ABCs was not complete, and may give a false impression of the size and composition of the institution's boards. The lack of fulsome information provided to the Cabinet Committee on ABCs may be a contributing factor to some of the board composition issues we noted in **SECTION 1.3** (Chapter 2).

There is no further involvement by the Department, until the nominee is selected through the Cabinet Committee on ABCs' decision-making process, and goes to Cabinet for Approval-in-Principle (AIP). The Department prepares the AIP documents for the Minister's office, and then works with Legal Services Branch to prepare an OIC document. The OIC is provided to the Minister, who brings it forward for final approval by Cabinet. Once finalized, the Department prepares the draft press release and the template letters to appointees discussed above, which are sent to the Minister and Deputy Minister's office for the appropriate signatures.

We also noted that the information provided on the government's website through the Agencies, Boards, and Commissions webpage may also give a false impression of the size and composition of the post-secondary institutions' boards. The information provided for each institution only lists the LGIC appointees, with no reference to other board members until later in the document. For example, the University of Winnipeg's description only lists the 10 LGIC members appointed, and it was not until the second page of the document that it is briefly mentioned that the full board complement is actually 36 members.

The OAG's 2012 report, *Appointment Process to Agencies, Boards and Commissions*, discussed the need for enhanced consultation with all ABCs to support a competency-driven appointment process. Recommendations were made to government to "contact their ABCs sufficiently in advance of term expiries to discuss the needs and requirements for new appointments/reappointments." Further, the various agencies, boards and commissions were encouraged to complete a skills/competency matrix for their board and provide the information to their Minister.

Further, advising the Minister of the composition needs of the governing boards helps ensure this can be included in the considerations of the Minister and Cabinet Committee on ABCs when appointing or reappointing board members. We found the Department does not communicate with the institutions' governing boards regarding its board member competency/diversity requirements.

As noted in **SECTION 1.2** (Chapter 2), we believe the post-secondary institutions should also take a proactive approach in providing their skills matrix and board member competency/diversity requirements to the Department well in advance of upcoming vacancies. The institutions advising the Department of any other changes in board membership resulting from the other stakeholders' appointment processes is also important, so that the Minister and the Department always have a complete list of the membership of institutions' governing boards.



Recommendation 13

We recommend that the Minister ensure information provided to the LGIC appointment process is fulsome and up-to-date, with a full list of all institution board members and their skillsets, not just LGIC appointees. To assist the Minister's office in this regard, we recommend the Department:

- Maintain a complete list of institutions' board membership, not just LGIC appointees.
- Provide complete information about the composition of the institutions' governing boards to the Agencies, Boards, and Commissions office, to ensure the Cabinet Committee on ABCs is provided a complete picture of board composition when considering appointments.
- Request institutions provide board member skills matrix and competency needs a minimum of six months prior to known vacancies, to help inform the LGIC appointment selection process.

6 Manitoba lacks central support and guidance for board-governed public sector organizations

The results of our audit caused us to review how other provincial jurisdictions in Canada support and provide guidance to board-governed public sector organizations. Our review of other jurisdictions noted that many had established central agencies or branches within central departments to provide guidance and support on governance and accountability matters that are common to board-governed public sector entities. Some examples are provided below:

- In British Columbia, the Crown Agencies and Board Resourcing Office (CABRO) provides oversight of Crown governance and corporate accountability, including overseeing the delivery of mandate letters, service plans and annual service plan reports for agencies, boards and commissions. CABRO staff establish best practices, and provide advice and recommendations for improvements to governance, accountability and performance planning and reporting by public sector organizations. CABRO is also responsible for establishing best practice guidelines for appointees to public sector organizations and coordinating the B.C. public sector board appointment process.
- In Alberta, the Public Agency Secretariat (PAS) collaborates with departments and public agencies to promote a consistent approach to public agency governance, recruitment and compensation. The secretariat provides advice, tools and templates to promote best practices in public agency governance across government. It also provides information to Albertans to increase public awareness about the role of public agencies and the value of serving on a public sector board. *The Alberta Public Agencies Governance Act* sets out governance policies to support continuous improvement in governance accountability and transparency. More recently, the PAS has also been given the authority to coordinate the recruitment function for appointments to agencies, boards and commissions.

- In Ontario, Treasury Board Secretariat's Agency Governance Branch oversees corporate policy and agency governance to support accountability, openness and modernization. *The Broader Public Sector Accountability Act* was enacted in 2010 to support accountability and transparency of all broader public sector organizations. Ontario's Public Appointments Secretariat oversees all government appointments to provincial agencies and other community boards and organizations.

Manitoba does not provide such centralized support or guidance for board-governed public sector organizations. As a result, each department is required to develop its own processes with respect to oversight and accountability of their board-governed entities. Some departments are better resourced to provide such support and focus on governance matters related to their board-governed entities, whereas some smaller departments are more limited in their ability to devote staff resources to such endeavors.

Orientation guides for post-secondary institution board members are provided in some jurisdictions, which discuss role and responsibilities, as well as provide information about the sector and accountability requirements. Specific guidance regarding key board processes is also provided, including ethics, conduct and conflicts of interest, as well as clarifying terminology regarding open/closed meetings and *in camera* sessions.

- **British Columbia's** Ministry of Advanced Education issued each board member an "Orientation for B.C. Public Post-Secondary Institution Board Members". <https://www2.gov.bc.ca/assets/gov/education/post-secondary-education/institution-resources-administration/degree-authorization/dqab/board-orientation-booklet.pdf>
- **Alberta's** Advanced Education issued "Guidelines for Board of Governors" as an introduction to board governance at Alberta's public post-secondary institutions. <https://open.alberta.ca/publications/guidelines-for-board-of-governors-members>

As previously noted, the Department's PSELMO branch which oversees post-secondary education had been reduced to five staff positions (some of which were vacant) at the time of our audit. Hence, we found there was little support or guidance provided by the Department with respect to the role and expectations for those who serve on public post-secondary institutions' boards, and little support and guidance for key accountability and performance reporting requirements such as annual reports.

Our review of other provincial jurisdictions found it was common for greater support and guidance to be provided to public sector board members. For example, orientation guides for post-secondary institution board members are provided to appointees by the responsible department (see box). In our view, some of the governance practices we noted as requiring strengthening in Chapter 2 could be improved through this type of guidance and clarity of requirements.

We noted that the Province offers a half-day general orientation training to all public sector board members appointed to agencies, boards, and commissions through the Crown Services' Board Training program. This orientation is not specific to post-secondary education governance.

We also noted that the lack of central focus and need for support in Manitoba was recognized in late 2017 in a formal request by Crown Services to create a governance networking group with representatives from all government departments. The objective of this Public Sector Governance Group (PSGG) was to encourage discussion, cooperation, and sharing of practices across departments, as well as to develop common approaches related to the agencies, boards, and commissions within their portfolios. The need for PSGG was raised by civil servants responsible for the oversight and support of public sector bodies in order to share common challenges with regards to their management and support of public sector agencies, boards and commissions. The OAG was invited to attend PSGG meetings as an observer.



Recommendation 14

We recommend that Government provide central guidance and support for governance and accountability matters that are common to board-governed public sector entities, and work with all departments and board-governed entities to adapt as needed to each unique context.



Conclusion

We concluded that the Department did not have an appropriate accountability framework in place for the oversight of public post-secondary institutions in Manitoba.

Additional information about the audit

This independent assurance report was prepared by the Office of the Auditor General of Manitoba on the oversight of post-secondary institutions by the PSELMO branch within Manitoba Economic Development & Training. Our responsibility was to provide objective information, advice and assurance to assist the Legislature in its scrutiny of the government's management of resources and programs, and to conclude on whether the Department's accountability framework for public post-secondary institutions complied in all significant respects with the applicable criteria.

All work in this audit was performed to a reasonable level of assurance in accordance with the Canadian Standard for Assurance Engagements (CSAE) 3001—Direct Engagements set out by the Chartered Professional Accountants of Canada (CPA Canada) in the CPA Canada Handbook —Assurance.

The Office applies Canadian Standard on Quality Control 1 and, accordingly, maintains a comprehensive system of quality control, including documented policies and procedures regarding compliance with ethical requirements, professional standards, and applicable legal and regulatory requirements.

In conducting the audit work, we have complied with the independence and other ethical requirements of the Rules of Professional Conduct of Chartered Professional Accountants of Manitoba and the Code of Values, Ethics and Professional Conduct of the Office of the Auditor General of Manitoba. Both the Rules of Professional Conduct and the Code are founded on fundamental principles of integrity, objectivity, professional competence and due care, confidentiality, and professional behavior.

In accordance with our regular audit process, we obtained the following from management:

1. Confirmation of management's responsibility for the subject under audit.
2. Acknowledgement of the suitability of the criteria used in the audit.
3. Confirmation that all known information that has been requested, or that could affect the findings or audit conclusion, has been provided.

Period covered by the audit

The audit covered the period between January 2010 and January 2018. It concludes on the Department's oversight practices, as at January 2018.

Date of the audit report

We obtained sufficient and appropriate audit evidence on which to base our conclusion on February 14, 2020 in Winnipeg, Manitoba.



Website: www.auditor.gov.mb.ca

CHAPTER 2
**Governance
Oversight by the
Governing Boards
of Post-Secondary
Institutions**



Website Version

Objective, scope and approach

Objective

Our objective was:

- To determine whether opportunities existed to strengthen key governance practices in place at the seven public post-secondary institutions, especially with respect to the oversight of the President.

Scope and approach

We reviewed how governance oversight was being provided by the governing boards of Manitoba's seven public post-secondary institutions. We expected strong oversight practices with respect to financial, operational and administrative matters, as well as robust accountability practices with respect to the President, who is hired by and reports directly to the governing board. Strong accountability processes for the President not only ensures effective oversight by the board, but also serves to protect the President.

We reviewed the governance and oversight processes of each institution's governing board, conducted an audit of the President's expenses, and conducted a compliance review of the President's compensation agreement. We based our governance review on the legislated requirements of each institution's statute, as well as consideration of leading board governance practices and previously-issued OAG reports on governance practices for public sector boards. We note that this review does not conclude on, nor provide audit assurance of, the overall effectiveness of each institution's governing board.

Our review was focused solely on the governance policies and practices of each institution's governing board. The governing board is responsible for the financial and operational oversight of the institution and its executive management. We did not include any academic-related matters, nor quality of education issues. Hence, we did not include any review of the academic oversight processes and activities of any of the university senates.

The public post-secondary institutions included:

- Assiniboine Community College (ACC)
- Brandon University (BU)
- Red River College (RRC)
- Université de Saint-Boniface (USB)
- University College of the North (UCN)
- University of Manitoba (UM)
- University of Winnipeg (UW)

We note that, like most universities in Canada, Manitoba's universities operate under a bi-cameral governance structure where authority for academic matters rests with a university senate (or academic council), and authority over financial, operational and administrative matters rests with a governing board. This shared governance structure is unique to universities and serves to facilitate the important principles of academic freedom and academic integrity. University senates generally deal with matters such as admissions policy, curriculum, degree requirements and granting of degrees. Section 2(6) of *The Advanced Education Administration Act* specifies that the Minister "may not interfere with: the basic right of a university or college to formulate academic policies and standards; the independence of a university or college in fixing standards of admission and of graduation; and the independence of a university or college in the appointment of staff."

We initiated this governance review as a result of several factors, including the issues and concerns regarding management practices at Red River College which became a topic of ongoing media scrutiny throughout 2013 and 2014. In April 2014, the Minister announced the *Review of Specific Financial and Human Resource Practices at Red River College* and issued its report in January 2015 (Provincial Review). In May 2015, the Minister of Manitoba Education and Training (the Department) announced new legislation for RRC "to ensure appropriate spending and financial oversight" and to "strengthen accountability, transparency and governance at the college." *The Red River College Act* was proclaimed in June 2015.

Our Office had received a number of citizen concerns regarding RRC throughout this same time period. Several of the individuals advised us that attempts had been made to raise concerns internally to the RRC Board of Governors, as well as externally to the Minister and to the COPSE. Yet no actions were perceived to have been taken by these bodies. Given the increasing number and seriousness of the allegations raised to our Office, we requested a meeting in April 2014 to advise government that we were considering an audit of RRC. Subsequent to this meeting with government officials, the Minister announced the Provincial Review to be conducted by Internal Audit Services and the Civil Service Commission.

As the Provincial Review had not included a review of governance oversight by RRC's Board of Governors, we chose to conduct a detailed governance examination of the oversight practices of RRC's Board of Governors, both during the tenure of the former President (2010-2014), and any changes made after the issuance of the Provincial Review. Our examination was initiated in September 2015, with fieldwork conducted from January 2016 to October 2016. Our scope period for the examination was the five-year period from January 1, 2010 to January 1, 2016.

In conducting our initial governance examination at RRC, we:

- Reviewed all available governance documentation, including by-laws, policies and procedures, as well as organizational documents such as strategic plans, annual reports, financial statements, etc. We also reviewed board orientation manuals, and any governance training materials provided to board members during the scope period.
- Reviewed all available board and committee meeting minutes, as well as the board packages and materials provided to board members.

- Interviewed selected management and staff to obtain their opinions and perspectives, and examined supporting documentation provided, as well as analyzed governance documentation, to support oral comments. We also interviewed current and former RRC employees who contacted us.
- Interviewed 20 of 22 current and former board members who served on RRC's Board of Governors between 2010 and 2016. We also interviewed all external members of RRC's Investment Committee who served during our scope period.

Our governance examination identified key risk factors and weaknesses in oversight that we believe contributed to the challenges faced by RRC's Board of Governors. In our view, many of the governance challenges noted at RRC during that time period tend to be common issues for boards of directors within the public sector, especially with respect to strengthening the board's oversight practices related to the most senior executive within the organization. Rather than issue a report solely on RRC, we chose to expand our work to conduct a review of the governance practices of all seven public post-secondary institutions' governing boards. Our review did not include the Manitoba Institute of Trades and Technology as it was primarily funded through the Public Schools Finance Board (K-12 funding), and did not have an accountability relationship with the Department's Post-Secondary Education and Labour Market Outcomes (PSELMO) branch.

In September 2016, we advised the seven institutions that we would be undertaking an expanded review. After initial meetings with each institution throughout the fall of 2016, we conducted our fieldwork throughout 2017 and 2018 at each institution in turn. This included returning to RRC after completing fieldwork at each of the other institutions, to conduct similar review procedures. As detailed below, the scope period for our audit work varied slightly depending on the subject matter but generally encompassed the two-year period of 2015 and 2016.

Our expanded review of the seven public post-secondary institutions included work in the following three areas:

1. We reviewed the key board governance practices adopted by each institution to enable its board to fulfill its governance requirements and oversight functions. Our scope period for this review was September 2014 to January 2017. Our procedures consisted of:
 - Review of all available governance documentation, including by-laws, policies and procedures, as well as organizational documents such as strategic plans, annual reports, and financial statements. We also reviewed board orientation manuals, and any governance training materials provided to board members during this period.
 - Analysis of all available board and committee meeting minutes, as well as review of the board packages and materials provided to board members.
 - Numerous meetings and discussions with the position in the institution fulfilling the role of corporate secretary. We also spoke to other management staff as required that had direct dealings with the board (for example, the Internal Auditor, if the position existed).

- Attendance at one or more board meetings held while we were conducting fieldwork at the institution.
 - Interviews with the Board Chair and/or former Board Chair. For some institutions, we also interviewed other selected board members, as deemed necessary.
2. We examined the President's employment agreement and compensation package to ensure compliance with the contract clauses and provisions, and confirm board oversight was being provided. Our procedures consisted of:
 - Verification of the processes and procedures the institution had in place to support compliance with the agreement provisions.
 - Examination, where practicable, of the activities of the President related to the agreement provisions.
 - Interviews with the Board Chair related to their involvement in providing appropriate authorization where required, and oversight of the President's employment agreement.
 - Review of compensation paid to the President in 2015 and 2016, and its disclosure under *The Public Sector Compensation Disclosure Act*.
 3. We conducted an audit of the President's expenses to ensure compliance with the institution's policies, and whether appropriate board oversight was provided. Our audit procedures consisted of:
 - Review of the institution's policies related to travel, hospitality and expenses.
 - Assessment of the design and implementation of controls relating to the President's expense claims.
 - Examination of the President's expenses over a two-year period (January 1, 2015 to December 31, 2016) to ensure appropriate approval, and attachment of sufficient and appropriate supporting documentation. We note that for some institutions, the volume of transactions required a sample be selected for audit. We used an initial random sample, with additional transactions selected as we deemed necessary. As our review was not designed as a forensic audit, we provide no assurance that fraudulent or inappropriate expenses do not exist.
 - Review of the publicly reported disclosures of President's expenses for accuracy and completeness, at those institutions that provide online reporting.

We brought any significant concerns or issues noted during our review to the institution's attention at the time of our fieldwork. We observed that in most cases, institutions took steps to address our concerns on a timely basis. At the end of our fieldwork, we discussed our findings verbally with our designated institutional contacts. After concluding our work at all seven post-secondary institutions and the Department, we provided each institution with a detailed findings document in September 2019 that included suggestions for improvement.

The findings reported in this chapter reflect the governance practices and documentation in place during our specified scope period for each aspect of our review. We note that since the time of our review, some institutions have made changes to their governance practices to incorporate many of our suggested improvements, so many of the concerns noted in the following chapter may already be adequately addressed. We provided the Department with each institution's detailed findings document, and recommend the Department follow-up on the actions taken by each institution (**RECOMMENDATION 18**).

We acknowledge the excellent co-operation and support received from the institutions' Presidents and management staff throughout our review, and the willingness of all Board Chairs to meet as requested at various stages throughout our review. We especially wish to acknowledge the support and cooperation of RRC throughout the entire project, and we note that ongoing improvements were made to their board practices throughout each phase of our work. We particularly thank the many former board members for their time and cooperation in meeting with us, and their frank and open discussions about a challenging time. Their key insights and learnings from dealing with critical board issues made a significant contribution to our work, and their ongoing care and commitment to RRC was evident.



Post-secondary institutions' governing boards need to modernize governance practices and strengthen oversight

Effective governance and oversight practices by the board are a key component in ensuring that public sector organizations are well run, operate within their legislative mandate, avoid inappropriate risks, and provide services to the citizens of Manitoba in an efficient and effective manner. All governing boards in the public sector are expected to provide rigorous oversight of the financial and operational performance of their organization, and to hold their CEO/President/Executive Director accountable for performance. Given the provincial funding provided to post-secondary institutions, their governing boards serve the same critical role of stewardship, leadership and safeguarding the best interests of the organization on behalf of all its stakeholders, including the citizens of Manitoba.

While we discuss common governance issues for all institutions in this report, we recognize that each institution differs in size, governance structure and board composition. Universities are also unique from colleges in that they operate under a bi-cameral governance structure where authority for academic matters rests with a university senate, and authority over financial and operational administration rests with a governing board. As previously noted, our review is focused solely on the governing boards' governance and oversight practices. We did not include any academic-related matters and quality of education issues, nor the oversight practices of any university's senate.

Our expectations of post-secondary institutions' governing boards are similar to what we expect of all board-governed entities, that rigorous oversight is being provided of the financial and operational performance of the organization and its executive management. One of the most important responsibilities of an institution's governing board is ensuring that robust accountability processes

As has been noted in each of the OAG's past governance reports, there is no one-size-fits-all approach to effective governance in the public sector. While the expectation of strong oversight is the same, a board of directors can decide to fulfill its governance responsibilities and functions in a variety of ways, so each board must exercise judgement in developing and carrying out its role in a manner that ensures its due diligence and oversight responsibilities are fulfilled. Further, governance practices are constantly evolving, and the expectations and ethical requirements of boards have changed considerably in recent decades. What was previously considered acceptable governance practices may no longer reflect modern standards for good governance by an oversight board.

2009 OAG report, Study of Board Governance in Crown Organizations, www.oag.mb.ca

are in place with respect to the President, who is hired by and reports directly to the governing board. Strong accountability processes for the President not only ensure effective oversight by the board, but also serves to protect the President. The governing board cannot abdicate its responsibility to hold the President accountable simply because members trust or admire their President. Such 'blind trust' without appropriate accountability serves neither the board nor the President, and most importantly fails the organization's external stakeholders on whose behalf the board governs. Having appropriate accountability processes in place is the board's assurance that their trust in the President is well-founded.

When issues or allegations related to the President or any senior executive are brought to the board's attention, the board has a responsibility to ensure that an appropriate, independent review is conducted as quickly as possible. This ensures any concerns are appropriately resolved, and weaknesses in accountability processes are identified and corrected. Any issues related to the President can cause significant reputational risk to the organization, and such risks require board involvement, no matter how seemingly insignificant the issue may initially appear.

We concluded that there is a need to modernize and strengthen key governance practices at the public post-secondary institutions, to ensure the governing board's oversight functions are being appropriately fulfilled, especially with respect to oversight of the President. As discussed in the following sections, our conclusion is based on:

- Government appointments to institution boards are not timely; A review of legislative provisions regarding board member appointments is needed (**SECTION 1**).
- Stronger governance practices are needed to enhance board oversight (**SECTION 2**).
- Accountability reporting requires significant improvement (**SECTION 3**).
- Boards must ensure compliance with Presidents' employment agreements (**SECTION 4**).
- Board oversight of Presidents' expenses needs improvement (**SECTION 5**).

1 Government appointments not timely; Review of legislative provisions regarding board appointments needed

Legislation establishes the size and composition of all the public post-secondary institutions. The governing boards of post-secondary institutions vary widely in size, with the largest being 36 members at University of Winnipeg. The two colleges have the smallest boards, with legislation allowing a range of 10–12 members at Assiniboine Community College, and 11–17 members at Red River College (see box).

While we were advised that large boards are quite common for universities across Canada, leading governance practices suggest smaller boards as being more effective in providing governance oversight of an organization's strategic and financial performance. As noted in prior OAG governance reports, overly large boards are not conducive to all members fully participating or having the opportunity for significant input into matters before the board. Further, it would be an understandable challenge for any Board Chair to facilitate an effective and efficient board meeting that ensures all members' perspectives are heard and considered in decision-making.

Legislated size of institutions' governing boards:

- University of Winnipeg: 36 members
- University of Manitoba: 23 members
- University College of the North: 20 members
- Brandon University: 17 members
- Université de Saint-Boniface: 15 members
- Red River College: 11–17 members
- Assiniboine Community College: 10–12 members

The composition of the governing boards and the number of internal and external stakeholders given the opportunity to appoint to post-secondary institutions also varies considerably. For the two colleges, all board members are appointed by government. For the other institutions, government appoints between 28% and 59% of total board membership, with other education stakeholders and/or community organizations given the opportunity to directly appoint the remaining board members.

Regardless of which stakeholder is making the appointment, it is important that the process occur in a timely manner, as a governing board cannot function effectively if hindered by vacancies or does not have a full complement of members with the required skillsets and diversity of perspectives. Government's appointments for all public post-secondary institutions occur through the Lieutenant Governor in Council (LGIC) appointment process, which is discussed in **SECTION 5.2** (Chapter 1).

As detailed in the following sections, our review found:

- The timeliness of LGIC appointments requires improvement (**SECTION 1.1**).
- Institutions can contribute to the appointment process by sharing their skills matrix and competency needs with the Minister (**SECTION 1.2**).
- There is a need to review legislative provisions regarding board member appointments, including the size and diversity of governing boards (**SECTION 1.3**).

1.1 Timeliness of LGIC appointments requires improvement

All board member appointments must occur in a timely manner for the board to function effectively in fulfilling its oversight role and governance functions. This is especially true of the LGIC appointments which may be all or a significant portion of the board. Frustration was expressed by many institutions with respect to the lack of timeliness of the LGIC appointment process.

"Given the considerable impact that agencies, boards and commissions (ABCs) potentially have on all Manitobans, it is important that the appointment process be well managed and that appointments be timely. Deficiencies and/or delays in the appointment process could significantly impact the effective functioning of the ABCs. It may even discourage committed, qualified individuals from accepting appointments or renewals of their terms."

2012 OAG report, Appointment Process to Agencies, Boards and Commissions, www.oag.mb.ca

Our review of legislation for post-secondary institutions noted that there is a lack of consistency with respect to how expired terms are handled. For almost all institutions, LGIC members continue to serve in their appointment even if their term has expired, until an Order-in-Council (OIC) is issued that reappoints or revokes the member or replaces the appointment with another member. However, the term provisions within Section 9(5) of *The Colleges Act* specifies that an expired member can only serve for a maximum of three months past their OIC expiry date. If the appointment process is delayed beyond that time period, the board is left with a vacancy, which hampers governance effectiveness and may create issues such as difficulty attaining quorum. There is no three-month time limit for board members of any other post-secondary institutions.

- Of most significant concern during the scope period of our review was the considerable time delay in appointments being made to the board of Assiniboine Community College (ACC). While other institutions also experienced delays in appointments, the issue was most pronounced at ACC, as board vacancies had accumulated to the point that only three out of 12 members remained on the board, with no Board Chair in place. ACC's Board of Governors had already operated most of the 2016-17 academic year without its full complement of board members. This obviously has a significant impact on the board being able to fulfill a meaningful governance oversight role. In our view, the lack of appointments for such a long period of time creates the impression that having a functioning board is not a priority of government.



Recommendation 15

We recommend that the Minister ensure LGIC appointments to post-secondary institutions occur in a timely manner, as a board cannot govern effectively if it is hindered by vacancies and does not have a full complement of diverse members with the required skillsets. Legislative inconsistencies regarding expired terms should be reviewed.

1.2 Institutions sharing skills matrix/competency needs can contribute to appointment process

Regardless of the appointment process, leading governance practices suggest that boards take a proactive approach in recruitment by identifying any skills gaps or required board member competencies. The development of a skills matrix or competency inventory outlining the specific skills, experience and backgrounds represented on the board, and those required or preferred in future board members, can provide useful information for future appointments. Using a skills matrix is especially important for those institutions that have the opportunity to self-select members for appointment to their boards. These members should be selected to bring skillsets to the board that are not fulfilled in the appointments made by the external stakeholders.

Sharing the board's composition needs with the Minister, as well as any other external stakeholders who make appointments, will help to inform and hopefully attain the required skillsets on the board. While the specific choice of individual appointed appropriately rests with the stakeholders making the appointments, the post-secondary institutions can take a proactive role to help inform the selection process by providing the Minister's office with their skills matrix and competency/diversity requirements a minimum of six months prior to scheduled vacancies. Providing several names of qualified potential candidates for consideration may also be useful information for the Minister's office. Such enhanced consultation between the governing boards and the stakeholders who make appointments helps foster a competency-driven appointment process that can contribute to board members being recruited with the diverse mix of skillsets and competencies that best suit the needs of the institution.

"Recognizing the political nature of public sector appointments, the specific choice of individual to fill the position appropriately rests with the Minister. ...While there is certainly no onus on the Minister to appoint according to the institution's preferred skillsets/competencies, the provision of such information to the Minister ensures s/he is aware of any skills gaps or requirements of the institution. This may enhance the likelihood of attaining members with such skillsets in a current or future appointment."

2012 OAG report, *Appointment Process to Agencies, Boards and Commissions*, www.oag.mb.ca

Many institutions expressed frustration with the LGIC appointments not providing the required skillsets and competencies for their governing board. However, we found that formal processes for advising the Minister of needed skillsets were not in place at most institutions, and that the development of skills matrices/competency inventories outlining composition and skills gaps was not being done at most institutions.

- Our review found only two institutions had a consistent approach to completing and using a skills matrix, and identifying competency gaps. One of these institutions had the opportunity to self-appoint external members and we noted the skills matrix contributed to the selection of appointees who brought required competencies to the board. Most institutions had either just started the process at the time of our review, or did not use it consistently.

- No institution at the time of our review shared its skills matrix or competency inventory with the Minister. We did find past evidence of some institutions writing to the Minister requesting general competencies (for example, prior board experience or financial expertise), or requesting diversity requirements (for example, representation from a particular geographic area, or a specific demographic).
- We noted that legislation for RRC and UCN required specific characteristics be considered by government when making appointments. It was not clear from appointments made during the period we reviewed how these requirements were being fulfilled.
- Article 5(2) of *The University College of the North Act* states: “The Lieutenant Governor in Council must give due regard to the Aboriginal composition of northern Manitoba when appointing members...”
- Article 5(2) of *The Red River College Act* states: “In recommending persons to be appointed..., the minister is to consider the need of the board as a whole to (a) reflect the diversity of educational and community interests of its student population and the places from which they come; and (b) have appropriate experience and expertise in the areas of Red River College’s mandate, as well as the area of financial management.”



See **Recommendation 13** in section 5.2 (Chapter 1)

Advice provided to post-secondary institutions:

We advised institutions to adopt a more proactive approach in providing the Minister their composition needs and skills matrix a minimum of six months prior to scheduled vacancies. This requires all institutions to annually update their skills matrix and identify any gaps in needed competencies. If applicable, it should also be provided to the other external stakeholders who make appointments to the institution's governing board.

- Institutions should also advise the Department of any changes in board membership resulting from other appointment processes or any unscheduled vacancies that may occur, so that the Minister and the Department always have a complete list of institutional board membership.

1.3 Need to review legislative provisions regarding board appointments, including size and diversity of governing boards

All governing boards require a diverse mix of experience, perspectives, and professional backgrounds to enhance the board's deliberations. The size of a board should allow for adequate representation of diverse perspectives, but not be so large as to be unwieldy or make decision-making cumbersome. Overly large boards can create a number of issues which are not conducive to effective board governance (see box).

Government appoints all or a large amount of the board members at each of the public post-secondary institutions through the LGIC appointment process. The full composition of the seven institutions' governing boards is set within each institution's statute (see **APPENDIX A**). For the two colleges, the LGIC appoints all board members, including the employee member (selected by college employees) and the student member (selected by the student association). For universities and the university-college hybrid institutions, the LGIC only appoints some board members, with various internal and external stakeholders directly appointing the other members of the board. These may include:

- The alumni associations appointing or electing graduates of the institution.
- The student union/association appointing current students.
- The university senate electing members of senate to the board.
- Internal employees that are appointed/elected at some institutions to represent particular stakeholder groups.
- External community organizations that are provided the opportunity to appoint board members to some institutions. For example, the United Church of Canada appoints 10 members to UW's governing board, and the Société franco-manitobaine and the Archdiocese of Saint Boniface appoint two members each to USB's governing board.
- The two university-college hybrid institutions' boards (USB and UCN) that can self-appoint two external members. UCN's Council of Elders also appoints a member to UCN's governing board.

Regardless of how appointed or elected to the governing board, the board member has a fiduciary duty to serve in the best interest of the institution overall, and not solely to represent the interests of the stakeholder group that appointed them.

Overly large boards can negatively impact governance effectiveness, and may lead to deterioration in the overall board fully performing its oversight role. Studies indicate that too large a board limits individual member input and hampers effective decision-making. One of the key concerns with overly large boards is the creation of smaller subsets of the board (for example, an Executive Committee) that become the *de-facto* board, making all significant decisions, and thereby relegating the full board to ratifying pre-made decisions.

2009 OAG report, Study of Board Governance in Crown Organizations, www.oag.mb.ca

Our review of the size and composition of the institution's governing boards noted a number of issues and legislative inconsistencies.

- Our review found the governing boards at three institutions to be particularly large in size: University of Winnipeg at 36 members; University of Manitoba at 23 members; and University College of the North at 20 members. At 36 members, UW's Board of Regents is the largest public sector governing board in Manitoba.
- UM and UW also include official observers at board meetings, referred to as Assessors at UM and Observers at UW. UM's two Assessors represent the University of Manitoba Faculty Association, and the Support Staff. UW's four Observers represent the University of Winnipeg Faculty Association, the Association of Employees Supporting Educational Services, the International Union of Operating Engineers, and the Public Service Alliance of Canada. These official observers are provided the opportunity to speak to matters before the board, as necessary (UM) or upon approval of the Chair (UW), but do not have voting rights on the board. This means that up to 40 individuals at UW may potentially speak to the governance matters brought before the board, and up to 25 at UM.
- UCN has a unique tri-cameral governance system that also includes a third body called the Council of Elders (see **APPENDIX A**). Elders provide guidance to UCN's Governing Council and Learning Council by sharing traditional knowledge of wisdom, beliefs, and values in a respectful and caring way. The large size of UCN's Governing Council at 20 members, along with the Council of Elders that may consist of up to 17 members, results in potentially 37 members who may speak to governance matters.
- Legislation for the two colleges specifies that government selects and appoints the institutions' Chair and Vice-Chair through the LGIC process. For UCN, the Board Chair is appointed through the LGIC process, but the governing board has the opportunity to self-select its Vice-Chair. For all other institutions, the governing boards have the privilege to elect one of its members to serve as Chair and another to serve as Vice-Chair. Governing boards who have the opportunity to self-select their own Board Chair and Vice-Chair must ensure that positions are filled in a timely manner. At the time of our review, we found one institution had not appointed a Vice-Chair in either 2016 or 2017, which is inappropriate and not in compliance with by-laws. The position of Vice-Chair is to act as an alternate to the Board Chair and can be an excellent development opportunity for a board member, even if the individual is not prepared to initially commit to becoming Board Chair in future.
- Regardless of the appointment process that selects the Board Chair, an effective working relationship should exist between the Minister and each institution's Board Chair. Our interviews with current and former Board Chairs noted that there was little to no relationship with the Minister, with some having never met the Minister. As noted in **SECTION 5.1** (Chapter 1), we found the Minister's relationship with the institutions' Board Chairs needs to be enhanced.
- Our review noted that all institutions' legislation provides the student union/association the opportunity to appoint a certain number of students to the board (ranging from one to four). We further noted that the legislation requires government, and in some cases other external stakeholders, to also appoint current students within their allotments (ranging from one to three). As legislation already provides for

current students to be appointed through other stakeholder appointment processes, the requirement for the LGIC to also appoint further current students within their allotment may not be needed. As students are appointed for one-year terms, this level of turnover creates administrative burden to the LGIC process which adds costs, not only in the annual administrative and legal costs of producing Orders-in-Council, but also in the time spent by the Minister and Cabinet Committee on ABCs in making appointments. In order to supplement the diverse mix of skillsets, experience and perspectives, the full LGIC allotment should be used to appoint external members to the governing boards.

- Our review noted that *The University of Winnipeg Act* was unique in specifying that the UW Student Union President must be an ex-officio member (ex-officio meaning "by virtue of position"). In all other legislation, the choice is fully provided to the student union/association, which can then decide whether to appoint its president or not. While it is common for student union presidents to be selected, there may be instances where the student union may choose other members for appointment, given the significant inherent conflict of interest that exists for a student union president whose primary duty must be to act on behalf of and advocate in the best interests of the students. In some situations, this may lead to an unresolvable conflict of interest with their fiduciary duty as a member of the governing board to act in the best interests of the institution overall.
- Our review noted that all university legislation provides the university senate the opportunity to elect members to the governing board (ranging from one to four). During the scope period for our review, we noted that government had also appointed an internal faculty member within its LGIC allotment to serve on an institution's governing board. As legislation already provides for several faculty members to be appointed through other stakeholder appointment processes, the need for the LGIC to also appoint internal faculty within their allotment was not clear. In order to supplement the diverse mix of skillsets, experience and perspectives, the full LGIC allotment should be used to appoint external members to the governing board.
- We found *The University of Winnipeg Act* was unique in requiring the appointment of a senior academic administrator to the board as a full voting member. This was held by UW's Vice-President (Academic) at the time of our review. Having a member of the executive management team who is in a direct reporting relationship to the President serve as a full voting member of the governing board which hires and fires the President is not aligned with good governance practices. Accountability relationships are muddled by having internal executives serve as voting members of the governing board.
- For the two colleges, legislation designates the President as an ex-officio, non-voting board member. However, for the other five institutions, legislation lists the President as a board member, and while some legislation specifies this is an ex-officio appointment, none specifies that it is non-voting. Hence, we found all university Presidents serve as voting board members of the governing board. We were advised that this is a long-standing tradition and common practice among Canadian universities. We note, however, that as the institution's most senior executive position, the President is hired by and in a direct reporting relationship to the governing board. The governing board's oversight role requires it to hold the President accountable for the performance of the institution and all financial

and organizational matters. The President cannot provide oversight of herself/himself in this regard, and should not. Hence, serving as a voting member of the governing board to whom they are directly accountable, creates an inherent conflict for the President, which muddles the accountability relationship.

- During our attendance at some institutions' board meetings, we witnessed instances where the President first spoke to specific proposals or recommendations that she or he brought forward. The President then moved and/or seconded that proposal on behalf of the board. This is inappropriate. This was followed by the President voting in favor of the proposal. Given that the President and their executive management team are responsible for all management recommendations and proposals put forward to the board, the President should not formally move nor second the board motions on their own proposals. The President's vote on all such proposals, by definition, can be assumed to be "in favour".

Under the **bi-cameral governance structure** of universities, the President serves as a voting member of the governing board and a voting member of the university senate. The President serves as the Chair of Senate. We note that the accountability issue discussed in this section does not arise with respect to the President serving as a voting member of senate, as the President is not in a direct accountability relationship with the senate. However, with respect to the governing board who hires, evaluates, and when needed terminates the President, the President is in a direct reporting relationship to the governing board. The governing board's oversight role requires it to hold the President accountable for his or her performance.

- Institution's legislation often designates the President as an ex-officio member of all board committees. We noted that for universities and the university-college hybrid institutions, legislation was silent on the President's voting on committees. However, we found the by-laws or governance policy manuals at most of these institutions designated the President as a voting member of all committees. Leading practices suggest that the senior executive should be a non-voting, ex-officio member of board committees. Further, leading practices for audit committees require members to be external and independent of management, so the President should not be a member of the audit committee. We found only one university did not include the President as a member of the Audit Committee. At another institution, the President was a member of the Audit Committee but it was specified as non-voting. All other Presidents were voting members of the Audit Committee, which is not aligned with good governance (see **SECTION 2.6** below for further discussion). During our attendance at one institution's Audit Committee meeting, we witnessed the President moving or seconding committee motions, which is highly inappropriate from a good governance perspective.



Recommendation 16

We recommend that the Minister work in consultation with post-secondary institutions to review the legislative inconsistencies regarding board member appointments, in order to ensure legislation continues to meet the unique context and composition needs of each institution, including the appropriateness of the legislated size of the institutions' governing boards.



Recommendation 17

Given current students and faculty members are already represented on the institutions' governing boards through other stakeholder appointment processes, we recommend that the full allotment of LGIC appointments be used to appoint external board members that bring a diverse mix of skillsets, perspectives, experience and professional backgrounds to the board.

Advice provided to post-secondary institutions:

In recognition of the inherent conflict of Presidents serving as voting members of the governing boards, we advised all governing boards to ensure processes are in place to appropriately manage issues related to the President's accountability relationship. At a minimum, the President should not formally move nor second the board motions on their own proposals. Presidents should also take care to ensure they recuse themselves from any matter that may lead to any perception of conflict of interest (for example, recusing themselves from the discussion of their performance evaluation, or decision taken on any annual raises or performance pay).

2 Stronger governance practices needed to enhance board oversight

Our review of governance practices at the seven public post-secondary institutions focused on key governance practices that we considered to be important for effective oversight by a governing board. Our review included the key risk factors in governance oversight that we identified in our initial governance examination of RRC, some of which are summarized below. In our view, many of the governance challenges noted tend to be common issues for public sector boards, especially with respect to strengthening the oversight practices related to the most senior executive within the organization.

Our review concluded that there is a need to modernize and strengthen governance practices at all post-secondary institutions, to ensure the governing boards' oversight functions are being appropriately fulfilled. As detailed in the following sections, we found:

- Orientation and ongoing governance training can be improved; Enhanced training required for Board Chairs (**SECTION 2.1**).
- Conflict of interest disclosure processes require strengthening (**SECTION 2.2**).
- Board by-laws and governing policies are not kept up-to date; Governance approach requires review at two institutions (**SECTION 2.3**).
- Lack of appropriate use of *in camera* sessions at many institutions (**SECTION 2.4**).
- Board minutes are not appropriately maintained at some institutions; Consent agenda practices require improvement (**SECTION 2.5**).
- Comprehensive review of committee structure needed at all institutions (**SECTION 2.6**).
- Need to strengthen strategic planning as well as oversight of risk, human resources, and board expenses (**SECTION 2.7**).
- Corporate secretary relationship with board best recognized through a dual reporting structure (**SECTION 2.8**).
- Board evaluation processes require improvement (**SECTION 2.9**).

ACTIONS IN RESPONSE TO DETAILED FINDINGS REQUIRE DEPARTMENT FOLLOW-UP

Each institution was provided detailed findings specific to its governing board, along with our suggested improvements to strengthen governance practices, some of which are provided in the following sections. We also provided the Department with each institution's detailed findings document in order to enhance their support and oversight of institutions in ensuring follow-up actions are taken. We note that since the time of our review, some institutions have made changes to their governance practices to incorporate many of our suggested improvements.



Recommendation 18

We recommend that the Department obtain action plans from institutions and follow-up on the actions taken to address the areas for improvement highlighted to each institution in our detailed findings. We further recommend the Department obtain specific explanations and business rationale for any areas not acted upon or not implemented in a timely fashion, and ensure alternative approaches are consistent with good governance expectations.

Summarized findings of our initial governance examination of RRC

Our detailed governance examination of the oversight practices of RRC's Board of Governors was initially conducted to assess governance processes over a five-year period (January 1, 2010 to January 1, 2016), in order to understand the challenges and issues faced by the board at that time. We invited all RRC board members throughout that period to discuss their key insights and learnings on what worked well for the RRC board, as well as their suggestions for improvement in practices. Our discussions with the former board members, as well as RRC management and staff, identified several opportunities to strengthen governance practices. Along with our review of governance documentation and the quality of information provided to the board, we identified key risk factors in governance oversight that we believe contributed to the challenges faced. These findings led to the areas we reviewed at the other public post-secondary institutions.

- The importance of board member training was noted by many former board members as a constructive way to improve board functioning. Enhancing governance skills with respect to financial literacy, conducting performance evaluations, and risk management issues including capital projects oversight were some examples of suggested training areas. Although general orientation was provided, no financial orientation was provided to assist members in understanding the institution's financial statements and budgeting processes. We noted that the board's Planning Committee had been delegated the responsibility for board education in early 2012, but did not meet regularly nor consider any education plans for the board after November 2012.
- RRC board members were required to fill out a conflict of interest declaration form annually which is a good practice. We found that prior to 2016 not all board members completed the declaration form annually. Former board members also raised some concerns with respect to conflict of interest practices, including that a former board member was perceived as having a conflict of interest that was not declared in meetings or in their conflict of interest declaration form. Further, conflict of interest issues with respect to the former President were not disclosed nor discussed by the board. Our examination noted that conflict of interest declaration forms were not required to be completed by the President.

- Many board members were not clear on the “modified” Policy Governance® model that was used by RRC’s Board of Governors. We found that few board members had received formal training in Policy Governance®, so many were not clear what modifications had been made nor how it impacted the approach. RRC adopted the Policy Governance® model in 1998, but modified the approach in 2006. During the period we reviewed, significant further modifications were made to the approach, including amending board policies to “enabling” versus “limiting” language in 2011/2012, and initially lessening, then fully discontinuing, policy monitoring reports by 2014. These type of modifications serve to denigrate the integrated principles and tenets of the Policy Governance model (see box). Our interviews noted that about half of former board members had some concerns with this governance approach, and some members expressed frustration at not receiving appropriate or sufficient information during that period.

The Policy Governance® model is “an integrated set of concepts and principles that describes the job of a governing board.” Developed by Dr. John Carver, the model “separates issues of organizational purpose (Ends) from all other organizational issues (Means), placing primary importance on those Ends.” Along with Ends Policies, the board develops policies for: Governance Processes; Board–CEO Linkage (i.e., relationship); and Executive Limitations.

As noted in prior OAG reports, caution must be taken by organizations who choose to modify or tailor the Policy Governance model. As per the Policy Governance website, “Because Policy Governance is a set arrangement of concepts and principles, if modified it is no longer Policy Governance. ...people tend to alter this and that segment so that it loses its coherence; that is, there is a tendency to ‘cherry pick’ and thereby to destroy the soundness of the design... using parts of the system can result in inadequate or even undesirable performance.” www.carvergovernance.com

- Not providing the opportunity for board members to meet *in camera* was identified by several former board members as contributing to the challenges faced. An *in camera* session is one in which only the board members are present, without any management or staff of the organization. Our review of board minutes throughout this period noted that although sessions were sometimes held at board meetings that were labelled as *in camera*, the former President and the corporate secretary position were always included in these sessions.
- The structure and functioning of the board’s standing committees was poor during this period. Only the Executive Committee met regularly. The Planning Committee, which was a legislative requirement, held only two meetings between 2012 and 2016, although required to hold a minimum of four meetings annually. The Administration Committee (previously the Finance and Administration Committee) held only three meetings between 2012 and 2016. The Audit Committee only met once per year for the annual meeting with the external auditor to review the audited financial statements. RRC’s Audit Committee did not keep meeting minutes. The Audit Committee Chair wrote a memo to the Board of Governors after each meeting that contained the committee’s recommendations. RRC’s Investment Committee was not considered to be a board committee, but rather a “President’s Committee”. Board members were not aware of their oversight responsibility with respect to this committee, and members to the committee were appointed by the President.

- Given the size and financial revenues of RRC, we found it noteworthy that an internal audit position had not existed since 1999, and was not considered necessary by the board. When issues arose with respect to the expenses of the former President, an internal auditor could have conducted an investigation on behalf of the board. The board could also have contracted an external audit services provider to conduct an independent review. Instead, the review of the former President's expenses was conducted by two members of the Audit Committee, who reviewed expense claims with the assistance of Finance staff, including the Vice-President, Finance & Administration. Although well-intentioned in reviewing all expense claims, this approach did not include members with the audit experience and financial designations necessary to effectively conduct this type of expense review. We noted that five recommendations were made by the Audit Committee as a result of this review, and although approved by the board, not all of these recommendations were implemented. We believe that had an appropriate, independent audit been done of expenses at that time, the process weaknesses or expense issues would have been more quickly identified.
- Our examination noted the former President's employment agreement included a discretionary allowance of 4% of annual base salary (approximately \$10,000 per year). Our interviews with staff and former board members noted a lack of clarity existed with respect to the implementation of this discretionary allowance and what was to be included within it. No policy or procedures existed to clarify the various interpretations of its use. The Audit Committee's review of expenses did not consider the discretionary allowance contained within the employment agreement. Our examination noted that even though the discretionary allowance was paid to the former President, expense claims were submitted and reimbursed for personal items that could have reasonably been included within such an allowance.
- The level of turnover at the executive and management level was high during the scope period reviewed, resulting in significantly higher severance liabilities than previously experienced at RRC. As per the Provincial Review, there had been eight Separations of Employment at the management level within four years that included negotiated severance payments totaling \$639,142.46, which... *"appears to be a high number given the size of the executive level of the organization... [and] when compared to the number of similar terminations administered within the five years prior."* Our interviews with former board members serving during that time period noted that many were unaware of the full extent of turnover occurring within the institution, and no information was provided to the Board of Governors regarding the resulting severance costs and financial impacts to the institution.

2.1 Orientation and ongoing governance training can be improved; Enhanced training required for Board Chairs

Serving on a public sector board often brings different challenges than serving on private sector or non-profit boards. Every public sector board is unique, and no matter how much prior board experience a member may bring, they do not arrive pre-trained on a particular organization's governance practices and organizational context. As well as understanding the legislation and public policy impact of public sector organizations, the sheer size and scale of budgets, revenues and capital expenditures for some public sector boards (such as post-secondary institutions) can be unlike any prior board experience. Further, new members to public sector boards should be provided some orientation regarding the public sector environment and the machinery of government, including the role of the Minister, the Department and central agencies (such as Treasury Board) that impact the organization, and may add significant complexity to a public sector board member's role.

A formal orientation program should be provided to all new board members to introduce the unique context of the institution within the post-secondary education sector, as well as the specific board processes and activities. This should include a clear outline of roles, responsibilities, and structural relationships, as well as board by-laws, governance policies, and the mandates/terms of references of any board committees. Biographical information on fellow board members, and key management, should also be included. Whenever possible, new board members should have the opportunity to meet with the Board Chair and President of the institution prior to attending their first board meeting. An orientation specific to the organization's financial matters, including the financial statements, is also an important but often overlooked part of the orientation process. Meeting with the institution's financial executive for this orientation is also a good opportunity to introduce the key financial risks facing the institution. The orientation program should also include a tour of campus facilities, as well as introductions to key management personnel. The goal should be to have new board members in a position to fully contribute as quickly as possible after joining the board.

For those institutions who choose to adopt specific governance approaches, such as the Policy Governance® model (see **SECTION 2.3** below), enhanced orientation and ongoing training is especially important. All board members must be sufficiently oriented and trained in the governance approach, so that they are clear on the required oversight practices and how the board is to fulfill them.

- Our review found most institutions used an informal orientation process, that consisted of providing the new member with an orientation binder of institutional/governance information, and a meeting with the corporate secretary. In some cases, the new member was provided the information and simply invited to contact the corporate secretary if they had any questions. Opportunities were sometimes provided to meet with the President and/or Board Chair, but this was not consistently done. However, we also noted some good examples of creative processes for orientation by some institutions. For example, one institution included a follow-up meeting with the Board Chair, held later in the first year to discuss any questions or issues once having participated in several meetings. One institution held a scavenger hunt as a way to orient new members to campus facilities.

- We found no institution provided any financial orientation, nor overview of the financial statements. It is important that all members understand the institution's financial information and budgeting processes.
- We found that the two institutions which used a "modified" Policy Governance® model provided little to no training with respect to this governance approach, nor how it had been modified or adapted by the institution. As noted in **SECTION 2.3** below, lack of training with respect to this model is a significant issue that weakens the board's oversight.
- We noted that two institutions conducted an evaluation of the orientation process, which is a good practice to enable ongoing improvements to be made. We also found some board evaluations requested feedback on the orientation process, but it was not clear that any improvements had been made as a result. At four institutions, specific responsibility for the orientation process and board training was delegated to a Governance Committee, or formally to the Executive Committee at one institution where a Governance Committee was not in place. Even so, at two of these institutions, we found no discussions regarding enhancing orientation and training had occurred during the period we reviewed.

ENHANCED ORIENTATION TRAINING REQUIRED WHEN BOARD CHAIRS APPOINTED

Greater leadership responsibilities and key oversight activities fall to the position of Board Chair. As well as facilitating board meetings, the Board Chair represents the institution with all external stakeholders including government, and may be required to serve as a spokesperson for the institution. The Board Chair is also delegated greater responsibilities with respect to oversight of the President. This includes negotiating and signing the President's employment agreement when hiring (see **SECTION 4.1**); taking a lead role in conducting the President's annual performance evaluations (see **SECTION 4.3**); and providing oversight and approvals of the President's expenses as well as any deviations from policy and procedures (see **SECTION 5**). The Board Chair also ensures succession planning is in place, and if necessary, leads the termination of the President's employment and the new hire search process.

Whenever a new Board Chair is appointed, they should be provided enhanced orientation training with respect to all these increased responsibilities regardless of their length of time on the board or prior board experience. This enables the new Board Chair to be aware of, and equipped to fulfill all requirements and responsibilities of the position. As the Vice-Chair should be prepared to step in for the Chair when/if required, they should also be included in this training.

- We found no institution provided enhanced orientation training to the Board Chair and Vice-Chair when appointed into their positions. This is a significant weakness that in our view contributed to the issues and lack of compliance noted in other sections of this report.

Advice provided to post-secondary institutions:

We advised institutions to strengthen their processes when onboarding new members. A formal comprehensive orientation is important for all new members and should include meetings with the Board Chair, President and other key organizational personnel, as well as a tour of campus facilities.

- Whenever a new Board Chair is appointed, enhanced orientation training should be provided with respect to the increased responsibilities and requirements that come with the role, no matter how long the individual has served on the governing board. Training should include board leadership and meeting facilitation responsibilities, as well as review of key oversight activities/approvals with respect to the President, including ensuring compliance with the employment agreement, and the process for approvals of the President's expenses.

ONGOING GOVERNANCE TRAINING AND DEVELOPMENT SHOULD BE PROVIDED

Ongoing governance training and development opportunities should be provided to all board members throughout their tenure. Even experienced board members benefit from continual upgrading in key governance competencies, as well as from sessions devoted to enhanced understanding of key issues/risks facing an organization (see box).

As per the Institute on Governance, *"one of the most critical, and often overlooked, aspects of board orientation training is development of board member competence in understanding financial statements."*

Financial literacy training that is specific to the organization's financial statements should be provided to all board members, as research indicates that board members are generally reluctant to admit that they do not understand the financial information provided to them, and hence, are reticent to specifically request financial training.

2009 OAG report, Study of Board Governance in Crown organizations, www.oag.mb.ca

Members who serve on specific board committees should also be provided ongoing training related to their role on these committees. For example, all Audit Committee members should be provided enhanced training in key areas dealt with by the committee, such as risk oversight. All audit and finance committee members should also be provided an overview of the financial statements and any significant financial matters related to the organization's financial reporting processes.

The responsibility for providing ongoing training and continually improving governance practices rests with the board, not management. Leading practices suggest establishing a Governance Committee to consider governance training needs, and periodically update governance policies and practices to enhance overall board effectiveness. We believe ongoing training and development of board members contributes to effective oversight by the board.

- Our review found that most institutions provided minimal to no ongoing governance training for board members. We noted occasional examples at some institutions' board retreats where some aspects of governance training was included in their sessions (such as inviting external speakers or governance trainers). No institution provided board members with specific training related to committee responsibilities.
- We noted that some Board Chairs and members were provided with opportunities to attend post-secondary related conferences, which included sessions on governance.

Advice provided to post-secondary institutions:

We advised institutions to invest in the ongoing training and development of all board members in key governance areas, such as financial literacy, risk oversight, conflict of interest and ethics, crisis management, and other emerging governance topics such as the board's role in cybersecurity. While there is a cost to such training, we encourage all institutions to invest in the quality and effectiveness of their governance processes.

2.2 Conflict of interest disclosure processes require strengthening

As leaders of public sector organizations, boards must act, and must be perceived to act, in a manner that does not result in any conflict of interest situations. Board members should avoid any situation in which there is, or may appear to be, a conflict of interest that could be seen to interfere with their judgement in making decisions in the organization's best interests, or their ability to fulfill their duties in an impartial manner.

All board members bring their previous experience, current involvements, and personal/professional connections to their board role. These are generally valued attributes, which may form part of the reason why the member had been asked to serve on the board. However, some of these personal and professional involvements may result in a conflict of interest arising during their tenure on the board. Manitoba is a small, interconnected province and conflicts of interest will inevitably occur (especially in smaller communities). These should not be viewed negatively, nor as something to be kept secret, but rather as an area to be discussed by the board in an open and transparent manner, so that mitigating actions can be taken to protect the integrity of the board's decision-making.

When any type of conflict of interest situation arises (even if it is only the perception of conflict, or has the potential for conflict), the board must take steps to ensure any issues are handled appropriately and demonstrates the board's due diligence. In most cases, the board member should recuse themselves from any discussion, and from voting on the decision or being involved in any way.

A **conflict of interest** is a situation in which a person in a position of trust has professional or personal interests that compete with, or may benefit from, the activities of the organization, and/or when that person uses their position to directly or indirectly benefit themselves or close associates (such as family members). Along with carefully managing actual conflicts of interest that may exist, public sector board members must also carefully consider any possible perception of conflict of interest, which can create an appearance of impropriety that can undermine public confidence in the organization.

A board must recognize and take steps to address all types of conflict of interest situations when they arise, as the appearance of any perceived or potential conflicts can be just as damaging for the organization as the existence of an actual conflict of interest.

2014 OAG report, Manitoba's Framework for an Ethical Environment, www.oag.mb.ca

Training should be provided for all board members in recognizing and managing conflicts of interest. While the onus for declaring a conflict of interest rests with the individual, the Board Chair has enhanced responsibility in dealing with any issues that arise and ensuring conflicts of interest are managed appropriately. As individuals, one may not always recognize that a conflict of interest is perceived to exist by our colleagues. This is where the Board Chair must take the lead in raising any potential conflict issues. Even if a member feels that they can remain independent or bring an objective perspective to a decision, the board should err on the side of caution and ensure mitigating actions are taken to avoid any actual or perceived conflicts. Board members should also raise the issue if they believe a conflict of interest exists with any fellow board member, and/or speak with the Board Chair to ensure they are comfortable with how conflicts are handled. If a conflict of interest issue arises for the Board Chair, another member (usually the Vice-Chair) can be approved to chair that portion of the meeting and to provide any future required leadership of that issue.

Leading governance practices require all board members to complete a conflict of interest declaration form annually, and to update it as required within the year. The best examples of these forms include an area where the member first lists all their professional and community involvements, both paid and voluntary, and then identifies any actual or potential conflicts that may exist. The declaration form is signed and dated by the board member. The Board Chair reviews the form and discusses any matters with the board member to ensure clarity. Any agreed-upon mitigating actions to be taken should be documented on the form, which is then also signed and dated by the Board Chair.

We reviewed the policy and practices that all institution boards had in place with respect to conflict of interest, including conflict of interest declaration forms.

- All but one institution had a conflict of interest policy for board members. However, we found that the processes and annual declaration forms for board member conflict of interest could be strengthened at almost all institutions. Only USB had implemented a robust declaration form that included review and sign-off by the Board Chair. The Board Chair was not provided the declaration forms for review at any other institution.
- All but two institutions required board members to complete a conflict of interest declaration form. At the two institutions without a declaration form, board members simply signed a code of conduct at one, and a confidentiality statement at the other. We noted that the declaration form could be

improved at many institutions, as some did not require documented disclosures nor mitigating actions; simply the individual checking whether a conflict existed or not.

- Only three institutions required the conflict of interest declaration form to be completed annually. All other institutions only required the completion of the form at the beginning of the board members' tenure.
- Our review of all conflict of interest declaration forms over a two-year period at each institution found not all board members completed their declaration forms. Completion of the declaration form should be a requirement for all board members, with refusal to do so cause for requesting government or other appointing bodies to replace the member. For post-secondary institutions' governing boards whose membership includes some board members that have inherent conflicts, such as the student union president and faculty/employee members (including the President), completion of the declaration form should record how issues are to be mitigated and managed should they arise.
- Any invited, ex-officio or non-voting members who are privy to board discussions or asked to join a board committee (such as financial or investment experts on an audit or investment committee) should also complete a conflict of interest declaration form. Further, positions such as the corporate secretary that deal directly with the board should also complete a conflict of interest declaration form. This did not occur at any institution.

Advice provided to post-secondary institutions:

We advised institutions to strengthen their conflict of interest policy and processes to ensure all board members complete an appropriate conflict of interest declaration form annually, and update it as necessary within the year. The declaration forms should be reviewed and signed off by the Board Chair. Board meeting minutes should record any members declaring a conflict and recusing themselves from the meeting room for that portion of the board's discussion.

2.3 Board by-laws and governing policies not kept up-to-date; Governance approach requires review at two institutions

By-laws are a fundamental component of governance, as they underpin the functioning of the board and set out the agreed-upon rules by which the organization will be governed. It is also a good practice for boards to have a governance manual that further specifies their governing policies and processes. The board must always ensure they are operating in accordance with their by-laws and governance policies. Hence, these documents should be periodically reviewed to ensure they are up-to-date.

Clarity with respect to the governance approach adopted by a board is also extremely important to ensuring effective governance. All boards govern by policy. Some boards follow a traditional approach to board oversight, which includes having strong accountability frameworks and governance policies in place. Some boards choose to adopt specific governance models or approaches, such as the Policy Governance® model

(sometimes referred to as the Carver Model). The Policy Governance® model is an integrated set of concepts and principles. It requires a commitment to policy development and continuous monitoring of both CEO and board performance. Given that within the model, the board delegates a high degree of authority in the position of CEO/President, it is extremely important to monitor compliance with the executive limitations and achievement of ends policies.

Those institutions that choose to adopt the Policy Governance® model must adopt it fully and implement it as intended (see box, pg. 92). This requires investment in certified training for all board members and administration, as well as an ongoing commitment to training for new members as they join the board.

Regardless of the governance approach adopted, the governing board is expected to fulfil its role of providing rigorous oversight of the financial and operational performance of the institution, as well as oversight of the President's performance.

- We found that only one institution had a timeline in place for updating by-laws, and were in compliance. Another institution had a governance policy that specified annual review was required, but the board was not in compliance.
- Governance manuals or handbooks were not kept up-to-date at six institutions. One institution referenced having a board policy manual, but it was comprised of only a guideline for board member responsibilities and conduct; no governance policies. Some institutions specified the date or time period for their institution's management policies to be reviewed, which is a good practice that should also be applied to governance policies.
- We found two institutions had adopted a Policy Governance® model in the past, but both had highly modified the approach over time, and now indicated they operated in a *"policy governance style."* We found board members had been provided minimal to no training related to the modified policy governance approach used at these institutions. At one institution, we found policies were dated, and not reflective of actual board practices. In our opinion, the board's oversight practices were weakened as a result of the lack of clarity, and the integrity of the Policy Governance model no longer being applied appropriately.

Advice provided to post-secondary institutions:

We advised institutions to ensure by-laws and governance policies are reviewed and updated on a periodic basis. The board's practices should be in compliance with these governance documents.

- For Red River College and University College of the North, we noted the need to reassess their modified policy governance approach. Should they wish to adopt the Policy Governance® model, it should be implemented fully, with certified training provided to all current and future members in order to strengthen board oversight. Should they instead choose to operate within a more traditional governance approach, an appropriate accountability framework and governance policies should be put in place that strengthens board oversight practices. All references to previous models should be removed.

2.4 Lack of appropriate use of *in camera* sessions at many institutions

Leading practices for board governance suggest all board meeting agendas include time reserved for the board to hold an *in camera* session. An *in camera* session is one in which only the board members are present, without any management or staff of the organization. This should be a regular and routine component of the board's agenda, and should be held each meeting even if only briefly. It should not only occur 'as needed' or if specifically requested, as it is awkward for board members to have to request an *in camera* session in front of management.

Given the unique composition of each post-secondary institution's board, which may include the President and other internal employees as full voting board members, we noted some confusion arose as to whether the President remains for the "member-only" *in camera* session. At some institutions it was deemed that since the President was a full voting board member, they are to remain for the *in camera* portion of the meeting. However, the intention of an *in camera* session is to allow the board to meet without any management present, and that includes the removal of the President. Also, as no motions are passed and no minutes are required for this portion of the meeting, there is no specific need for the corporate secretary to be included in the *in camera* session, especially if the corporate secretary position is part of senior management. The Board Chair can occasionally request the corporate secretary to remain, if required.

The Board Chair is responsible to lead the *in camera* session, and takes responsibility for ensuring any information or requests that arise from an *in camera* session are shared with management, if required. The *in camera* session can be used to discuss a variety of issues to improve board functioning, including the effectiveness of meeting processes and any board information needs. It also provides the opportunity to discuss the board's relationship with management and suggestions for improvement, as well as enhancing the effectiveness of individual members' contributions. The *in camera* session is not intended to reopen or continue discussion on matters decided during the board meeting. Needing to pass a board motion during an *in camera* session would be rare. If required, the board must return into the regular meeting to pass the motion and have it recorded in the minutes.

In our view, holding appropriate *in camera* sessions that allow the board time to meet without any management present is important, and serves to strengthen the Board Chair's role in ensuring effective governance and the board's independence from management.

The Latin term ***in camera*** means "in chambers" or in private. Leading governance practices recommend, "*All board meetings should include in camera sessions with independent directors only.*" (Canadian Coalition for Good Governance) Some boards include an *in camera* session on their meeting agenda, but it is only used "if needed." However, as noted in past OAG reports, board members are often loathe to request an *in camera* meeting or to raise their hand when the chairperson asks the board if there is a need to meet *in camera*, as they do not wish to make management feel uncomfortable nor denigrate the trust relationship with their CEO.

- Our review found a wide variety of approaches towards *in camera* sessions at the seven institutions. A key issue was that the term *in camera* was defined differently at different institutions, and often not used appropriately. We found only UM included an actual *in camera* session on their agenda that was used to meet without the President. At most institutions, even though a session may be labelled *in camera*, the President always attended, and the board was never provided an opportunity to actually meet without any management present.
- We noted that the corporate secretary position always remained in the *in camera* session, including at UM. Hence, we found no examples of the governing board having time for discussion without any staff or management present during the period we reviewed. Many of the corporate secretary positions are direct reports of the President rather than the board, and in some cases, are considered part of the executive management team. As previously noted, given that no minutes are kept during an appropriate *in camera* session, there is no requirement for the corporate secretary to remain.
- For some institutions, we noted that the only time the board met without the President was to discuss the President's performance evaluation. This only occurred at those institutions that actually conducted performance evaluations (see **SECTION 4.3** below).
- Some of the confusion in terminology arose from the practice of holding public meetings at some institutions. Moving into the portion of the board meeting where no public or external observers are in attendance should be called the closed session, but was incorrectly referred to as the *in camera* session. This closed portion of the meeting is not an *in camera* meeting as normally defined by leading governance practices; it is simply a continuation of the regular board meeting without the public present. We noted that this incorrect terminology led to UW's governing board choosing in 2007 to not maintain any meeting minutes for the closed (non-public) portion of the meeting. This was a significant concern to us as all significant financial and administrative decisions are made in the closed (non-public) portion of the board meeting and meeting minutes should be kept (see **SECTION 2.5** for further discussion).
- For USB, which did not hold public meetings, the portion of the meeting labelled *in camera* was used for discussion of confidential matters such as labour relations and human resources issues. It was not used as an opportunity to meet without the President in attendance.

MOST INSTITUTIONS HOLD PUBLIC BOARD MEETINGS

Holding public board meetings is a requirement in legislation for the two colleges. It is not a legislated requirement for any other post-secondary institution. However, most universities choose to hold public meetings, even though their legislation does not require it.

Board meetings that are held in public should differentiate between the 'open' session (or public-included portion of the board meeting), and the 'closed' session (or public-excluded portion of the board meeting). This closed portion of the board meeting is simply the continuation of the regular board meeting, with the removal of the public and any external observers. Minutes can and should be kept for the entire board meeting, both the open and closed portions of the meeting.

Given the unique composition of post-secondary governing boards, which includes faculty and/or employees, some board members recuse themselves during discussions of matters related to labour relations or human resources. We noted a few institutions called this a "confidential closed" session. For other institutions, this was just a continuation of the closed meeting, with the minutes recording that the members were recused from the boardroom during these discussions. Minutes are still required to be kept for these matters to document the board's due diligence and any decisions made/motions passed.

- We found that all public post-secondary institutions, except USB, held public board meetings. We found no issues with the accessibility of meetings at the universities who choose to hold public meetings; however, accessibility was more controlled at both ACC and RRC that are required by legislation to hold public board meetings.
- ACC did not publish the dates of board meetings online. RRC published their board meeting dates online, however arrangements are required to be made in advance with the corporate secretary position to attend a meeting. Both colleges hold their board meetings in boardrooms that are not easily accessible for the public to attend.
- We noted a good practice at some universities, where public attendees are provided guidelines for behavior during the meeting. Most of the institutions which hold public meetings advised us that it was rare for any members of the public to attend. Public attendance was more likely when annual budgets or tuition costs were on the agenda.
- All institutions publish board minutes online. Although USB does not hold public meetings, it provides its full board meeting minutes online, which note when the board moves into confidential matters and when it returns. For some institutions, only the minutes of the open, public portion of the meeting are published online. Our review found that there was a significant time lag in making minutes available on their website at a few institutions.

Advice provided to post-secondary institutions:

We advised institutions to adopt a more appropriate and consistent approach to the use of the terminology for open, closed and *in camera* sessions, as the inconsistent use amongst institutions creates confusion and may leave a false impression of the board's practices. Adopting a consistent approach will ensure all stakeholders and the public can better understand the board's meeting minutes and governance practices.

- As noted in **SECTION 6** (Chapter 1), in some other provincial jurisdictions, the Department provides orientation manuals to board members of post-secondary institutions, which provide more guidance with respect to governance practices and terminology such as open vs. closed vs. *in camera* sessions.

2.5 Board minutes not appropriately maintained at some institutions; Consent agenda practices require improvement

Board minutes are an important record of the meeting proceedings and decisions made. Minutes serve to protect all board members by demonstrating the due diligence of the board in making its decisions. They need to be an accurate representation of what occurred at meetings, and should be prepared, distributed and approved on a timely basis. The original signed copy of the approved minutes should be maintained, along with the complete meeting package of information provided to and used by the board in reaching its decisions.

All board members are responsible for ensuring the accuracy of the meeting minutes. Board member approval of the minutes is testament that the minutes are an accurate representation of what occurred at the meeting, how the proceedings transpired, what decisions were made, and if any further information was requested or action items arose out of the meeting. Hence, approval of minutes should not be considered a routine, tedious exercise. The onus is on all board members to take this process seriously, as the approved minutes are the final record used to verify what occurred at a meeting. The Board Chair, as well as the corporate secretary position, should sign the approved meeting minutes at the time they are approved.

If any member does not feel the minutes are an accurate reflection of the meeting discussion, they should request amendments be made to the minutes. If a board member did not attend a meeting, their responsibility for a decision is not lessened, so if they disagree with a particular decision taken in their absence, they must have their opposition noted. There are often provisions in board by-laws to address such situations. In most cases, the onus is on the board member to advise the Board Chair in writing, and/or to have their vote against the decision recorded at the next meeting.

Many boards now use electronic board portals or shared secured websites to provide information and meeting packages electronically to members. As board minutes and packages contain sensitive information, care must be taken to ensure the board portal has an appropriate level of security, and that data is encrypted and protected. The use of board portals can lessen the expense of delivering large binders of pre-meeting reading materials to board members. Board portals can also be used to store and make easily accessible to members any relevant governance or reference materials, such as the by-laws, applicable legislation, governance policy manuals, and board orientation or training materials, as well as other organizational documents such as audited financial statements, strategic plans, etc.

- Our review found considerable issues with the accuracy and quality of the information provided in some of the institutions' meeting minutes. At one institution, we noted errors that were significant enough to cause us to wonder if they had been read by the board members who approved them. At another institution, the meeting minutes were so abbreviated that no discussion or involvement of the board was documented, only the approved motions were noted. In our opinion, these minutes would not satisfactorily demonstrate the board's due diligence in reaching its decisions. While minutes are not transcripts and should not be so overly detailed as to itemize what was asked by each board member, they also should not be so brief as to not reflect any oversight by the board at all.

- As previously noted in **SECTION 2.4**, we found that UW did not maintain any meeting minutes for the closed (non-public) portion of its board meeting, where all significant financial, operational and governance decisions are made. As a result, there is no reliable record of proceedings for the motions passed on all key strategic, financial and administrative decisions. This was a significant concern that was raised with the institution at the time of our review. UW does maintain the package of materials and supporting documentation provided to inform the board's decision-making during this portion of the board meeting. However, appropriately documented and approved meeting minutes are required in order to have a record of the board's due diligence in reaching its decisions and performing its fiduciary duty.
- We also found lax practices at some institutions with respect to maintaining the meeting minutes and records of proceedings (sometimes called 'board books'). This included one institution that did not maintain any board packages for board meetings, as well as a few institutions that did not maintain accurate board books for its board committees. A record should be maintained of all approved meeting minutes, as well as the full package of information that was provided at each board and committee meeting (both in pre-reading and what was provided at the meeting itself).
- We also noted some areas for improvement with respect to the signing of approved board minutes. The approved meeting minutes should be signed by the Board Chair or Committee Chair at the meeting where they are approved or shortly afterwards. Minutes are usually also signed by the corporate secretary position. At some institutions, we found omissions or significant time delays in signing minutes. We noted that one institution waited until the end of the year and had the Board Chair batch sign the previous years' minutes for the board books. This approach may compromise accuracy, as it would be unlikely any errors or omissions could be noted by the Board Chair after such a long time period. We also found time delays in approving minutes. This tended to occur for committees that only meet annually or on an as needed basis. In such cases, waiting until the next in-person meeting to review and approve the minutes is not conducive to ensuring accuracy. Modernizing practices by approving minutes electronically would ensure timely approval by all members.
- We found four institutions used an electronic board portal. Access to the board portal was controlled by the corporate secretary position. We found that all board members are not provided access to all areas of the portal. For example, board members are only allowed access to committee information for the committees to which they are a member.
- Members should have access on the portal to all approved minutes for both board and committee meetings. Committees serve on behalf of the board and the board relies on the recommendations made by committees in making their decisions, so while access to all documentation reviewed by committees is not necessary, providing access to committee meeting minutes is important. If possible, committee minutes should be part of the member's pre-reading package of materials sent prior to each board meeting, especially if the board is expected to make a decision based on the committee's work or approve a recommendation made by the committee.

- Care must be taken to ensure that information on the portal is kept up-to-date. For some of these institutions, we noted their portal could be enhanced by providing governance reference materials (such as by-laws, governance policy manuals, orientation materials, relevant legislation, audited financial statements) so that it is easily accessible to members.

Advice provided to post-secondary institutions:

We advised institutions to ensure their board meeting minutes are an accurate account of the meeting proceedings and decisions made, and are fulsome enough to demonstrate how the board's due diligence was fulfilled. Minutes should clearly indicate the time spent in meetings, and should accurately reflect the order of the discussion held, even if different from the agenda.

- It is important that the final signed minutes of all board and committee meetings are maintained, both for the open (public) and closed (non-public) portions of the board meeting. Minutes are the legal record of the board meeting and should clearly record all board decisions/motions passed as well as any next steps or action items required. Appropriate minutes serve to protect the board and all its members by demonstrating their due diligence and the level of oversight provided.

THE USE OF CONSENT AGENDAS REQUIRES IMPROVEMENT AT SOME INSTITUTIONS

Some boards utilize the concept of a consent agenda to help deal with routine matters efficiently. Consent agendas are used to differentiate routine, non-controversial and self-explanatory items on a board's agenda that are not likely to require discussion prior to approval, versus the strategic, financial, or more complex issues that the board needs to spend its time on in discussion and debate. Items on the consent agenda are generally limited to routine procedural matters, and are most often approved with a single motion at the beginning or end of a meeting.

Board members must be provided all relevant documentation and supporting materials related to the consent agenda items sufficiently in advance of meetings to allow for their review. The onus rests on all board members to take the time in advance of meetings to review all information related to the consent agenda items to ensure they understand and support any recommendations or approvals contained within the consent agenda. If a board member has any questions or wishes to discuss any item, or feels board deliberation is required prior to approval, the member requests at the meeting that the item be moved back onto the regular agenda. It is then discussed during the meeting like any other agenda item, and voted upon if necessary. Board members should never approve anything on a consent agenda that they have not seen or reviewed.

Implementing such an approach requires the agreement of all board members on the items to be placed on the consent agenda. Care must be taken that the process is used properly, and not as a way to conceal information from the board, nor usurp its decision-making power. The consent agenda should not be used to discourage discussion, nor to disguise important issues. It is not appropriate for the consent agenda to include strategic, financial or risk-related matters requiring board oversight, such as approval of annual budgets or audited financial statements. Items that have strategic, policy, or financial implications; or management reports on significant issues that should require board deliberation prior to approval, should not be on a consent agenda.

- We found three institutions used consent agendas, and one institution had used consent agendas sporadically during the period we reviewed. We noted that some institutions had documented explanations in their governance manuals regarding the consent agenda and the process for items to be moved onto the regular agenda, which is a good practice.
- However, we noted significant concerns with respect to how one institution chose to define its consent agenda practices, as it did not allow for an item to be removed from the consent agenda and discussed by the board unless a majority of board members agreed. Further, items on this consent agenda were not routine items, but instead included significant financial and strategic matters, including approval of the financial statements. Also, the background information and supporting material for these items was not provided to board members for their review prior to the meeting. This is inappropriate, and board members should never approve items they have not seen and reviewed. Further, approval of the financial statements should not be a consent agenda item.
- We found clarification was also needed around the use and intent of consent agendas at another institution that had used the approach in a variety of ways during our review period. Attachments to the board package that are provided for the board's information, such as correspondence and news articles, should not be confused with being a consent agenda.

Advice provided to post-secondary institutions:

We advised institutions who use consent agendas to ensure the process is documented in governance policies/manuals, and that all board members are trained during orientation on use of the consent agenda and how to bring forward items they may wish to have discussed by the board.

- All supporting documentation related to items on the consent agenda must be provided in the board package that is sent in advance of the meeting. Board members should never approve anything on a consent agenda that they have not seen and reviewed prior to the board meeting.

2.6 Comprehensive review of committee structure needed at all institutions

Committees play a valuable role in ensuring the board receives carefully considered information in order to fulfill its governance responsibilities effectively. Committees can spend concentrated time in detailed review and discussion of critical governance issues, such as finance and audit, risk management, governance functioning, nominations, etc. Committees do not generally have decision-making power, but bring forward recommendations for the board's approval. The board as a whole then makes the decision on the issue and can either approve, not approve, or modify the committee's recommendation. In order to best facilitate this, committee meetings should be scheduled far enough in advance of a board meeting to be able to include the committee minutes and recommendations into the full board's pre-meeting package of materials.

The board's committee structure should reflect the specific needs of the board, and can vary depending on the organizational context and/or emerging issues which may arise. Some boards establish 'standing committees' to fulfill specific ongoing functions. Boards can also create ad hoc committees or special purpose committees to review particular issues or conduct particular tasks on behalf of the board. What committees a board should or should not have is constantly evolving in governance literature. Four committees that are commonly referenced as providing governance value include: the Audit Committee; Governance Committee; Nomination Committee; and Compensation Committee. Committees that used to be common, such as an Executive Committees and Strategic Planning Committees have largely fallen out of favour. More recently, Risk Committees, as well as IT Committees, are emerging as options worth considering for many public sector boards.

The key consideration in creating or dissolving a committee should be to assess how it contributes to the board fulfilling its governance oversight functions. Governance literature stresses the importance of committees not being involved in day-to-day organizational issues, nor being created to replicate any management/staff functions. Care must be taken to not establish too many committees, as committees consume valuable board member and staff time. Boards should not have committees just for the sake of having committees. As has been noted in past OAG governance audits, committees should not be created simply to give all members a committee role to justify being paid the same per diem amounts; nor should committee meetings be held if not needed, otherwise valuable board member time and staff effort is wasted in low-value work. Once established, the need for, and performance of all committees should be evaluated on an ongoing basis to ensure they continue to perform a relevant function.

Committees should operate under a Terms of Reference/Charter that clearly outlines the role, composition and specific responsibilities that the committee will perform, as well as any authorities that will be delegated to the committee. The Terms of Reference/Charter should be periodically reviewed to ensure that it accurately reflects the board's current governance needs and contributes to effective board functioning. While some board responsibilities are delegated to committees, all board members are equally responsible and accountable for all decisions and outcomes, including those delegated to its committees. All board members should be provided the minutes for all committee meetings in their pre-meeting packages.

Our overall review of the committee structure at a few institutions found weak practices and lack of a clear rationale for the need for some committees. At some institutions, we found the committee structure could be streamlined, as some committees served no purpose, or only existed 'on paper', but did not meet nor actually contribute to the governance functioning of the board.

- We noted that legislation for the two colleges prescribes specific committees that must be established, whereas all other post-secondary institutions are permitted to establish any committees the governing board deems necessary.
- Colleges must establish an Executive Committee. Membership and composition of the Executive Committee is specified in their legislation, as well as duties and powers and some specific procedures.
- Legislation specifies that ACC must establish an Audit Committee and RRC must establish a Finance and Audit Committee. The *Red River College Act* goes further in outlining the specific duties of the committee in detail.
- Both colleges must establish a Planning Committee *"for the purpose of developing and evaluating the multi-year operating and the multi-year capital plan."* We found that while RRC and ACC established Planning Committees, neither committee performed the roles envisioned by the legislation. ACC's Planning Committee was used for other functions. At the time of our review, RRC indicated in documentation that a Planning Committee existed and appointments were made to the committee each year, but the committee did not actually meet on a regular basis, nor did it contribute to the board's functioning in practice. It had only met once during the scope period we reviewed and prior to that, not since 2012. RRC also had an Administration Committee that existed in documentation and to which appointments were made each year, but it too had only met once during the period we reviewed and prior to that, not since 2012.
- The *Colleges Act* further specifies that a Regional Campus Advisory Committee may be established *"to advise the board on the programs and services of the regional campus."* At the time of our review, ACC did not have such a committee.
- Although it does have the legislated authority to create or dissolve committees as it deems necessary, we noted that University of Winnipeg had an Executive Committee which had not met since June 2011, and performed no function for the board. Even so, members were appointed to it each year and it was listed on the institution's website. Our review noted that UW's Board Officers committee performed some of the functions that would have been typically delegated to an executive committee. Some of the functions performed by the Board Officers in this regard were not within that committee's mandate/terms of reference.
- Minutes should be maintained of all committee meetings. Committee minutes should be approved on a timely basis. Even if a committee does not meet often, the draft minutes should be circulated to committee members and a process be in place to approve the minutes electronically so that there is no delay in approving minutes and making them available to the board.

Advice provided to post-secondary institutions:

We advised all institutions to conduct a comprehensive review of their committee structure, and ensure committees perform functions relevant to the governance needs of their board. Committees should serve a useful role that helps inform board decision-making by providing informed recommendations to the board through detailed analysis and review of key governance areas.

- If a board standing committee has outlived its usefulness, it should be dissolved or its functions amalgamated with other committees. Institutions should not pretend to have committees that are non-functioning or do not meet. If a committee is required by legislation, but no longer relevant to the board's functioning, the institution should advise the Minister in writing, providing the rationale, and request changes in legislation. The Minister may acknowledge the non-compliance or reaffirm the need for compliance by the institution.



Recommendation 19

We recommend that the Minister and Department work in consultation with post-secondary institutions to review the legislative inconsistencies regarding board committees, and whether the need exists to specify particular committees. The majority of institutions' legislation allows the governing board to create and dissolve its committees as deemed necessary. If the need to specify the establishment of a particular committee arose in future, the Minister could include such requests in a mandate letter.

Our review focused on the use of specific committees that were common to several institutions: the Executive Committee; the Audit Committee; and the Investment Committee. We noted a number of concerns regarding the use of these committees, which are discussed in the following sub-sections.

NEED FOR EXECUTIVE COMMITTEES REQUIRES REVIEW

Executive Committees have been a commonly used standing committee that is often comprised of board officers such as the Chair, Vice-Chair, Committee Chairs, etc. One of the most common roles of an Executive Committee is to work with management in setting the agenda for the full board meetings. Executive Committees are often delegated powers to act on behalf of the board if required between board meetings or in emergency situations.

The need for an Executive Committee has been largely questioned in current governance literature. In the past, Executive Committees were delegated the powers of the board so they could be convened quickly to make urgent decisions if required between board meetings. Modern technology makes such committees unnecessary, as all board members can be notified of urgent issues instantly, and informed/involved in any key decisions that arise, including voting electronically if necessary. Given that all board members are equal and carry equal risk liabilities, all should be involved in key strategic decisions that arise.

One of the key criticisms of an Executive Committee if not managed appropriately is that it can create two tiers of board members, and even become the *de-facto* decision-making body (sometimes called the shadow board), which thereby relegates the full board to simply ratifying pre-made decisions. Such a situation significantly hampers governance effectiveness and can lead to deterioration in the overall board fully performing its decision-making role. Hence, the use of an Executive Committee must be carefully considered, and care must be taken that it does not usurp the role of the board, nor be used to make decisions on behalf of the board without their knowledge.

- We found the use of Executive Committees requires review at all institutions. At some institutions, the Executive Committee made many key decisions for the board, and also fulfilled functions that are typical of a Governance Committee and/or Nomination Committee. For smaller organizations, combining functions can be a good approach, but care must be taken that too much decision making power is not vested in one committee. At a few institutions, we found the Executive Committee barely functioned or met at all, or the Executive Committee was not used to perform the functions that are typical of such a committee. Instead, executive committee functions, such as setting board meeting agendas, approving mandates for collective bargaining, and conducting the President's performance evaluation were fulfilled by other committees.
- The size of the Executive Committee requires review at some institutions. Committees are generally meant to be a small group who devote attention to particular issues, and bring forward well considered recommendations to the board. We noted that some of the institutions with larger boards also had overly large committees of 10 or more.

AUDIT COMMITTEES COULD BE USED MORE EFFECTIVELY

Audit Committees are widely recognized as a key component of the board's oversight process. They have significant governance responsibilities related not merely to financial reporting, internal controls,

Audit Committees have a critical role in the board's oversight process, with responsibilities related not only to financial reporting, internal controls, and the management of financial risks, but also to the oversight of an organization's values and ethics. In order to provide effective and proactive oversight, the Audit Committee's responsibilities should include monitoring the processes related to: accounting and public financial reporting; internal control; compliance with laws and regulations; external audit; internal audit; and internal policies such as codes of conduct, conflict of interest, and whistle-blowing processes.

As the size, mandate, and complexity of public sector organizations vary considerably, there is no single one-size-fits-all approach for an Audit Committee to meet its responsibilities. Rather, each entity's Board of Directors and Audit Committee must exercise judgment in developing and carrying out its responsibilities in a manner that fits their organization's unique structure and mandate.

2006 OAG report, Enhancing Audit Committee Practices in the Public Sector, www.oag.mb.ca

and management of risks, but also to the oversight of the organization's values and ethics, and the quality of its overall performance reporting to the public. Leading practices suggest that an Audit Committee be established to assist the board in fulfilling its key financial oversight responsibilities. This includes hiring internal and external auditors, reviewing audit reports and recommendations, providing oversight of organizational practices related to internal controls and risk management, and ensuring compliance with all related legislation, regulations, funding agreements, and any internal codes of conduct and ethics policies.

Audit Committees should operate under a Terms of Reference or Charter that documents the scope of its responsibilities and processes. Leading practices for Audit Committees require members to be external and independent of management; hence, the President as well as any other internal board members with an inherent conflict, such as faculty and staff, should not be on the Audit Committee (see **SECTION 1.3** above).

The effectiveness of an Audit Committee in performing its responsibilities is impacted by the financial literacy of its members. Although it is not necessary for all members of an Audit Committee to be financial experts, leading practices recommend that at least one member possess accounting or related financial management expertise, and that all Audit Committee members be financially literate.

- We found two institutions had a separate Audit Committee, and four institutions combined their Audit Committee with their Finance Committee. One institution had no Audit Committee. For those institutions that choose to combine their Audit and Finance Committees, there should be clear delineation between the distinctive roles and different governance functions of each committee. In order to ensure a combined committee fulfills its differing functions, leading practices suggest designating specific meetings each year to be solely devoted to Audit Committee functions and held separately from Finance Committee meetings.

- A Finance Committee generally focuses its attention on budgeting processes, financial variances, and approving any strategies, policies or actions related to accounting and finance matters, including investments and capital expenditures. In contrast, an Audit Committee focuses its attention on the integrity of the organization's public financial reporting, as well as the adequacy of the internal control processes, and the oversight of the organization's values and ethics policies. The Audit Committee must carry out its responsibilities in a manner that maintains independence from management and avoids any situations that may impair its objectivity in performing its oversight duties.
- We found only two institutions, UM and UW, have an internal audit department or audit executive within their organization. Internal Audit acts as an important resource to the board, and serves the Audit Committee by providing independent assurance that appropriate internal controls are in place, organizational policies are being complied with, and risk mitigation strategies are working effectively. As no organization is immune to fraud, Internal Audit also helps the board ensure effective internal controls are in place to reduce and mitigate the risks of fraud. Internal Audit can also act as the Designated Officer for declarations under *The Public Interest Disclosure (Whistleblower Protection) Act*, as well as receive and investigate other allegations brought forward through any ethics hotlines or other disclosure methods available to employees. When needed, and especially in times of crisis, the board can move quickly to have its Internal Auditor properly and objectively investigate any issues, concerns, or whistleblower allegations.
- Internal Audit should have a dual reporting relationship with functional reporting directly to the Audit Committee Chair, and administrative reporting to the President. The Audit Committee should approve internal audit plans, receive copies of audit reports, and ensure that management implements report recommendations in a timely manner.

Advice provided to post-secondary institutions:

We advised institutions to strengthen Audit Committee practices. Further, all governing boards should ensure internal audits are conducted to provide the board independent assurance that appropriate internal controls are in place, organizational policies are being complied with, and risk mitigation strategies are working effectively with the organization.

- Recognizing that the limited size of some institutions may preclude creating a full-time internal audit position, the boards of smaller institutions should consider periodically engaging internal audit services from an external provider to conduct such audits and reviews. Large institutions should create a full-time internal audit position.

LACK OF CLARITY REGARDING INVESTMENT COMMITTEES

An Investment Committee is a common board standing committee, which is delegated oversight of the organization's investment assets. Investment Committees monitor the implementation, performance and risk management of the investment portfolio, and are responsible for recommending the Statement of Investment Policy, which documents agreed-upon investment objectives, the asset allocation, and the spending/disbursement policies. Investment Committees must be accountable to the board, and should report to the board annually, at a minimum. Membership on the Investment Committee should be appointed by the board, and include members with specific skills and knowledge in financial investment management practices. Some boards invite external members or advisors to also serve on the Investment Committee in order to bring required expertise to the committee's deliberations.

In a post-secondary institution, investments overseen by the Investment Committee may include trusts, endowment funds, scholarship funds, capital campaign donations, and other invested assets. It is especially important that institutions use donor/scholarship funds prudently and with probity. Any mismanagement of charitable dollars is a very serious issue, and would create significant reputational damage and harm to the institution. The institution's governing board must provide oversight of this critical risk.

We reviewed the functioning of all institution's Investment Committees, as our initial governance examination of RRC had noted a concern with the Board of Governors' lack of oversight for such an important aspect of the institution's financial affairs. As previously noted, RRC's Investment Committee at that time was perceived to be a 'President's Committee' and the President appointed its members. In most other respects, the Investment Committee operated as would be expected of a typical Investment Committee and no issues were noted. Our interviews with the committee members found their accountability to the Board of Governors to be clear, and the Statement of Investment Policy also clearly specified its accountability to the Board of Governors, with membership to be appointed by the board. We note that subsequent to our review, RRC's Investment Committee became a standing committee of the Board of Governors in June 2017.

While responsibility for management of donor/scholarship funds is often delegated to an Investment Committee, some institutions create a charitable foundation, which is a separate legal entity dedicated to fundraising and asset stewardship on behalf of the institution. Foundations are often governed by a separate Board of Directors, which is responsible for ensuring that donated monies are appropriately managed and invested, and for providing oversight of fund performance and risk. In most cases, the institution's president and the chair of the institution's governing board are also members of the Foundation's Board of Directors. Foundations generally manage all fundraising activities and capital campaigns on behalf of the institution, as well as monitor the implementation, performance and risk management of the investment portfolio. The Foundation's Board of Directors should have a relationship with the institution's governing board and provide annual reporting on investment portfolio performance, and financial information such as costs of fundraising activities, etc. Foundations should follow leading practices for charitable/investment organizations.

- We found three institutions had established an Investment Committee to provide oversight of their endowment funds and trust investments, and three institutions managed their investment portfolio through a charitable foundation. One institution with a relatively small portfolio maintained its investment funds with the Province and did not have a separate Investment Committee.
- A board-approved Statement of Investment Policy must be in place that specifies the responsibilities of the Investment Committee, the investment strategy and objectives for the fund, the asset mix allocation, as well as investments allowed, investment risk and the monitoring of fund performance. Institutions should review and update the Statement of Investment Policy on a regular basis, and care must be taken to ensure compliance with the review timelines specified in the policy. We found that most institutions had not updated the Statement of Investment Policy as required or specified in its policy. At one institution, the Statement of Investment Policy was not dated.
- It is especially important with respect to investment portfolios that any conflicts of interest be appropriately documented, communicated and resolved. Hence, clear conflict of interest guidelines and disclosure requirements should be in place, for the Investment Committee members or Foundation board members. Annual conflict of interest disclosure forms should be completed by all members, including any ex-officio members (such as Finance staff), and/or any external members invited to attend and advise the Investment Committee or Foundation board.
- For those institutions that had a Foundation, we found that the reporting relationship between the Foundation and the institution's board required improvement. Foundations should provide the institution's governing board with periodic reporting on the performance of its investment portfolio, the Statement of Investment Policy and any related disbursement policies. The institution's board should also be provided the Foundation's audited financial statements and annual report. We found only one Foundation reported regularly to the institution's governing board, including providing financial statements which were also available publicly on their website.
- The institution's governing board must ensure the administrative costs and practices of their Foundation reflects the values and ethical standards of their institution. Further, the board should ensure that the fundraising costs of the Foundation are reasonable relative to the donations secured, and that operational/administrative costs are expended prudently and with due regard to probity.

Advice provided to post-secondary institutions:

We advised institutions to strengthen the reporting relationship of their Investment Committees or Foundations to their governing board. The terms of reference for Investment Committees should be documented and the Statement of Investment Policy kept up-to-date. The process used to select members for the Investment Committee (or board members to a Foundation) should be documented.

2.7 Need to strengthen strategic planning as well as oversight of risk, human resources, and board expenses

In this section, we highlight a number of other board practices that our review identified as requiring improvement. These include:

- Board involvement in strategic planning and risk oversight.
- Reporting of HR statistics, such as turnover and severance costs to the governing board.
- Board remuneration and the administration of board expenses.

ACTIVE INVOLVEMENT NEEDED BY BOARD IN STRATEGIC PLANNING AND RISK OVERSIGHT

The governing board is responsible for setting the institution's overall vision, objectives and long-term strategy. Effective governance requires the board to be an active participant in the strategic planning process, through review, discussion, and ultimately approval of a strategic plan for the institution. The board should be involved in debating future direction, identifying and assessing organizational risks, and establishing strategic priorities. Through this collaborative effort, a final strategic plan is provided to the board for approval. The board then holds management accountable for the plan's implementation over a specific time period and monitors the institution's progress and performance using appropriate metrics and milestones. Updating and revising the strategic plan periodically is also a key aspect of the board's role. A board that simply approves a strategic plan provided by management with little or no involvement, nor discussion and clarification of priorities and performance expectations, is abdicating a key aspect of its role and responsibility as a governing body.

Strategic risk oversight is also an important role of the board, especially of any new initiatives or capital projects that create significant risk for the institution. As cost pressures rise and government funding may not increase at the same rate, many post-secondary institutions across Canada have sought to develop new or alternative sources of funding, including for-profit ventures. Such initiatives create significant risk for an institution and may go beyond the educational mandate of the institution. Significant funding and staff resources are required initially to create and sustain such ventures until profitable. As such, the institution's governing board must provide rigorous risk oversight of such alternative or for-profit ventures. Regular reporting to the board is needed that clearly presents performance results and the level of expenditure being invested. If return on investment is lacking or the venture does not fulfill its goal of providing revenue streams to the institution in a reasonable time period, the board needs to be prepared to make timely decisions regarding the institution's ongoing support.

A designated strategic planning meeting or annual strategic retreat is a commonly used approach for boards to pay attention to strategic issues, as well as risk oversight. Even in years when not creating a new strategic plan, the board could review progress of business plan initiatives in achieving strategic objectives, as well as the challenges/risks of ongoing initiatives and new and emerging financial and operational risks to the institution. The board retreat can also be used to provide ongoing training and development for members on key governance issues or practices.

- Only four institutions held some form of board retreat or strategic-focused board session each year. For some institutions, the retreat was not used to deal specifically with strategic planning, but for presentations, orientation training, and/or social events.
- All but one institution had a strategic plan. We found a variety of practices and level of involvement by the institution's governing board with respect to the institution's strategic plan. At one institution, there was no involvement by the board in the institution's strategic plan. Most strategic plans covered a five-year period. However, we found some strategic plans had not been updated for a longer period of time.
- At the time of our review, we noted three institutions had or were in the process of establishing for-profit ventures in areas such as land development, retail development and community renewal initiatives. We found that at some institutions, board awareness and oversight of these for-profit ventures needed to be improved, with more fulsome reporting required to allow for appropriate oversight of the financial impacts and risk to the institution. The board must consider the level of risk, the amount of ongoing funding required for such ventures, and when revenue/profits can reasonably be expected to be returned to the institution.

Advice provided to post-secondary institutions:

We advised institutions to consider holding board retreats on a periodic basis to focus on strategic issues and key risks. Conducting evaluations of the retreat and soliciting feedback from board members should occur in order to identify opportunities for ongoing improvements and adjustments to future content.

- Minutes of any special strategic-focused meetings or board retreats should be maintained (and available on the board portal, if applicable).

REPORTING HR STATISTICS AND PERFORMANCE METRICS TO BOARD REQUIRES IMPROVEMENT

Reporting of HR statistics and performance metrics should be a component of the organizational performance information provided to the board. Board awareness of turnover and the costs of severance, disability claims, etc., allows members to be aware of the level and type of turnover (separations, retirements, resignations, etc.), monitor any trends in the data, ask relevant questions regarding financial impacts on the organization (for example, severance costs), and consider operational/culture risks. If the board is concerned with any unusual patterns or trends over time (such as the amount of senior executive or management turnover), the board could request more information where needed. Some boards ensure that independent exit interviews are conducted when senior executives resign or are terminated.

- We found only two institutions provided their governing boards with regular HR reporting on turnover. We noted that RRC had discontinued the practice of providing HR reporting to the Executive

Committee, which was put in place in response to the 2015 Provincial Review. This practice had been a direction of the Executive Committee, but had not been formally adopted into any board policies at that time. We were advised it would be included in a future review of governance policies. However, we were later advised that the decision was made to not include this in policy.

Advice provided to post-secondary institutions:

We advised institutions to ensure the governing board receives periodic reporting on HR statistics and performance metrics. This should include the level of employee turnover and the amount of severance paid, but does not require sensitive/confidential HR information.

- When turnover occurs at the senior management level (either by termination, resignation, or retirement), the board should pay particular attention and ensure that independent exit interviews are conducted.

APPROVAL OF BOARD MEMBER EXPENSES SHOULD OCCUR AT THE BOARD LEVEL

Board expenses go beyond any remuneration that may be paid to board members. Board costs may include ongoing training and development, meeting costs and catering for board meetings, as well as the administrative costs of governance administration and direct positions such as the corporate secretary. Investment in governance and the ongoing training and development of board members contributes to effective oversight by the board. We encourage all institutions to invest in the quality and effectiveness of their governance processes. The board should set a budget for governance expenses, and monitor costs on an ongoing basis.

Legislation provides for board members to be reimbursed for any out-of-pocket expenses incurred on behalf of their board work. We did not audit the cost and expenses of the institutions' boards, but noted that the level and type of expenditures were generally aligned at all institutions, except for one institution that was significantly higher.

Expenses incurred by board members should not be approved by the President who reports directly to the board, nor by subordinate administrative positions within the institution such as the corporate secretary. In order to provide appropriate one-over-one approval, board member expenses should be approved at the board level. This approval is most often delegated to the Board Chair, but can be delegated to other members such as the Audit Committee Chair. Expenses incurred by the Board Chair should be approved by another board member, such as the Vice-Chair or Audit Committee Chair.

- Reimbursement of out-of-pocket expenses incurred by board members is provided at all institutions; amounts were low at most institutions. UCN had the highest level of board expenses as would be expected due to the distances travelled to attend board meetings, and the costs incurred such as hotels, airfares, mileage, as well as meals and incidentals. Given the rising costs in expenses during

the period we reviewed, UCN's governing board should set a budget for such expenses annually, and monitor costs throughout the year to ensure budgets are not over-expended.

- We found that expenses incurred by board members, including the Chair, were approved by either the corporate secretary position or the President at all institutions. Expenses of board members should be approved at the board level, in order to have an appropriate one-over-one approval process. The Board Chair (or other board delegate) should approve all expenses incurred by board members, and approval of their expenses should be delegated to another board member, such as the Audit Committee Chair or Vice-Chair.

Board member remuneration only provided at the two colleges and UCN

Legislation usually specifies if the board is to be remunerated or not. The remuneration amounts are specified within the Order-in-Council document, which appoints the board members. As noted in our 2012 report, *Appointment Process to Agencies, Boards and Commissions*, remuneration rates have not been reviewed or increased since 1987 and are modest for most public sector boards. The amount of the remuneration received is not often reflective of the time and effort that board members contribute to their board work. For many public sector boards (such as universities, health authorities, cultural organizations), board service is voluntary with no remuneration provided.

A legislative inconsistency exists between colleges and universities with respect to the remuneration of board members. No remuneration is provided to the board members of the three universities. For the two university-college hybrid institutions, no remuneration is provided to USB's board members, but UCN's board members are remunerated. Board members for the two colleges are also remunerated. The rationale for why some post-secondary board members are paid and others not was not clear.

- The rate of remuneration for the three institutions where board members are paid is set by government and specified in the Order in Council as \$150 per month for board members, \$200 per month for the vice-chair, and \$250 per month for the chair.
- We found UCN incurred extensive costs with respect to remuneration of board members due to its internal policies and the large size of the board, as well as its unique governance structure, which included a third governing body. The size of UCN's Governing Council (up to 20 members) and its Council of Elders (up to 17) results in potentially 37 members who are remunerated for their governance involvement. UCN is also the only institution in which the Chancellor was also remunerated.
- We further noted that UCN remunerates all board members including internal staff. This is not in compliance with Clause 22(2) of their Act which states: *"...members of the Governing Council appointed under clauses 5(1)(e) and (f) and members of the Council of Elders may be paid, as remuneration for services, amounts fixed by by-law of the Governing Council."* Clause 5(1)(e) refers to the *"one or two persons who are not employees or students of the university college, appointed by the Governing Council"* and Clause 5(1)(f) refers to the *"up to 10 persons appointed by the Lieutenant Governor in Council, at least two of whom must be students of the university college."* The remaining categories of members in Clause 5(1)(a) to (d) should not be reimbursed under this section of the Act.

Advice provided to post-secondary institutions:

We advised institutions to set a budget for board expenses, and to monitor costs on an ongoing basis to ensure expenses are reasonable and budgets are not over-expended.

- Opportunities to minimize costs where possible should also be implemented. Examples could include attendance at board meetings through the use of technology rather than incurring significant travel costs, or holding board and management retreats on campus rather than expensive offsite locations.

2.8 Corporate secretary relationship with the board best recognized through a dual reporting structure

The corporate secretary has a critical role in ensuring the board fulfills its governance functions and all requirements under its by-laws, legislation, and policies. Having a trained governance professional serve as corporate secretary enhances a board's effectiveness. The corporate secretary is an important resource for the board when it comes to governance matters and should be qualified to advise where improvements can be made to board processes. Especially when the board is required to deal with challenging issues involving the President, the corporate secretary plays a critical role in assisting the Board Chair and all members in fulfilling their oversight role independently and objectively.

The term corporate secretary is used generically throughout the report to refer to the position that serves the governing board. Our review found several different job titles were in place for this position at post-secondary institutions, including University Secretary, Board Secretary, Manager of Board and Executive Operations, Executive Assistant to the Board of Governors, and Tri-Council Executive Officer.

As the work of the corporate secretary is conducted directly for the board, their job description and performance expectations should clearly identify that their key priority and obligation is to serve the board, first and foremost. Leading practices suggest that corporate secretaries have a dual reporting relationship, with functional reporting to the board and Board Chair, and only administrative reporting to the CEO/President. This type of dual reporting relationship is similar to suggested practice for other key positions whose work is conducted directly for a board, such as a chief audit executive. The corporate secretary should not just report to the President, as we found at most post-secondary institutions.

There should be direct communication between the corporate secretary and the Board Chair. The corporate secretary should assist the Board Chair in setting the agenda for board meetings, with the input of the CEO/President. The board should be involved in the hiring of the corporate secretary, and the Board Chair should have direct involvement in their annual performance evaluation.

- We found that at almost all institutions, the corporate secretary was hired by and reported only to the President, rather than to the governing board. At three institutions, the corporate secretary was an administrative position within the President's office, and at one institution, it was a part-time position.
- We found only one institution provided the Board Chair the opportunity for input into the performance evaluation of the corporate secretary position.
- Minimal ongoing professional development in governance was provided to corporate secretaries, although at a few institutions, the opportunity for attendance at education-related conferences was provided. As the corporate secretary's role has a significant impact in enhancing the board's effectiveness, professional governance training is important.
- We found no corporate secretary completed a conflict of interest declaration form annually to ensure the board is aware of any conflicts of interest (see **SECTION 2.2**). The Board Chair should review and sign off these declaration forms.

Advice provided to post-secondary institutions:

We advised institutions to ensure the corporate secretary's role, in serving the institution's governing board first and foremost, is recognized through a dual reporting relationship with functional reporting to the board and administrative reporting to the President. Given the corporate secretary impacts how effectively and efficiently governance functions are fulfilled, the corporate secretary should receive ongoing professional governance training.

- The position should have a clear job description and performance expectations that are approved by the board. The Board Chair should have a key role in conducting the annual performance evaluation of the corporate secretary, with input received from all board members.

2.9 Board evaluation processes require improvement

The effectiveness of a board can always be improved. Governing boards should periodically monitor and evaluate their own performance in fulfilling governance functions and achieving governance objectives. This should not be just a perfunctory exercise, but lead to tangible improvements in board functioning. Done appropriately, the evaluation process can create an opportunity for reflection and insight, and help the board identify and implement better governance practices and procedures.

Leading practices suggest establishing a Governance Committee to assess and periodically update governance policies and practices, and to provide recommendations for enhancing overall governance effectiveness. All board members should be included in the evaluation process, and the results reported back to the full board and used to inform ongoing improvements.

The evaluation process should be tailored to the institution's particular needs, and should change over time depending on those needs. Leading practices suggest that several levels of evaluation occur over time, including evaluating the operation and performance of: the board as a whole; the board committees; the performance of the Board Chair and committee chairs; and the performance and contribution of individual board members.

- Our review found that many boards did not spend sufficient time in improving the effectiveness of their governance practices. Although many institutions stated in their governance policies that they will conduct annual evaluations, most had no evaluation process in place, or had not conducted an evaluation in a number of years. We found four institutions conducted board evaluations during the period we reviewed, but for two of these institutions, the process was either new or reintroduced in 2016.
- The effectiveness of the evaluation processes was not evident. At only two institutions was there any evidence of changes being made to board functioning as a result of the evaluation.
- We noted a unique practice by one institution of the Vice-Chair conducting exit interviews with departing board members. This process can supplement the information gathered through annual board evaluations. The process and results of these interviews should be appropriately documented.

Advice provided to post-secondary institutions:

We advised institutions to strengthen their board evaluation and self-assessment processes. The results of board evaluations should be shared with all members, and tangible improvements made to the board's practices as a result of the evaluation process.

3 Accountability reporting requires significant improvement

Ensuring appropriate accountability reporting to stakeholders is a key responsibility of all governing boards. Publishing an annual report is an important method for communicating not only financial information, but how the organization's mandate has been achieved and its responsibilities have been carried out. Open and transparent reporting of overall performance serves to maintain public trust and confidence in the institution.

As detailed in the following sections, we found:

- Annual reports of most post-secondary institutions are insufficient, with only audited financial statements provided to the Legislature (**SECTION 3.1**).
- Ensuring compliance with legislation is a board responsibility that requires improvement (**SECTION 3.2**).

3.1 Annual reports insufficient; only audited financial statements provided by most institutions

An annual report is an important accountability document for all public sector organizations. The Minister is required by legislation to table an annual report from each post-secondary institution in the Legislative Assembly each year. However, the quality of these annual reports varies considerably, with most institutions providing nothing more than their audited financial statements. Given the substantial revenues derived from government, we believe all post-secondary institutions should provide more appropriate and fulsome reporting of their performance to the Legislative Assembly, and ultimately, to the citizens of Manitoba.

Leading practices in annual reporting have moved far beyond presenting mere financial statements to communicating overall operational performance through progress towards strategic goals and annual performance results of the organization. Such annual reports typically include messages from the Chair and the President, institutional performance results in fulfilling strategic goals, management discussion and analysis, as well as audited financial statements. Transparency of disclosure and integrity of financial reporting are factors that significantly affect the public's trust and confidence in public sector organizations.

- Article 9.4(1) of *The Advanced Education Administration Act* requires the institution's governing board to "prepare and submit to the minister an annual report of the operations of the university or college during that fiscal year, and the report must include audited financial statements and any other information that the minister requests." Yet, most post-secondary institutions do not publish an annual report of their operational performance to Manitobans.
- While most institution-specific legislation is silent with respect to annual reports, *The Colleges Act* specifies that the board must "annually within four months after the end of its fiscal year prepare and submit to the minister an annual report of the operations of the college during that fiscal year and the report shall include audited financial statements of the college and any other information that the minister may request."

- Our review found that only UM and UCN published an annual report that is more than just the audited financial statements. For other institutions, only their audited financial statements were provided with no reporting of operational performance. In our view, this does not comply with the intention of the legislation to report on the operations of the institution.
- We found the Department did not provide guidance or expectations for the annual reports of post-secondary institutions, as noted in **SECTION 3.2** (Chapter 1).
- The two colleges and UCN are also required by legislation to publish an annual academic report that includes “*aggregate information respecting enrolment, attrition, graduation and graduate employment placement, in accordance with guidelines provided by the Minister.*” We found no guidelines were provided by the Department for these academic reports. Further, as noted in **SECTION 3.2** (Chapter 1), our audit found these annual academic reports were not used significantly in the Department's oversight processes regarding these institutions.



Recommendation 20

We recommend that the Department provide guidance and standard minimum expectations for annual reports for post-secondary institutions. These should not only provide appropriate accountability information to government, but report to all Manitobans the financial and operational performance of the institution and its progress towards achievement of its strategic priorities.

- We further recommend that the Department, in conjunction with the colleges and university-college hybrid institutions, review and assess the need for and expectations of the annual academic reports, as well as clarify the minimum required information to be included.

3.2 Ensuring compliance with legislation is a board responsibility that requires improvement

It is a key responsibility of the board to ensure the institution operates in compliance with its institutional legislation, *The Advanced Education Administration Act*, as well as any other applicable public sector legislation. We expect the governing board to have processes in place to assure itself of the institution's compliance with all relevant legislation.

As noted in **SECTION 3.3** (Chapter 1), we also expect the Department to monitor legislative compliance on an ongoing basis. We noted the Department had weak practices with respect to monitoring legislative compliance by institutions. When compliance issues are identified, the Department should communicate its concerns with the institution(s), and if necessary, request corrective action plans be provided regarding planned remedies and timelines to achieve compliance.

If the institution is unable to comply with any legislative requirements, management should bring this to the board's attention and provide the business rationale for the board's consideration and approval (or not). If the non-compliance is approved, the board has a responsibility to advise the Minister in writing, providing the business rationale and if needed, requesting changes in legislation be considered. The Minister may choose to acknowledge the non-compliance or reaffirm the need for compliance.

Our review of board meeting minutes found no indication of any regular reporting to institution boards with respect to compliance with legislation. Boards should request summary reporting each year from management certifying that all legislative requirements are being complied with, as well as any explanations/rationale provided if not in compliance.

While we did not review all provincial legislation that post-secondary institutions are required to fulfill, we noted some specific areas of non-compliance with legislation that came to our attention during the course of our review.

The Public Interest Disclosure (Whistleblower Protection) Act (PIDA)

- We reviewed each institution's compliance with *The Public Interest Disclosure (Whistleblower Protection) Act* (PIDA). All public sector organizations, including post-secondary institutions, are required to follow PIDA. It is important that boards ensure that the institution has an ethics policy and/or process for employees to bring significant concerns and whistleblower complaints to the board's attention. Overall, we found a general lack of awareness of the requirements of PIDA, and little was done to enhance awareness of PIDA and its requirements within institutions. Even the Designated Officers at a few institutions were unaware of their role.
- No policy or process with respect to PIDA or safe disclosures for whistleblowers was in place at three institutions. We found four institutions had implemented a policy but at some, it had not been reviewed or updated in many years. Only one institution had a process where employee disclosures could be made to Internal Audit, which is a good practice. Internal Audit also had a standing agenda item at Audit Committee meetings to provide updates regarding PIDA disclosures, if any.
- At most institutions, there was no mechanism for individuals to bring forward concerns anonymously. Only RRC had implemented an ethics hotline for anonymous disclosures through an external service provider. This was done in June 2016 as a response to recommendations of the 2015 Provincial Review report. The Finance and Audit Committee had received two updates as to the number and resolution of the disclosures made during the scope period we reviewed.
- At all but one institution, we found little involvement by the governing boards in dealing with or even being informed of any non-PIDA concerns or issues raised by employees. USB's Board of Governors had a process in place for regular reporting of harassment complaints to the board.
- PIDA legislation requires public reporting of the number of complaints received, the number of investigations conducted, and the results of investigations that determined wrongdoings. However, we found no institution included such information in their annual report. As previously noted, the annual reports of most institutions were nothing more than the institutions' audited

financial statements. The few institutions that did provide an annual report did not include any PIDA-related reporting.

- The board has a critical role in reinforcing an appropriate corporate culture and ethical workplace in their organization. Leading governance practices require boards to take an active role in overseeing corporate culture, including developing ethics policies that set appropriate codes of conduct, and ensure proper mechanisms exist for employees to report any incidents of wrongdoing without fear of reprisal. Boards often delegate the responsibility for these matters to their Audit Committee, which should ensure process are in place to appropriately investigate whistleblower disclosures or other serious allegations of financial or ethical misconduct. There should be regular reporting to the board or committee on the number of disclosures and how investigated/resolved. If allegations are raised regarding the executive leadership, the board must become actively involved. Especially if allegations are received regarding the President, the board must conduct an independent investigation. The services of the Internal Auditor, or an external service provider if no such position exists, can assist the board in conducting a thorough investigation of concerns. Even if the board believes that no issue exists, conducting an independent review ensures their trust is well founded and serves to best protect the President from any undue suspicion.

Studies show that fraud occurs in all workplaces, and are most likely to be detected by tips from employees than by any other method. Hence, it is critical to create a safe environment for employees to report instances of ethical misconduct or fraudulent activity.

The OAG's ethics survey of all Manitoba department employees indicated that 32% of respondents were personally aware of ethical misconduct or fraudulent activity within their workplace, yet only half of these instances were reported to management. Of those that reported the misconduct, 29% felt they experienced some form of retaliation as a result. For those that did not report, fear of retaliation from management and not believing it would be appropriately dealt with by management were the most frequent reasons why not.

2014 OAG report, *Manitoba Framework for an Ethical Environment*, www.oag.mb.ca

The Advanced Education Administration Act (The AEA Act)

- In April 2017, Government announced the requirement for all post-secondary institutions to adopt and implement policies that raise awareness of sexual violence, and address prevention and reporting. These requirements were established through amendments to *The Advanced Education Administration Act* (clauses 1 through 5 of Section 2.3), which now requires all post-secondary institutions to adopt and implement a sexual violence awareness policy, as well as address training, complaint procedures and response protocols. This requirement was clear, highly publicized in the media, and the Department provided a guide to assist institutions in developing and implementing this policy. Yet, while some institutions had or were in the process of complying, we found some institutions had not taken any steps to comply with this requirement.

- At the time of our review, we found four institutions had not yet complied and implemented a sexual violence policy and awareness program, as required. This lack of compliance was raised with these institutions as well as the Department, and all institutions have since implemented a policy, subsequent to our review. However, we note that the Act goes further than just creating a policy, and addresses requirements for training, complaint procedures and response protocols. The institutions' boards are also required to *"undertake a comprehensive review of the policy that includes consultations with students"* every four years. Institution boards will need to ensure processes are in place to comply with this in future.
- Our review found no process in place for the Department to ensure that all institutions are complying with these new requirements. We believe the Department also has a role in following up with all institutions in future to ensure ongoing compliance with the legislated requirements.



See **Recommendation 7** in section 3.3 (Chapter 1)

Advice provided to post-secondary institutions:

We advised institutions to ensure compliance with all provisions of their institutional statute, *The AEA Act*, and any other relevant legislation. Where an institution is unable to comply with legislation, they should advise the Minister and provide the rationale along with any related documentation. If there is a need to have the legislation changed or updated, it should be brought to the Minister's and Department's attention so that it can be reviewed and included in future legislative amendments, if agreed to by government.

- Institutions' governing boards should request summary reporting each year from management certifying compliance with all legislative requirements, as well as any explanations/rationale to be provided if not in compliance.

4 Boards must ensure compliance with Presidents' employment agreements

Recruiting and retaining talented senior executives to the public sector is important in ensuring public sector organizations are managed effectively and achieve strategic outcomes. Given the large variety of board-governed organizations in the public sector, there is no one-size-fits-all approach, as each organization and sector has its own set of challenges in recruiting experienced talent in a competitive market. Defining a compensation package that is fair but not excessive must be based on operating needs and constraints, as well as desired performance objectives.

All public sector organizations have a responsibility to ensure that executive compensation agreements contain clauses that protect the organization, its resources, and the public interest. Employment agreements have a number of provisions that deal with the job duties and conduct expectations of the most senior executive, as well as their total compensation package. Once in place, responsibility for oversight of the employment agreement rests with the board, which must ensure processes are in place to implement the agreement in accordance with its contractual provisions. Required approvals within the agreement are most often delegated to the Board Chair, and must be appropriately fulfilled on a timely basis. Enhanced orientation training should be provided to all Board Chairs when appointed to the position that includes a full copy of the employment agreement.

In negotiating the President's employment agreement, the post-secondary institution's governing board must first and foremost ensure the best interests of the institution are protected. Any requirements placed on the President should be clearly outlined in the agreement, including personal conduct, conflict of interest requirements, paid and unpaid external involvements, etc. Clauses with respect to benefits and perquisites, as well as the forfeiture of such benefits in the event of termination for cause, should be clear and unambiguous in protecting the institution.

Once agreed to for a defined term, amending the employment agreement prior to its end date should be rare, and carefully considered by the board, with a documented business rationale for the need for such amendments. The renegotiated contract, as well as the addition of any addendums, attachments or schedules, must receive appropriate board review and approval.

We examined the Presidents' employment agreements and compensation packages at all institutions to assess whether the contract clauses and provisions were being appropriately implemented and complied with by both parties.

As detailed in the following sections, we found that:

- Boards must protect best interests of the institution in negotiating employment agreements (**SECTION 4.1**).
- Not all aspects of Presidents' employment agreements were fully complied with or appropriately implemented (**SECTION 4.2**).
- Formal performance evaluations of the President were not conducted at some institutions (**SECTION 4.3**).
- Public disclosure of executive compensation in Manitoba is not as fulsome as some other Canadian jurisdictions (**SECTION 4.4**).

4.1 Boards must protect best interests of the institution in employment agreements

In this section, we highlight matters that our compliance review of the Presidents' employment agreements identified areas to strengthen in future employment agreements to ensure the best interests of the institution are well protected. Our findings included:

- Key provisions to protect the best interests of the institution were not always clear.
- Board approval and documented business rationales are needed for amending employment agreements.
- Presidents' compensation packages include a variety of benefits and perquisites.
- Guidance not provided for public sector executive compensation in Manitoba.

PROVISIONS TO PROTECT BEST INTERESTS OF THE INSTITUTION NOT ALWAYS CLEAR

Executive search and hiring a chief executive is one of the most important responsibilities of any governing board. Leading governance practices include establishing a Search Committee to lead the recruitment effort, conduct detailed interviews, and arrive at a recommended candidate for the full board's approval. Terms of Reference for the Search Committee should be established, and meeting minutes maintained demonstrating the committee's due diligence in fulfilling its role. A code of conduct and confidentiality requirements for all committee members should be specified. Using the expertise of an external search firm should be considered to assist in the hiring process.

In drafting employment agreements with the successful candidate, the board must first and foremost ensure the best interests of the institution are protected. All public sector organizations have a responsibility to ensure that executive compensation agreements contain clauses that protect the organization, its resources, and the public interest. Any requirements placed on a chief executive officer or president should be clearly outlined in the agreement, including personal conduct, conflict of interest requirements, paid and unpaid external involvements, etc. It is incumbent on the board to ensure that the overall compensation package offered is fair but not excessive. The board should seek legal advice from internal or external counsel as well as the expertise of compensation consultants to assist in this regard.

- All institutions had policies and process in place with respect to presidential searches, and all created a Search Committee comprised of a variety of board members when required. We noted that one institution required all Search Committee members to sign a confidentiality and code of conduct form which is a good practice.
- All institutions used the services of an external search firm to assist in conducting their presidential search process. However, we noted that Search Committee meeting minutes had not been maintained by all institutions to ensure an accurate record of meetings held.
- Legislation provides all post-secondary institutions' governing boards with the power to hire their President. However, we noted that the two colleges are required by legislation to seek ministerial

approval for “the process adopted by the board for the appointment, review and removal of a president”. This is not required of any other post-secondary institutions. As noted in **SECTION 3.3** (Chapter 1), the Department had no processes in place to monitor compliance with this legislative requirement, nor was a rationale provided as to the need for this detailed level of ministerial involvement for colleges versus other institutions.

- We found that RRC, which had hired a President within the scope period we reviewed, had sought and received ministerial approval for the hiring process adopted by the board, as required by Section 22(4) of *The Red River College Act*. We did not review ACC in this regard as the most recent presidential search process dated several years prior to our scope period. Neither college had sought or received ministerial approval for the “review and removal” aspects of this legislative provision, nor was the Department monitoring this legislative requirement at the time of our review. None of the other post-secondary institutions are required to seek such approvals.
- Our review of all compensation agreements noted some good examples where key clauses were clear and unambiguous in protecting the institution, but also noted the necessity for enhanced clarity with respect to some key clauses. A few of these areas are highlighted below:
 - **Full time nature of the President’s position:** Given the nature of the role, the employment agreement should specify that the President’s position is not a job held only during regular office hours. The President represents the institution at all times, and there is an onus on Presidents to conduct themselves appropriately in all their involvements. Any conduct or activities that would be inconsistent or conflict with their duties and obligations as President of the institution should be avoided. The best agreements we saw clearly specified the “full time, full attention” requirement of the position, and a few even specified examples of ethical misconduct, conflicts of interest, or behaviors that could result in termination for cause.
 - **External involvements and/or conflict of interest requirements:** Employment agreements should specify that all external involvements and directorships, both paid and voluntary, should be approved by the board. The President should seek board approval for any external involvements that arise throughout the agreement term. All such involvements, including any company ownerships, should be declared on the President’s annual conflict of interest declaration form so that the board is aware and can provide appropriate oversight should a conflict of interest arise. The best agreements we saw had clear conflict of interest requirements, and one agreement also specified that any compensation earned by the President for external involvements was to be paid to the institution. We confirmed this had been appropriately implemented and complied with.
 - **Termination for cause:** Employment agreements should specify that the board may dismiss the President for cause and clearly state that any and all ongoing benefits and perquisites would be forfeited. The best agreements we saw also clarified that any lack of compliance with the terms of the agreement would be considered cause for termination. As noted above, a few agreements also specified examples of situations and behaviors that would result in immediate termination for cause, including ethical misconduct and conflicts of interest.

- **Discretionary allowances:** Employment agreements that include a discretionary allowance as part of the President's compensation should be clear with respect to what should be included within this allowance, and if anything can be expensed over and above such an allowance. While no institution provided a discretionary allowance at the time of our review, we noted that prior to 2015, Red River College had included such a clause within two former Presidents' employment agreements.

BOARD APPROVAL AND DOCUMENTED RATIONALE NEEDED FOR AMENDING EMPLOYMENT AGREEMENTS

Significant effort goes into the drafting and negotiation of an employment agreement. Employment agreements are signed and agreed to by all parties for a defined term, generally a five-year period. Amending the employment agreement prior to its end date should be rare and carefully considered by the board. A documented business rationale should exist for the need to renegotiate or amend provisions prior to the contract's end date, and external advice should be sought from legal counsel or compensation consultants to ensure the institution's best interests are protected. The renegotiated contract, as well as the addition of any addendums, attachments, or schedules must receive appropriate board review and approval, and be appropriately signed by all parties.

- We found that three institutions made amendments to their contracts within the defined five-year term of the agreement.
 - A documented business rationale was provided for a clause amendment at only one institution. In this case, the need for the amendment had been suggested by the administration to ease administrative burden regarding the vehicle allowance.
 - For the other two institutions, we found the employment agreements were amended with no documented business rationale. These amendments provided additional compensation, benefits and/or perquisites to their President, with no further responsibilities nor performance requirements placed on the position. For one of these institutions, we found no evidence that the board was provided, nor approved the amended employment agreement.
- We noted that one institution added an attachment, *Pension Agreement*, over a year after the employment agreement was signed. The employment agreement had provided for the later negotiation of this attachment, and the responsible committee had passed a resolution to that effect. However, we found no evidence the board or committee was provided, nor approved the final negotiated attachment that was completed several months later. No rationale was provided as to why the Board Chair (who was also chair of the committee) was not able, or not requested, to sign this attachment. This *Pension Agreement* attachment was signed by internal executives only, who are in a direct reporting relationship to the President, which does not provide an appropriate one-over-one approval.

COMPENSATION PAID INCLUDES VARIETY OF BENEFITS AND PERQUISITES

Compensation packages for senior executives are comprised of a variety of direct and indirect benefits that employers can use to attract, recruit and retain valued employees and foster performance excellence. It includes both tangible rewards, which are those to which a specific dollar value can be assigned (such as salary, benefits, incentives, perquisites, etc.), and intangible rewards which are the intrinsically valued, motivational components (such as job satisfaction, recognition, professional development and career growth, etc.).

The following chart outlines the variety of direct and indirect compensation included within the Presidents' employment agreements we reviewed. The governing board must take care to consider the full compensation package when negotiating a fair employment agreement. Any unusual or excessive compensation arrangements, as well as any changes made to compensation, should have a documented business rationale and be approved by the board. Strong oversight practices should be in place to ensure the clauses of the compensation agreement are appropriately implemented. As discussed in **SECTION 4.2** below, we did not find this was always the case.

Compensation elements	Findings for the seven public post-secondary institutions
Annual base salary	Base salary ranged from \$205,409 to \$425,435 in 2016.
Annual salary increments Salary increases negotiated into the contract, which can be a flat annual rate or based on negotiated amounts given within collective agreements for other employees (such as an annual cost-of-living increment).	- Four contracts provided for a general salary increase each year aligned with the negotiated cost-of living increment awarded to all institution employees within collective agreements. - One contract provided a flat \$5000 salary increase each year, plus an annual cost-of-living increment. - Two contracts did not include any such annual salary increments.
Performance-based salary increases Annual increases in salary based on performance expectations being met each year. The level of increase was either expressed as a percentage range (for example, 0 – 3%), or left to the discretion of the board.	- Three contracts had provisions for an annual salary increase based on performance. – However, we found only one institution provided an annual merit-based salary increase to their President each year. This was awarded at the maximum level of 3% each year during our review period.
Bonus awards Bonus award payment given for meeting annual performance objectives. A clear linkage should exist between organizational objectives and employee performance results.	- Two contracts had provisions for annual performance bonus awards, however one President chose not to receive any performance bonuses. - We found only one institution awarded an annual bonus award to their President. This was awarded at the maximum level of 20% salary the first year of our review period. In the following year, this was changed to an award of 40 days additional vacation, which was considered equivalent to the maximum 20% salary level.

Benefits Employment benefits typical for all employees generally include vacation, sick leave, medical, dental, extended health, workers compensation, disability and life insurance, etc. For senior executives, additional or enhanced benefits are sometimes included in the contract.	• All contracts provided six weeks (30 days) vacation per year. Also, post-secondary institutions provide extra vacation leave over Christmas week to all employees, which is not part of the 30-day vacation allotment. – University Presidents do not accrue this vacation benefit, so it is either taken within the fiscal year or forfeited. Contracts at some institutions allowed a small amount of vacation to be carried over if necessary with approval of the Board Chair, but we did not find that to have occurred at any university during the scope period we reviewed. – The Presidents of the two colleges and UCN do accrue vacation time, and carry it forward if not used with the potential for future payout. We found a variety of issues in the implementation of this vacation benefit at all three of these institutions, including the awarding of extra leave entitlements. • All received medical, dental, health and insurance benefits typical for all employees, as well as earned sick leave. Some contracts enhanced these benefits with higher health spending accounts, additional insurance coverage, estate benefits, etc.
Perquisites Other forms of compensation or privileges may be included in a contract. Common examples include vehicle benefits and/or free parking; club or professional memberships; professional development allowances, etc. Enhanced perquisites may include discretionary allowances, payment of spousal travel; use of a residence, etc.	Four contracts awarded a vehicle allowance paid monthly or annually. These ranged in value from \$600 – \$1000 per month. One contract provided a fleet-vehicle for the President's use. Two contracts did not include any vehicle benefit. • Three contracts provided for professional development, and one also had a budget available for research expenses. • Two contracts allowed for club and professional memberships. • One contract paid costs for travel of President's spouse, upon prior approval of the Board Chair. • Two contracts included reimbursement of moving costs, such as pre-relocation travel costs, legal and real estate fees. • Two contracts included reimbursement for legal expenses, and/or financial and tax planning reimbursement. • One contract included a university-owned residence benefit. While it was previously common to provide a residence for Presidents of universities, we noted that by the time of our review, two universities had removed this benefit in their most recent contracts and sold their university-owned residence. • No contracts contained a discretionary allowance.
Retirement benefits Income provided through either the institution's standard pension plan, or other retirement income arrangement. Some organizations provide enhanced pensions to senior executives through a Supplemental Executive Retirement Plan (SERP). Such plans are usually for high-income earners when Canada Revenue Agency maximums are reached.	• During the scope period we reviewed, all contracts included their President in the institution's pension plan. • Two contracts also provided a SERP that enhanced or topped-up pension benefits. This liability was fully funded at only one institution. – For both institutions, we found no documentation had been provided to the board regarding the details of these SERPs and the future liability on the institution.

Administrative leave benefit Administrative leave, which is a continuation of salary and benefits after the term of an employment contract, is a common practice in Canadian universities and seen as a type of research leave to facilitate a return to the academic rank after a President's tenure.	• Administrative leave benefits ranged from 80% to 100% of salary after the fifth year of the contract. – At one institution, the President had to fulfill the full five-year contract for the administrative leave to be awarded. – At the other three institutions, the benefit is paid at a pro-rated amount if the President were to leave prior to the end of the contract. • Upon renewal of the contract, a second year at 100% salary was awarded at one institution. At another institution when the contract was renewed, no additional administrative leave was awarded for the second five-year term, at the request of the President.
Severance Typically a payout to compensate for terminating the contract prior to the end of its term.	• Six contracts awarded 12 months of severance for termination without cause; one contract awarded 18 months of severance.
Misc. <u>Post-Employment Contract/Continuation:</u> Additional pay and benefits continuing after the term of the employment contract, for specified or unspecified services.	• One contract awarded an extra six months of pay and benefits to the President after their tenure ended, for limited services. The business rationale for this additional compensation was not documented.

Advice provided to post-secondary institutions:

We advised institutions to strengthen future employment agreements to ensure the best interests of the institution are well protected, and that compensation packages are fair but not excessive. Legal advice and the expertise of compensation consultants should be obtained in negotiating employment agreements, as well as when any amendments are made to the agreement. Such amendments should be rare, and only occur based on a documented business rationale. Any amendments made to the agreement, or its attachments, schedules and appendices must be pre-approved by the board.

NO GUIDANCE PROVIDED FOR PUBLIC SECTOR EXECUTIVE COMPENSATION IN MANITOBA

In Manitoba, government has not issued guidance to assist public sector governing boards in negotiating executive compensation. Our review of other provincial jurisdictions noted that it is not uncommon for legislation regarding executive compensation within the broader public sector to be in place, or guidelines to be provided to board-governed entities with respect to the compensation framework for the public sector (see box). Such guidance can assist all public sector boards in negotiating executive compensation that withstands the test of public scrutiny, especially with respect to enhanced benefits (for example, the use and funding of Supplementary Executive Retirement Plans for senior executives in public sector organizations).

Some provincial jurisdictions require the employment agreement of designated executives, such as presidents of post-secondary institutions, to be disclosed on their websites, or in their compensation disclosure. We further noted that some provincial jurisdictions had established specific compensation guidelines for the post-secondary education sector.

- At the time of our review, Red River College was the only institution whose employment agreement with their President was made publicly available on its website.

British Columbia's Public Sector Employers' Council (PSEC) Secretariat issued its *Guide to B.C. Public Sector Compensation and Expense Policies* in March 2017, which helps employers design and implement plans for excluded and executive compensation, as well as provides a policy framework to manage expenses of public service employees and appointees. These are anchored in British Columbia's Taxpayer Accountability Principles introduced in 2014 to strengthen governance accountability frameworks.

Alberta: Under *The Reform of Agencies, Boards and Commissions Compensation Act*, Compensation Reform Regulations were issued in February 2017, as well as guidelines and handbook in implementing the regulations. In April 2018, Alberta issued the *Reform of Agencies, Boards and Commissions (Post-secondary Institutions) Compensation Regulation* guidelines, which deals with total compensation, including salaries and benefits, for designated executives at Alberta's public post-secondary institutions.

Ontario: *The Broader Public Sector Executive Compensation Act*, enacted in 2015, applies to all universities, colleges and post-secondary institutions. Management Board of Cabinet has also issued a number of directives regarding compensation, perquisites, and expenses: *Broader Public Sector Executive Compensation Program Directive*; *Broader Public Sector Perquisite Directive*; and *Broader Public Sector Expenses Directive*.



Recommendation 21

We recommend that Government provide guidance to assist all public sector governing boards responsible for negotiating executive compensation.

- We further recommend the Minister work in consultation with the post-secondary institutions to develop guidelines reflecting an executive compensation framework appropriate to the sector. If the need arose to award benefits/perquisites beyond the guidelines, the documented business rationale should be provided to the Minister, and all discussions/approvals documented.

4.2 Not all aspects of Presidents' employment agreements fully complied with or appropriately implemented

The governing board is responsible for providing oversight to ensure that the provisions within the President's employment agreement are being appropriately implemented, and being complied with by all parties throughout the term of the agreement. We found that most boards were not fully aware of their oversight responsibilities related to their President's employment agreement. Even at time of hire, we noted that some institutions did not share the key provisions of the employment agreement with the full board.

Once an agreement is signed, the Board Chair must ensure that a copy of the agreement is also shared with the appropriate administrative personnel in Human Resources and Finance that will be implementing the clauses of the agreement. In some cases, we noted the President's employment agreement was kept confidential and filed in the President's office only, rather than appropriately shared with the responsible departments.

Employment agreements have a number of provisions where approvals must be provided by the Board Chair for specific activities and/or perquisites. Some examples include hospitality expenses, external board involvements, and payment for a spouse's travel. While the Board Chair who negotiated and signed the original agreement initially would be aware of the provisions, new Board Chairs who follow are not. Given this, all Board Chairs should be provided a full copy of the President's employment agreement when appointed to the role. Further, orientation training should be provided with respect to their role in approving any expenses/perquisites, or implementing any other provision of the agreement.

The Board Chair has a responsibility on behalf of the board to provide appropriate oversight of the provisions within the President's employment agreement. Approvals should be done on a timely basis. As noted in **SECTION 5.4** below, we found significant delays and weak administrative practices at some institutions in obtaining the Chair's approvals. This leaves the impression that the Chair's approval is not taken seriously. Also, Board Chairs should be wary of being asked to sign blanket pre-approvals for

various clauses contained within the agreement, as such a practice in effect negates the intent of the approval requirement contained within the employment agreement.

- We found no institution provided newly-appointed Board Chairs a copy of the employment agreement, nor provided any enhanced orientation training with respect to their oversight of the agreement and approvals required. During the scope period we reviewed, most of the Board Chairs we interviewed had not been provided a full copy of their President's employment agreement.
- We found that at three institutions, the employment agreement was not appropriately shared with the Human Resources or Finance departments that are responsible for implementation of the agreement's clauses. We found this resulted in inadvertent errors in the administration of the contract, and a lack of compliance with various clauses of the agreement.
 - We found a few examples where changes in compensation or perquisites were implemented based on verbal or email direction from the President's office or corporate secretary position, without the proper authorizing documentation from the board being provided. Human Resources and Finance must be provided with proper documentation of the board's approval or authorization for any changes made.
- We found lack of compliance with some provisions of the President's employment agreement at all institutions, to varying degrees. At some institutions, this was minor specifics in one or two clauses, but at some institutions, it was several clauses. Most of the compliance issues related to: lack of seeking Board Chair pre-approvals where necessary; lack of conducting President performance evaluations (see **SECTION 4.3**); and lack of disclosure of external involvements or conflicts of interest.

Advice provided to post-secondary institutions:

We advised institutions to ensure a full copy of the President's employment agreement is provided to the Board Chair, as well as to the administrative departments who have a role in implementing the contract provisions. The corporate secretary position, who assists the Board Chair in fulfilling governance functions, should also be provided the full copy of the employment agreement.

- The Board Chair is usually delegated oversight responsibilities for key clauses of the agreement on behalf of the board. Whenever a new Board Chair is appointed, their orientation training should include their responsibilities and required approvals within the agreement. Such one-over-one approvals are in place to ensure appropriate oversight and accountability of the President in key areas. These serve firstly to protect the President from any undue suspicion in these areas, and secondly to protect the institution from any inappropriate advantages being taken. Board Chairs should not abdicate their responsibility to provide appropriate oversight by signing blanket pre-approvals for such requirements.
- Administrative departments such as Human Resources and Finance require a full copy of the employment agreement to ensure appropriate implementation of its provisions. These departments should not implement any changes to compensation, benefits or perquisites without provision of proper board approval and authorization.

4.3 Formal performance evaluations of President not conducted at some institutions

Monitoring the performance of a CEO/President is a key responsibility of any board, and is commonly included as a requirement within employment agreements. Leading governance practices suggest a formal process for annual performance evaluations of the CEO/President be in place that is based upon agreed-upon criteria and achievement of performance objectives. The documented results of the performance evaluation should articulate strengths and progress towards achievement of annual objectives, as well as opportunities for future growth and development. Especially if a public sector organization awards any performance-based compensation adjustments, bonus payments and/or perquisites, it should be clearly linked to a fulsome documented performance evaluation.

Appropriate evaluation ensures that the activities of the President are aligned with and fulfill the board's strategic goals and priorities for the organization. The goals and objectives upon which the President is to be assessed should be clearly documented and approved by the board (or delegated committee) at the beginning of the performance review cycle to ensure performance reports are aligned with the board's strategic priorities. While responsibility for undertaking the evaluation process and discussing opportunities for improvement with the President is often delegated to the Board Chair or a standing committee of the board, all board members should have the opportunity for input and should be informed of the results of the review. The best evaluation processes we saw included not only input from the board, but a 360-degree assessment conducted by an external HR services firm.

Performance bonuses or salary increases should only be awarded when performance expectations are met. Determination of such performance pay must be based on meaningful criteria and performance measures, and documentation should clearly demonstrate the link between performance and the level of bonus awarded. Board approval is required annually for the awarding of the President's performance pay, especially if it is at a level exceeding typical increases awarded to employees within the organization.

- We found all but one of the employment agreements required an annual performance evaluation of the President.
 - We found three of the six institutions whose agreements required an annual performance evaluation did not conduct any performance evaluations of their President. Even though not formally required in one employment agreement, we noted that a documented performance evaluation of the President was conducted each year at that institution as well.
 - The remaining three institutions did conduct President evaluations, although we noted at one institution this was not conducted annually as required.
 - No salary increases or bonuses based on performance were provided at the three institutions that did not conduct performance reviews.

- We found five of the employment agreements reviewed had clauses which awarded salary increases or bonus awards based on performance. Of these, only two institutions actually provided performance-based salary increases or bonus awards to their President. We noted that in both cases, the President was always awarded the maximum annual performance increase or bonus allowed within their contract.
- Both of these institutions conducted annual performance evaluations of their President. However, we noted that one institution did not conduct an evaluation in one of the years in our scope period, yet still awarded the President the maximum annual bonus award.

Advice provided to post-secondary institutions:

We advised institutions to annually conduct a formal performance evaluation of the President, based on meaningful criteria and performance measures that identifies strengths, achievement of strategic objectives, and opportunities for improvement. Annual performance reviews are especially critical when performance-based pay or bonuses are awarded.

4.4 Public disclosure of compensation in Manitoba not as fulsome as some other Canadian jurisdictions

Public transparency and accountability is a standard best practice approach to public sector executive compensation. Compensation disclosures that provide a complete picture of total executive remuneration, including base salary, pension allowances, severance and other benefits, is a hallmark of better practice.

Manitoba enacted *The Public Sector Compensation Disclosure Act (The PSCD Act)* in 1996, which requires public sector organizations to disclose “the amount of compensation it pays or provides in the fiscal year or in the calendar year, directly or indirectly.” These compensation statements disclose a lump sum amount for employees earning \$75,000 or more. This lump sum reflects the income amount reported on the individual’s T4 tax information slip, which includes direct payments (such as salary, overtime, and bonus payments), and any taxable benefits (for example, a portion of vehicle benefits).

The PSCD Act in Manitoba does not require the presentation of all compensation earned or accrued, such as the employer’s contributions to pension benefits, or any other accrued or deferred benefits. Our review of other jurisdictions in Canada (see box) noted that some provide more fulsome reporting of compensation, which includes not just direct payments and taxable benefits, but severance accrued, as well as non-monetary benefits such as the employer’s portion of pension contributions, employment insurance, Canada Pension Plan and Workers’ Compensation Board premiums. Alberta also requires employment contracts to be disclosed for designated executives, which includes presidents and vice-presidents of post-secondary institutions.

British Columbia: The B.C. Public Sector Executive Compensation Reporting Guidelines require disclosure of all compensation amounts provided including salary, bonuses, benefits, pension, and other compensation such as severance, payouts and other allowances. The compensation philosophy and who is responsible for determining executive compensation is also required, as well as an explanation of performance-related pay measures and rewards. www.publicsectorcompensation.gov.bc.ca/executive-compensation-disclosures

Alberta: Employment contracts for designated executives such as institution presidents are public. Public sector body compensation disclosures requirements includes all compensation such as salary, bonuses, taxable benefits, severance amounts, and non-monetary (other) benefits including the employer's portion of pension contributions, employment insurance, CPP and WCB premiums. www.alberta.ca/public-sector-body-compensation-disclosure-table.aspx

Ontario: Post-secondary institutions provided within www.ontario.ca/page/public-sector-salary-disclosure

- Brandon University was the only institution that made its public sector compensation disclosure statement publicly available on its website.
- We note that subsequent to our audit, legislative amendments were made to *The PSCD Act*, including the addition of the requirement that as of January 1, 2019, all public sector bodies must "*publish the information on its website.*" (Section 3(1) of *The PSCD Act*). We expect all post-secondary institutions to comply with this requirement moving forward.



Recommendation 22

We recommend that the Department ensure all institutions are complying with the disclosure requirements of *The Public Sector Compensation Disclosure Act* by making their compensation statements available on their website.

5 Board oversight of Presidents' expenses needs improvement

Expense scandals are common fodder for media headlines. Increasing public scrutiny of executive expenses is occurring in every sector of society, and post-secondary institutions are certainly not immune. Hence, the reputational risk of reimbursing inappropriate expenses is not correlated with the dollar value of that expense. In fact, it can be argued that the expensing of small dollar items often causes more extensive reputational harm. For example, media stories of the expensing of a \$1.29 pack of gum by a former CEO of Canada's Royal Mint, or a \$16 orange juice by a former federal politician created headlines across Canada that are still remembered today.

Like all public sector executives, leaders of post-secondary institutions are in a position of trust, with high ethical expectations. They must uphold this trust by using public monies prudently and with probity. Public scrutiny and interest in the most senior executive's expenses is always heightened. Hence, weak administrative practices and lack of timely and appropriate one-over-one approvals of a President's expenses creates risk.

The Board Chair has a responsibility on behalf of the board to provide rigorous oversight of the President's expenses. The business purpose and rationale for all expenses of the President should be clearly documented, especially if the expense is an exception to policy, or when related to travel, hospitality or entertainment where public scrutiny may be elevated. Such one-over-one approval serves to best protect the President from any undue suspicion, as well as to protect the institution from any advantages potentially being taken.

We believe implementing a board-approved expense policy for the President, which recognizes the unique role and requirements of the position, and considers the need to withstand the test of public scrutiny in all expenses, would provide a more appropriate accountability framework. Such a policy is not intended to lessen the expectations upon the President for appropriate business rationale for all expenses, as well as the inclusion of all supporting documentation and original receipts, but rather to clarify expectations and requirements, as well as the process for board oversight.

A common issue found at all institutions was that the documentation provided to Board Chairs for the approval of Presidents' expenses needs to be improved. The aura of power that exists in the most senior executive of any organization requires a CEO/President to go "above and beyond" in providing robust supporting documentation for expenses that meets all policy requirements without being asked. The need to question the purpose of an expense or request more documentation understandably places subordinates within the organization in a highly awkward position, and also creates discomfort for any Board Chair who would not want their questions to be perceived as a lack of trust.

We conducted an audit of the Presidents' expenses at all post-secondary institutions to determine whether appropriate board oversight was being provided. We examined the expenses of each President over a two-year period to assess compliance with the institution's policies. Total expenses by Presidents

Our examination of Presidents' expenses was conducted to ensure compliance with the institution's policies and whether appropriate board oversight and approval was provided. As our examination of President's expenses was not designed as a forensic audit, we provide no assurance that fraudulent or inappropriate expenses do not exist.

over that period ranged from a low of \$16,155, to a high of \$57,274. At four institutions, all expenses incurred by the President were examined. At the other three institutions, we used sampling due to the large volume of transactions. Any issues or concerns that came to our attention during our audit were discussed with institutions, and many institutions made changes to their practices as a result.

As detailed in the following sections, our audit of the Presidents' expenses over a two-year period found that:

- No board-approved policy for Presidents' expenses was in place at any institution (**SECTION 5.1**).
- There is a need to define what is a President's direct expense to ensure that all are provided to the Board Chair for approval (**SECTION 5.2**).
- Board Chairs are not provided sufficient orientation training in approving Presidents' expenses (**SECTION 5.3**).
- Oversight of Presidents' expenses was impaired by weak administrative practices and supporting documentation (**SECTION 5.4**).
- Some institutions' expense policies required greater clarity (**SECTION 5.5**).

5.1 No board-approved policy for Presidents' expenses in place

We found no institution had a board-approved expense policy for its President. All institutions required their President to follow the same general employee expense policy adopted for all institution employees. While this may sound suitable, it does not recognize the unique role and requirements of the President position, which typically involves frequent business travel, additional business/hospitality expenses, and attendance at functions related to donors or other external stakeholders. As well, the Presidents' employment agreements usually contain provisions on expenses or other perquisites that may fall outside the requirements of a general employee expense policy. Requiring the President to adhere to the general employee expense policy also means that the President approves or influences approval of their own expense policy, rather than having an appropriate board-approved policy in place.

Requiring the President to adhere to the general employee expense policy may also not be reasonable given the position sits at the apex of the organization and is accountable directly to the governing board. For example, pre-approval of travel by a supervisor is a common and sensible policy requirement for all employees. However, as overall accountability of the President is to the board, there is no direct supervisor. In most cases, the board delegates responsibility to the Board Chair for approval of President's expenses. Given the part-time nature of the role, the need for pre-approvals by the Board Chair may not be a reasonable or easily administered expectation. A process for post-approval by the Board Chair, with

the provision of supporting documentation, including business rationale and original receipts, can be a reasonable approach if implemented appropriately.

A board-approved expense policy for the President, which recognizes the unique role and requirements of the position, and considers the need to withstand the test of public scrutiny in all expenses, would provide a more appropriate accountability framework than we found to be in place during the period we reviewed. Such a policy is not intended to lessen the expectations upon the President to provide appropriate business rationale for all expenses, as well as include all supporting documentation and original receipts. Rather, such a policy would clarify expectations and requirements, as well as the process for board oversight.

Should the institution's governing board choose not to adopt such a policy and continue to require adherence to the general employee expense policy, then much greater care and due diligence is required by the board, and especially the Board Chair. While this creates an administrative burden on the administration and the Board Chair, the approval process must ensure the President's expenses do in fact fully comply with the policy requirements. There should not be blanket pre-approvals or other policy work-arounds put in place, as this creates a type of hidden expense policy, which is inappropriate and does not provide the oversight envisioned either in the expense policy or in the provisions of the employment agreement.

Our examination found that the approval practices at all institutions did not ensure compliance with policy, which creates risk for the President. Good accountability processes by the board, which includes rigorous oversight of expenses, serves to best protect the President from any undue suspicion or misunderstanding regarding their expenses. It also ensures the trust placed in the President is well-founded.

- At all institutions, we found instances of Presidents not complying with their institution's general expense policy, to varying degrees. The most common compliance issues in general were: lack of pre-approvals when required by policy; lack of original, detailed receipts; and in some cases, airfare add-ons or higher than "lowest-cost" flights without required pre-approval or documented explanation.
- All deviations from policy identified by our audit were brought to the attention of the institutions during the course of our audit. Many institutions addressed the issues or made changes to their policies or practices as a result.
- Only one institution included in its board governance manual a policy statement acknowledging that the President may require some expenses beyond the general employee expense policy. This board policy statement outlined some general principles and care that should be applied in assessing President's expenses, in order to withstand the test of public scrutiny. However, we found this board policy statement was not fully applied or considered in the actual review and approval process in place for the President's expenses at this institution.

Advice provided to post-secondary institutions:

We advised institutions to implement a board-approved President's expense policy, which recognizes the unique role and requirements of the position, and specifies clear process expectations and approval requirements. Such a policy should not lessen the expectations upon the President for appropriate business rationale for all expenses and the inclusion of all supporting documentation, including original receipts. Like all policies, the board should establish a schedule for periodic review and updating of the policy.

5.2 Need to define what is a President's direct expense to ensure all are approved by Board Chair

Proper accountability requires one-over-one approval for all expenses by employees, including the President. As the President is accountable to the governing board, oversight and approval of their expenses must be provided by the board. Appropriate accountability cannot be provided through approval by a subordinate position, such as the senior financial officer who is in a direct reporting relationship to the President. It is most common for the board to delegate oversight responsibility for expense approvals to its chair, but it could also be delegated to a vice-chair, or the chair of the Audit Committee.

- We found the Board Chair approved the President's expenses at all but one institution. At Brandon University, the Vice-President (Administration and Finance) approved the President's expenses. Although we found no specific issues or concerns that were unique to BU as a result of this process, the risk inherently exists that a subordinate that is in a direct reporting relationship to the President could be placed in an awkward position if they questioned or had to deny an expense of the President. We note that BU has since amended its expense policy, and the President's expenses are approved by the Board Chair after review by the Vice-President (Administration and Finance).

LACK OF CLARITY AS TO WHAT IS OR IS NOT A PRESIDENT'S EXPENSE

Our audit found a lack of clarity and considerable variation at each institution as to what is, or is not, considered a President's expense, and hence what expenses should require Board Chair oversight and approval. At the time of our examination, no institution had a definition of a President's expense. As a result, we found the method of payment became the default definition of what expenses received Board Chair approval, rather than the type of expense.

At most institutions, only expenses of the President that were claimed on an expense approval form, or charged to the President's corporate credit card, were provided to the Board Chair for approval. However, our audit identified a number of other methods for incurring and paying a President's expense, which were not provided to the Board Chair for approval. This results in similar expense items being inconsistently included or excluded from the Board Chair's approval process. As an example of this issue,

we outline below how the expense of an airline flight taken by the President may be handled in a variety of ways, each leading to a different approval process:

1. If the airline flight is booked on a President's corporate credit card, the expense would be reviewed and approved by the Board Chair at all institutions.
2. If the airline flight is booked by an Executive Assistant, using a corporate credit card other than the President's, the expense would not be reviewed nor approved by the Board Chair. In this case, the President would approve their own flight expense, which is inappropriate.
3. If the institution has a direct billing arrangement with the airline, as was noted at some institutions, the same flight would be invoiced to the institution and internally charged to the President's office budget centre, without any review or approval by the Board Chair.

Determining a definition of a President's expense requires a differentiation between what is a direct expense incurred by the President in fulfilling their role, versus what is an institutional or administrative expense incurred in the President's name or by the Office of the President. Our audit found inconsistency on how these expenses were handled, even within the same institution. In our view, having a stand-alone President's expense policy would help address this lack of clarity.

- We found that the lack of a definition of a President's expense led to not all expenses of the President being approved by the Board Chair. Examples of the types of transaction streams that we found to be frequently omitted from the Board Chair's review process are listed below. The type and frequency of these expenses varied at each institution. We did not quantify or assess the extent of these practices at each institution.
 - Expenses of the President that were direct-billed to the institution: These varied at each institution, but were items paid directly through the institution's accounts payable process. These included items such as airfare, vehicle rentals, professional development, and conference registrations.
 - Expenses of the President purchased on another senior executive's corporate credit card: We noted examples at five institutions of expenses such as meals that involved the President but were charged to the credit card of a Vice-President or other executive. As the President is the one-over-one approver for Vice-Presidents' expenses, it therefore results in the President approving their own expense, which is inappropriate. As well, these expenses are then not brought forward to the Board Chair for review and approval. Expense policy and procedures should specify that the most senior employee in attendance pays and claims the expense.
 - Expenses of the President being charged to their Executive Assistant's corporate credit card: The President's Executive Assistant is often responsible for booking airline travel, registering for conferences, or making other types of purchases on behalf of the President. We found examples at four institutions where expenses of the President were charged to the corporate credit card of their Executive Assistant or other office staff. As the President approves their staff's credit card purchases, it results in the President approving their own expense. It therefore results in these expenses also not brought forward to the Board Chair for review and approval. Care must be taken to ensure that direct expenses of the President are charged only to the President's corporate credit card.

- Expenses of the President charged internally to the President's Office budget centre: These included internal billings for catering and food services, which may have included hospitality expenses of the President in hosting guests to meals, receptions or events on campus (or campus-related venues such as Jane's Restaurant at RRC, or the President's residence at UM). These types of transactions were also not brought forward for the Board Chair's review and approval, even though they are a hospitality expense, which if incurred off campus would have been expensed through the claims process and been approved by the Board Chair.

COMPLETENESS AND ACCURACY OF ONLINE REPORTING IMPACTED

Our audit examined the accuracy and completeness of the online disclosures of Presidents' expenses at the three institutions that have adopted the practice of public reporting. We noted that the lack of clarity in the definition of a President's expense also impacted the completeness and accuracy of the information that was publicly disclosed. In preparing online disclosures, institutions should be clear on the nature of the expenses to be reported and consider all sources of expenses for a President. Not doing so may create the opportunity to avoid disclosure through the various payment methods noted above.

- We found a completeness issue existed for all three institutions. Expenses that were not provided to the Board Chair for approval were also not usually disclosed in the online reporting. One institution also chose to exclude certain expense types from disclosure, but this was not clarified in the online reporting.
- We noted that only Red River College had a process in place where Finance reviewed expenses charged to the President's budget centre for the occurrence of President's expenses, and brought these forward for inclusion in the online disclosure. However, these items were not also brought forward for inclusion in the Board Chair's review and approval process.
- We also found minor administrative errors impacting the accuracy of the information disclosed at two institutions. Care must be taken that the public reporting of President expenses is complete and accurate.

Advice provided to post-secondary institutions:

We advised institutions to ensure all President's expenses, regardless of payment method or transaction stream, are brought forward for approval by the Board Chair. This requires clarification of what is to be considered a President's expense that is incurred in the fulfillment of the role, versus what is an institutional expense of the President's office.

- In preparing online disclosures of the President's expenses, institutions should be clear on the nature of the expenses to be reported and consider all sources of expenses. If an institution chooses to exclude certain expenses from disclosure, an explanation of the rationale and approach should be provided online.

5.3 Board Chairs not provided sufficient orientation training in approving Presidents' expenses

Regardless of the Board Chair's prior governance experience, orientation training on their role in approving expenses within a public post-secondary institution is important. Such training helps ensure clarity of expectations, and of any specific requirements or risks that may be unique to the institution. The Board Chair (or other delegated approver) bears the responsibility of ensuring that policy requirements are being complied with, and that the President's expenses are appropriately supported. The reasonableness of any expenses claimed that are exceptions to policy, where no policy exists, or where public scrutiny may create heightened risk, must be appropriately assessed and approved by the Board Chair.

In order to provide substantive review and approval of the President's expenses, the Board Chair should be provided a copy of the institution's applicable expense policies, in order to be informed of what the policy does or does not allow. Orientation training should be provided by the Finance department which are best positioned to provide expertise in the policy and process, and answer any questions. Further, the Board Chair should be provided a full copy of the President's employment agreement, which may give leeway for additional travel, hospitality, and entertainment expenses, that must also be considered when reviewing and approving President's expenses.

- We found no Board Chair was provided orientation training specific to their role and the expectations placed on them with respect to approving President expenses. In our interviews, a few Board Chairs noted that the corporate secretary position provided an initial overview of the process. One Board Chair told us when they received the first package of expenses to be approved, they had to call a former Board Chair for assistance as to what to do.
- None of the current and former Board Chairs we interviewed had been provided a copy of the institution's expense policies, although it was available online at some institutions. Further, Board Chairs were not provided a full copy of the President's employment agreement. The Board Chair must consider all requirements and perquisites contained within the agreement in conducting their expense review (for example, a Board Chair needs to be aware if a discretionary allowance is provided so that personal expenses are not also approved through the expense claim process).
- In our interviews with Board Chairs, we were told that in most cases, expenses were approved based on their personal judgement in assessing the reasonableness of the expense. Determination of whether an expense meets or does not meet the specific requirements of the institution's general employee expense policy was not considered. No Board Chair advised us that they had ever denied an expense of a President.
- Our discussions with some Board Chairs noted that individual perceptions of what is, or is not, a reasonable expense varied based on background and experience.

BOARD CHAIR EXPENSES SHOULD BE APPROVED BY THE BOARD

We found instances at most institutions where the President claimed an expense in which the Board Chair was involved in the transaction (for example, a meal at which the Chair was also present). In such instances, these expenses should not be approved by the Board Chair; instead, they should be approved by the Chair's one-over-one approver. Some institutions' expense policy clearly specified this type of requirement. To illustrate, an example provided from one institution's expense policy: *"In the event that the one-over-one Approver personally benefited from the expense (for example, by being at a lunch or reception being claimed for reimbursement), the Claim must also be approved by the one-over-one's Approver's direct supervisor."* However, we found that this policy requirement, where it existed, was not being complied with for President's expenses. As a result, where this occurred, Board Chairs approved their own expenses, which is inappropriate.

As discussed in **SECTION 2.7** (Chapter 2), all board member expenses should be approved at the board level. Boards often choose to delegate this responsibility to the Board Chair, but it can be delegated to another board member, such as the Vice-Chair or the Chair of the Audit Committee. If delegated to the Board Chair, approval of their expenses should be provided by another board member such as the Vice-Chair, or the Chair of the Audit Committee.

- We found that board member expenses were not approved at the board level at any institution.
 - At most institutions, the corporate secretary position approved any expenses of the board, as they had internal responsibility for the budget area. However, as the corporate secretary is in a subordinate position, it does not provide the appropriate one-over-one approval.
 - At one institution, policy specified the President was to approve all board member expenses. However in practice, the corporate secretary approved board member expenses as the position had delegated responsibility for expenditures up to a threshold dollar amount, and board member expenses rarely went beyond the threshold.
 - At one institution, no process for approval of board expenses was in place, as it was a rare occurrence.

Advice provided to post-secondary institutions:

We advised institutions to provide enhanced orientation training for the Board Chair regarding expense policy requirements and the expectations related to their review and approval of President's expenses.

- In our view, the Finance department, rather than the corporate secretary position, should provide the Board Chair's orientation with respect to expense approvals, given their expertise regarding policy requirements and an understanding of the inherent risks within the institution's processes.

5.4 Oversight of Presidents' expenses impaired by weak administrative practices and supporting documentation

We reviewed the process established at each institution for the approval of the President's expenses, and found improvements could be made at all institutions, to varying degrees. As noted previously, at one institution, the Board Chair was not involved in the process and expense approvals were provided by the senior financial executive only. At all other institutions, Board Chairs were provided the expense claims and credit card statements, along with supporting documentation. The corporate secretary position provided the information to the Board Chair for their approval before or after meetings at some institutions. At one institution, the senior financial executive provided an expense summary to the Board Chair and was available for questions if required. At other institutions, the information was mailed or emailed to the Board Chair for their review and approval.

- At four institutions, the Board Chair was provided with all credit card statements and expense claim forms, as well as supporting documentation. At two institutions the Board Chair was provided summaries of expenses. We noted that supporting documentation was attached at one institution, but not the other unless requested.
- Lack of timeliness of the Board Chair's approval of President's expenses was a significant weakness at two institutions.
 - At one institution we found that expenses had not been reviewed for almost a year, and it was our audit that triggered Board Chair approval to be obtained. Given the time delay, a new Board Chair was required to approve almost a year's worth of expenses that had been incurred under the tenure of a former Board Chair, who should have more appropriately provided the approvals before leaving the role. This institution's board policy required quarterly review of President's expenses, which was not consistently followed.
 - At the other institution, the Board Chair only approved expenses twice during 2016 (January and May). The next review did not occur until January 2017, approving expenses only covering the period from March to August 2016 (a delay of almost a year for some expenses).
- At three institutions, we noted that along with the Board Chair's approval, the senior financial executive had some level of review or signoff related to President's expenses. We believe this is a good practice that can be enhanced at most institutions. Finance could assist the Board Chair by ensuring all expenses are in compliance with all requirements of the employee expense policies, prior to the Board Chair's approval. Any areas of non-compliance should be highlighted in the documentation provided to the Board Chair, so that it is clear what items are a deviation from policy requiring enhanced oversight.
- We noted the use of electronic signatures for expense approvals at one institution. In such cases, a formal policy for the use of e-signatures is required, as well as ensuring strong internal controls are in place regarding appropriate access to e-signatures.

- We noted one institution had incurred interest charges for late payments to the President's corporate credit card. This is inappropriate. The institution's expense approval process should not result in late payments or interest charges being incurred on corporate credit cards, and processes should be improved to ensure timely payments of credit card balances. The Board Chair could still deny a President expense even after payment, which would then need to be reimbursed to the institution by the President.
- We noted two President's employment agreements required an annual budget to be established for the President's travel and hospitality expenses. However, we did not find these institutions complied with this requirement.

Advice provided to post-secondary institutions:

We advised all institutions to clarify expectations of the Board Chair with respect to expense approvals, and the role of the senior financial officer (if any). If the Board Chair is expected to verify the President's conformance with the requirements of the general employee expense policy, an initial review by the senior financial executive should be conducted to certify compliance and highlight deviations from policy, as it may not be reasonable to expect the Board Chair to provide such an in-depth compliance review.

NEED TO IMPROVE DOCUMENTATION AT ALL INSTITUTIONS

Weaknesses in documentation impair the ability of an approver to appropriately assess the reasonableness of an expense incurred. A key aspect of all expense policies is that only those expenses incurred in performing institution business are to be paid. Hence, demonstrating compliance with this policy requires that the business purpose for incurring any expense be provided, and that original receipts be attached. For hospitality expenses, policies often require the name and affiliation of guest(s) and the business purpose/topics discussed to be documented. The approver should not be expected to infer the business purpose, nor to simply assume appropriateness when original receipts are missing. Especially when an expense claimed is an exception to policy, the rationale for the deviation from policy and the business purpose must be clearly documented.

A common issue we found at all institutions was that the documentation provided to Board Chairs for the approval of Presidents' expenses needs to be improved. As previously noted, we found examples at all institutions of the President's expenses not being in compliance with expense policies, to varying degrees. Many of the non-compliance issues we noted were due to administrative processes not ensuring the documentation provided to support the President's expenses met the requirements of the general employee expense policy they were required to follow.

We believe the onus is on the President to provide robust, forthcoming, and transparent information regarding business purposes for all expenses incurred. As the most senior executive of the institution, the President must understand that it places subordinates in a highly awkward position if there is a need to

ask for more or better documentation. The need to question an expense would also create discomfort for any board chair, as none would want any such requests for information to be perceived as lacking trust in the President. Hence, the aura of power that exists in the President's position requires the President to ensure they go "above and beyond" in providing robust documentation that meets all policy requirements and does not require any further questioning. This serves to best protect the President. Especially if the expenses claimed are related to travel, hospitality or entertainment where public scrutiny may create heightened risk, or where an expense is an exception to policy in any way, the business rationale and purpose for the expense should be clearly documented to demonstrate due regard for the use of public monies. This high standard of documentation not only strengthens the President's accountability, it sets an example for the organization and demonstrates tone from the top of high ethical standards.

- Our audit found that the information and supporting documentation provided to Board Chairs for the approval of President's expenses could be improved at all institutions, to varying degrees. We noted that at some institutions the supporting information was either insufficient, or summarized in a way that impaired the Board Chair's ability to appropriately assess the reasonableness and business purpose of the expense.
- Our discussions with current and former Board Chairs of all institutions found that asking the President for clarification or further documentation regarding expenses did not often occur.
- We found that some institutions' expense policies were prescriptive with respect to the documentation requirements, which is a good practice. However, these documentation standards were not always applied to the President's expenses, which contributed to our finding that Presidents are not in compliance with the policy at all institutions.
- The most common documentation weaknesses we found were:
 1. Business purpose statements and supporting documentation that were not sufficient to connect travel or other expenses to institution business, nor to demonstrate reasonableness of the expense. Especially when the expense is an exception to policy (for example, luxury upgrades or specialized items), or where public scrutiny may create heightened risk (for example, travel to desirable destinations or home provinces, fine dining, etc.), care must be taken to clearly document the business rationale for such expenses, as well as to clarify if any portion of the travel is to be considered personal time.
 2. Business meals and hospitality expenses where information regarding the meeting (for example, attendee name, affiliation and business purpose/discussion topic) was inadequate or not documented in accordance with institutional policies.
 3. Missing receipts or credit card slips submitted instead of original detailed receipts. In cases where this applied to a meal or hospitality charge, we were unable to evaluate whether the purchase included alcohol, and if so, whether it was in accordance with policy. We noted that four institutions had instituted a good practice of employees completing an affidavit/form for missing receipts, however use of this should be the rare exception. We found missing receipt forms often being used at one institution.

- At UM, an automated system called Concur is used for processing all expense claims and corporate credit card transactions. For travel-related claims, the system automatically brings trip-related expenses from different sources together, which is a good practice that helps improve the review of expenses.

Advice provided to post-secondary institutions:

We advised institutions to strengthen administrative processes with respect to the approval of President's expenses. The Board Chair must be provided with sufficient documentation, which allows for an appropriate assessment of the business purpose and reasonableness of all expenses. We also advised those institutions who have adopted a post-payment approval process to improve the timeliness of the Board Chair's review and approval.

- Presidents should exercise due care in always submitting robust, forthcoming, and transparent information for all expenses. This must include original detailed receipts and business purpose statements, as required by policy. This is especially important for expenses that may create heightened risk, such as hospitality expenses or expense that are a deviation from policy. Exceptions should not be made for the President, as this sets the example of the ethical standards of the institution.

5.5 Some expense policies required greater clarity

We found that having clear and unambiguous requirements in key areas of the expense policies strengthened the implementation of the policy, and helped avoid any potential risks. Our examination noted areas where the expense policies at institutions were not complete or specific enough to provide appropriate guidance (for example, gratuity maximums, or guidelines for upgraded airfares and reimbursement of add-on fees). Lack of such clarity puts increased reliance on the personal judgement of the approver in determining reasonableness of an expense. This may result in inconsistent approaches, which creates risk for the institution. Lack of clarity in approving President expenses also creates risk for the President, in that expenses may be perceived differently by each Board Chair, and further, may be perceived negatively under public scrutiny even though approved by a Board Chair. Our examination of all institutions' expense and procedures policies noted a number of areas that could be strengthened to improve clarity.

- We found most expense policies and procedures could be strengthened by including further guidance with respect to airfare reimbursements. In order to ensure requirements are unambiguous, clarification is needed as to when the use of business class flights or other upgraded flight fares would be refunded, as well as what airline add-on expenses are reimbursable (for example, seat selection, excess baggage fees, etc.). Especially if the institution allows the use of private or chartered flights, clear policy guidance should be in place. We found only one institution had clarified add-on fees, though the policy was silent on flight upgrades.
- Expense policies should specify that the most senior employee pays at business meals/hospitality events if there are multiple employees present. This requirement was not included in the policies of four institutions. This would help avoid the issues previously noted for all institutions of a subordinate paying for an expense of the President, resulting in the President approving their own expense. We noted that the expense policy at one institution also prohibits approvers from signing off on subordinates' expenditures if they were in any part attributable to the approver, while another institution required that such expenses also be approved by the approver's supervisor.
- Expense policies and procedures should be further clarified with respect to hospitality and meal expenses. This includes clear guidelines for acceptable use and the required documentation. Some policies provided quantitative and qualitative guidelines for hospitality expenses, such as defining per-person "*event limits*", or requiring that only costs for "*participants directly relevant to the circumstance*" be reimbursed. Our audit found that the documentation provided by Presidents did not comply with these requirements at three institutions.
- For external guests, most policies require the names of attendees be included, with two institutions also specifying business affiliation be provided, and five institutions requiring the purpose or discussion topic for the hospitality be provided.
- When meals/hospitality expenses are for internal employees only, enhanced clarification is required as to the conditions under which this is allowable. We found four institutions provided guidance as to

when such internal hospitality is reimbursable. For example, some noted that use and costs should be minimized, that only participants directly relevant to the circumstance be included, and that the reason be related to obtaining a specific business benefit and not as a substitute for meetings that can ordinarily be conducted in the workplace.

- Expense policies should also specify whether alcohol expenses are reimbursable, and to what extent. We found only one institution explicitly prohibited reimbursement of alcohol expenses. At one institution, the expense policy did not address alcohol at all. At this institution, we found this lack of clarity resulted in alcohol being reimbursed in some instances, but not others. For the five institutions that do reimburse alcohol, alcohol was reimbursable but in limited situations at three institutions, however two institutions had quite permissive policies.
- Gratuities are reimbursable at most institutions, although only four institutions specified this within their policy. Only two of these institutions also clarified a maximum gratuity amount (15%) that would be refunded.
- Expense policies at five institutions specified a time limit for submission of expenses, which is a good practice.
- All institutions' policies specified that original receipts are required for reimbursement. At four institutions, expense policies had a process in place in the event of a lost or missing receipt; the best of which required employees complete a form or signed affidavit that the receipt could not be located or reissued. In cases where the missing receipt is related to business meals or hospitality, the approver would be unable to assess whether the purchase was in accordance with institutional policy (for example, included alcohol). Lost or missing receipts should be a rare occurrence for all employees, especially for the President who sets the example of the institutions' ethical standards.
- One institution's expense policy required conference agendas and travel itineraries be attached to support related expense claims. At another institution, the expense policy required the information to be provided upon request. Attaching conference agendas is a good practice which allows the approver to better assess reasonableness of related meal and per diem claims, as well as trip length. We found it was not always complied with at these institutions. Our audit further noted instances at four institutions where conference or event agendas would have assisted in understanding the President's business purpose for travel and reasonableness of meal claims and hotel costs.
- Our review of expense claim forms noted opportunities to improve the form to ensure fulsome explanations and appropriate documentation included. Expense claim forms should always require the claimant's signature, and have a certification statement that it is a true and correct statement of expenses incurred in conducting institutional business.
- Corporate credit card policies should clearly state credit cards are to be used for business purposes only, and that the purchase of personal goods and/or services is prohibited. Further clarity regarding business use only was needed at all but one institution. The use of corporate credit cards for personal purposes creates risk. Even if personal transactions are later repaid, the onus for collection is placed

on the institution, creating administrative burden. Our audit found isolated instances of personal items purchased on President's corporate cards, but we noted that all Presidents had appropriately reimbursed these items in a timely fashion prior to our audit. Credit card policies should also specify that payment of interest or service charges on outstanding credit card balances will not be reimbursed.

- At the time of our review, five Presidents had a corporate credit card for their business expenses. We found two Presidents chose not to have a corporate credit card. In such instances, extra care must be taken to ensure that their expenses are not charged to others' corporate credit cards (such as their Executive Assistant), which inadvertently results in the President approving their own expenses. Such expenses must be pulled for review and approval by the Board Chair.

Advice provided to post-secondary institutions:

We advised institutions to update and improve all expense policies and procedures. Improved clarity ensures reimbursement requirements are unambiguous for all employees, and strengthens the approval process overall.



Summary of recommendations

In this section, we provide a summary of the recommendations made within the report.

Chapter 1:

1. We recommend that a roles and responsibilities document be developed outlining the accountabilities and responsibilities of all parties with respect to oversight of the post-secondary education system in Manitoba. We further recommend this document be:
 - Signed by all parties (the Minister, the institution's Board Chair and its President).
 - Reviewed and renewed on a periodic basis, and made publicly available.
2. We recommend that the Department develop and document its strategic objectives and desired priority outcomes for the post-secondary education system in Manitoba, in consultation with all post-secondary institutions and other key stakeholders in the education system. This should be reviewed and renewed on a periodic basis.
3. We recommend that the Minister and Department, in conjunction with the post-secondary institutions, review and update as needed each institution's mandate as per Section 2(4) of *The AEA Act*. In doing so, we recommend that the Minister publicly issue agreed-upon mandate letters that clarify refreshed mandates, as well as any strategic goals and priority outcomes for the institution to achieve over an applicable timeframe. Mandate letters are best developed in consultation with each post-secondary institution, with signed acknowledgement of the institution's Board Chair and President.
4. We recommend that once sector-wide strategic objectives are communicated, the Department develop institutional reporting guidance in conjunction with the institutions. In developing this guidance, we recommend it include the submission of institutions' strategic plans with any required plan components, and how institutions' strategic plans align with and contribute to the achievement of overall strategic priorities and system-wide outcomes.
5. We recommend that the Department, in consultation with each institution, establish results-based performance metrics and the related information requirements to monitor financial and operational performance of institutions based on those metrics. Guidance and templates should be provided to institutions to ensure reporting information is provided in a consistent and useful format.

6. We recommend that the Department, in consultation with the institutions, develop monitoring processes that are focused on results-based performance metrics for the institutions, and monitor progress towards achieving overall strategic priorities and system-wide outcomes.
 - If any areas of concern or other indications of poor performance or financial outcomes are identified, we recommend the Department request corrective action plans from the institution with timelines for completion, and provision of periodic update reports to the Department until resolved.
7. We recommend that the Department develop a process to obtain assurance from institutions of compliance with all applicable legislation and regulations.
 - When compliance issues are identified, we recommend the Department communicate its concerns with the institution(s), and if necessary, request corrective action plans be provided regarding planned remedies and timelines to achieve compliance.
8. We recommend that the Department develop processes to evaluate and assess performance of the post-secondary education system as a whole. This must be linked to the strategic objectives and desired outcomes that have yet to be established for the post-secondary education system.
 - We further recommend robust system-wide performance metrics be established in conjunction with the institutions, and accountability information from institutions collected in a manner that allows for the overall evaluation of the post-secondary education system in Manitoba.
9. We recommend that the Department report on the performance and results of the post-secondary education system overall in its annual report to Manitobans.
10. We recommend that the Minister and Department take steps to improve communication processes at all levels, especially the quality of the relationship with the Board Chairs of each institution. At a minimum, we recommend the Minister hold an annual meeting with each Board Chair and President.
 - Institutions also have a role in ensuring a strong, mutually respectful relationship exists with the Minister and the Department. Institutions developing communication plans and protocols to keep the Minister and Department informed of emerging issues, and any new or changing circumstances that may be pertinent to government, is also important.
11. We recommend that the Department, in consultation with the institutions, establish protocols to address significant issues/concerns that may arise, including when allegations of wrongdoing regarding an institution are brought forward to the Minister or Department.
12. We recommend that the Department develop an effective communication process with the institutions regarding the Lieutenant Governor in Council (LGIC) appointments for board members. As part of this communication process, the Department should advise institutions in strict confidence of new board member appointments and revocations, after the Order-in-Council has received final approval and prior to the public announcement being issued.

13. We recommend that the Minister ensure information provided to the LGIC appointment process is fulsome and up-to-date, with a full list of all institution board members and their skillsets, not just LGIC appointees. To assist the Minister's office in this regard, we recommend the Department:
 - Maintain a complete list of institutions' board membership, not just LGIC appointees.
 - Provide complete information about the composition of the institutions' governing boards to the Agencies, Boards, and Commissions office, to ensure the Cabinet Committee on ABCs' is provided a complete picture of board composition when considering appointments.
 - Request institutions provide board member skills matrix and competency needs a minimum of six months prior to known vacancies, to help inform the LGIC appointment selection process.
14. We recommend that Government provide central guidance and support for governance and accountability matters that are common to board-governed public sector entities, and work with all departments and board-governed entities to adapt as needed to each unique context.

Chapter 2:

15. We recommend that the Minister ensure LGIC appointments to post-secondary institutions occur in a timely manner, as a board cannot govern effectively if it is hindered by vacancies and does not have a full complement of diverse members with the required skillsets. Legislative inconsistencies regarding expired terms should be reviewed.
16. We recommend that the Minister work in consultation with post-secondary institutions to review the legislative inconsistencies regarding board member appointments, in order to ensure legislation continues to meet the unique context and composition needs of each institution, including the appropriateness of the legislated size of the institutions' governing boards.
17. Given current students and faculty members are already represented on the institutions' governing boards through other stakeholder appointment processes, we recommend that the full allotment of LGIC appointments be used to appoint external board members that bring a diverse mix of skillsets, perspectives, experience and professional backgrounds to the board.
18. We recommend that the Department obtain action plans from institutions and follow-up on the actions taken to address the areas for improvement highlighted to each institution in our detailed findings. We further recommend the Department obtain specific explanations and business rationale for any areas not acted upon or not implemented in a timely fashion, and ensure alternative approaches are consistent with good governance expectations.

19. We recommend that the Minister and Department work in consultation with post-secondary institutions to review the legislative inconsistencies regarding board committees, and whether the need exists to specify particular committees. The majority of institutions' legislation allows the governing board to create and dissolve its committees as deemed necessary. If the need to specify the establishment of a particular committee arose in future, the Minister could include such requests in a mandate letter.
20. We recommend that the Department provide guidance and standard minimum expectations for annual reports for post-secondary institutions. These should not only provide appropriate accountability information to government, but report to all Manitobans the financial and operational performance of the institution and its progress towards achievement of its strategic priorities.
 - We further recommend that the Department, in conjunction with the colleges and university-college hybrid institutions, review and assess the need for and expectations of the annual academic reports, as well as clarify the minimum required information to be included.
21. We recommend that Government provide guidance to assist all public sector governing boards responsible for negotiating executive compensation.
 - We further recommend that the Minister work in consultation with the post-secondary institutions to develop guidelines reflecting an executive compensation framework appropriate to the sector. If the need arose to award benefits/perquisites beyond the guidelines, the documented business rationale should be provided to the Minister, and all discussions/approvals documented.
22. We recommend that the Department ensure all institutions are complying with the disclosure requirements of *The Public Sector Compensation Disclosure Act* by making their compensation statements available on their website.

Appendix A: Public post-secondary institutions



UNIVERSITY OF MANITOBA

The University of Manitoba (UM) is the largest post-secondary institution in Manitoba, with approximately 30,000 students enrolled, close to 10,000 employees, and more than 100 undergraduate and graduate programs offered.

UM was the first university to be established in western Canada, receiving its Charter in 1877. This allowed it to confer degrees on graduates from its three founding colleges: St. John's College; Manitoba College; and St. Boniface College. Over the following decades, additional colleges became affiliated with the University. In 1967, the provincial government granted university status to two of these colleges: Brandon College became Brandon University; and United College, which had been formed by the merging of Wesley College and Manitoba College, became the University of Winnipeg. UM continued to operate under the legislative authority of *The University Act* until 1987, when *The University of Manitoba Act* was proclaimed.

The UM Act requires the Board of Governors to be comprised of 23 members. The Lieutenant Governor in Council (LGIC) appoints 12 of the members, of which three must be students of the university. These 12 LGIC appointments make up 52% of total board membership. In addition, three members are elected by the Alumni Association, three members are elected by the Senate, and three members are appointed by the UM Students' Union (UMSU). Also included as board members by virtue of their position are the UM Chancellor, and the UM President & Vice-Chancellor.

The Board of Governors self-selects its Board Chair and Vice-Chair from amongst its members.

UM recognized \$427.0 million in provincial funding for the year ending March 31, 2018. This amounts to 44% of the total \$969.8 million recognized.

Provincial grants	\$427.0 million
Federal grants	\$108.1 million
City of Winnipeg	\$0.2 million
Tuition	\$170.1 million
Other*	\$264.4 million
Total Revenue	\$969.8 million

*Other includes donations, investment income, and non-government grants, excludes gain on long-term debt.

RED RIVER COLLEGE OF APPLIED ARTS, SCIENCE AND TECHNOLOGY

Red River College of Applied Arts, Science and Technology (RRC) is Manitoba's second largest post-secondary institution, and the largest institute of applied learning and research, with more than 200 full- and part-time degree, diploma and certificate options. RRC has eight campuses across Manitoba, and welcomes approximately 22,000 full and part-time students per year.

RRC has operated under different names and mandates since the 1930s, and was a branch of the provincial government until 1991 when *The Colleges and Consequential Amendments Act* (known as *The Colleges Act*) was passed. Its first Board of Governors was appointed by government in 1993. RRC had its own statute enacted in June 2015, *The Red River College Act*.

The *RRC Act* requires the Board of Governors to consist of at least 11, but not more than 17 members. All members of RRC's Board of Governors are appointed by the Lieutenant Governor in Council (LGIC). This includes one employee member (who is selected by the college staff), and one student member (who is selected by the RRC Students' Association). The Board Chair and Vice-Chair are appointed by government through the LGIC process. RRC's President is an ex-officio, non-voting member of the Board of Governors.

RRC recognized \$99.3 million in provincial funding for the year ending June 30, 2018. This amounts to approximately 49% of the total \$200.9 million recognized.

Provincial grants	\$99.3 million
Tuition	\$48.9 million
Other*	<u>\$52.7 million</u>
Total Revenue	\$200.9 million

*Other includes international education, continuing education, sundry and other revenue.



THE UNIVERSITY OF WINNIPEG

UNIVERSITY OF WINNIPEG

University of Winnipeg (UW) received its charter in 1967 under *The Universities Establishment Act*, but its roots date back more than 145 years. The founding colleges were Manitoba College (1871) and Wesley College (1888), which merged to form United College in 1938. *The University of Winnipeg Act* was proclaimed in 1998.

With almost 10,000 students, and approximately 1,200 faculty and staff, the University of Winnipeg offers programs leading to both undergraduate and master's degrees. UW also offers Joint Master's Programs with the UM, and a variety of technical and professional training in Joint and Applied Programs with RRC. The University of Winnipeg also includes the Collegiate, one of Canada's only on-campus high schools, with about 450 students.

The UW Act requires the Board of Regents to be comprised of 36 members. The LGIC appoints 10 of the members, of which two must be students of the university. These 10 appointments make up 28% of total membership of the Board of Regents. In addition to the 10 LGIC appointments, UW's Board of Regents also includes: 10 members appointed by the General Council of the United Church of Canada; four members elected by and from the Senate; three members elected by and from the Alumni; four members named by the UW Student Association (including the President of the UW Student Association ex-officio); two members elected by the support staff; and one senior academic administrator of the university appointed by the board. Also included as board members are the UW Chancellor, and the UW President & Vice-Chancellor. The Board of Regents self-selects its Board Chair and Vice-Chair from amongst its external members.

UW recognized \$72.2 million in provincial funding for the year ending March 31, 2018. This amounts to 49% of the total \$146.9 million recognized.

Provincial grants	\$72.2 million
Federal grants	\$7.6 million
Tuition	\$48.7 million
Other*	<u>\$18.4 million</u>
Total Revenue	\$146.9 million

*Other includes donations and other revenue.



BRANDON UNIVERSITY

Brandon University (BU) was established as Brandon College in 1889. The College became a non-denominational corporation in 1938, ending its affiliation with McMaster University and joining the University of Manitoba as an affiliated college. BU received its charter in 1967 under *The Universities Establishment Act*. *The Brandon University Act* was proclaimed in 1998. BU has now grown to over 3000 students and approximately 400 faculty and staff, offering undergraduate and graduate degrees, as well as certificate programs.

The BU Act requires the Board of Governors to consist of 17 members. The LGIC appoints 10 of the members, of which two must be students of the university. These 10 appointments make up 59% of total board membership. In addition to the 10 LGIC appointments, BU's Board of Governors also includes: one member elected by the Alumni Association, two members elected by the Senate, and two members appointed by the BU Students' Union. Also included as board members are the BU Chancellor, and the BU President & Vice-Chancellor. The Board of Governors self-selects its Board Chair and Vice-Chair from amongst its members.

BU recognized \$40.4 million in provincial funding for the year ending March 31, 2018. This amounts to 61% of the total \$66.6 million recognized.

Provincial grants	\$40.4 million
Federal grants	\$1.9 million
Tuition fees	\$11.2 million
Other*	<u>\$13.1 million</u>
Total Revenue	\$66.6 million

*Other includes sales of goods and services, donations and other revenue.



UNIVERSITY COLLEGE OF THE NORTH

University College of the North (UCN) was established from the former Keewatin Community College, and is a university-college hybrid institution devoted to community and northern development. *The University College of the North Act* was proclaimed in 2004. UCN reflects the Aboriginal reality and cultural diversity of northern Manitoba, and Elders have a unique role in fostering an environment of openness, inclusiveness and tolerance that is respectful of Aboriginal and northern values. With over 1,000 full and part time students, UCN has campuses in The Pas and Thompson, as well as 12 regional centres throughout northern and central Manitoba.

UCN has created a unique "tri-cameral" system of governance that includes: The Governing Council as the governing body for UCN; the Learning Council as the academic body (similar to a university senate); and the Council of Elders, who provide guidance through the sharing of traditional knowledge and values of Manitoba's aboriginal communities.

The UCN Act requires the Governing Council to consist of not more than 20 members. The LGIC appoints 10 members, of which two must be students. These 10 appointments make up 50% of total Governing Council membership. In addition to the 10 LGIC appointments, the Governing Council also includes: one person appointed by and from the Council of Elders; one person appointed by and from the Learning Council; one student selected by the Student Association; up to three employees elected by and from UCN; and up to two members appointed by the Governing Council itself. The Chair of the Governing Council is appointed through the LGIC process. The Governing Council self-selects its Vice-Chair from amongst its members. Both UCN's Chancellor and UCN's President are included as board members.

UCN recognized \$36.4 million in provincial funding for the year ending March 31, 2018. This amounts to 77% of the total \$47.0 million recognized.

Provincial grants	\$36.4 million
Federal grants	\$0.1 million
Tuition fees	\$4.0 million
Other*	<u>\$6.5 million</u>
Total Revenue	\$47.0 million

*Other includes ancillary sales and services, and other revenues.

ASSINIBOINE COMMUNITY COLLEGE

Assiniboine Community College (ACC) was established in 1961 as the Brandon Vocational Training Centre. In December 1969, when Manitoba's three technical vocational schools became community colleges, the Brandon Vocational Training Centre was renamed Assiniboine Community College. Like Red River College, it was a branch of the provincial government until 1991, when *The Colleges and Consequential Amendments Act* (*The Colleges Act*) was passed. In 1993, ACC's initial Board of Governors was appointed by government. With over 11,000 full and part-time students, and approximately 500 full and part-time employees, ACC offers over 50 certificate, diploma, and post-graduate programs. ACC has three campuses in Brandon, including an Adult Collegiate, along with campuses in Dauphin and Winnipeg, and training centres across the province.

The ACC Act requires the Board of Governors to consist of at least 10, and not more than 15 members. All members of the Board of Governors are appointed by the LGIC, including one employee member (selected by the college staff), and one student member (selected by the ACC Students' Association). The Board Chair and Vice-Chair are appointed through the LGIC process. ACC's President is an ex-officio, non-voting member of the Board of Governors.

ACC recognized \$29.9 million in provincial funding for the year ending June 30, 2018. This amounts to 59% of the total \$50.3 million recognized.

Provincial grants	\$29.9 million
Apprenticeship	\$3.1 million
Academic fees	\$5.3 million
Other*	<u>\$12.0 million</u>
Total Revenue	\$50.3 million

*Other includes market-driven training and continuing studies revenues.



UNIVERSITÉ DE SAINT-BONIFACE

L'Université de Saint-Boniface (USB) is the only French-language post-secondary institution in Manitoba, with a history dating back to 1818, making it the oldest post-secondary institution in western Canada. Incorporated as Le Collège de St. Boniface in 1871, it was one of UM's founding colleges in 1877, and remains affiliated with the University of Manitoba. In addition to university programming, USB also continues to offer college programs through l'École technique et professionnelle, thereby making it one of Manitoba's two university-college hybrid institutions. *The Université de Saint-Boniface Act* was proclaimed in 2011.

The USB Act requires the Board of Governors to consist of 15 members. The LGIC appoints five of the members, of which one must be a student of the university. These five LGIC appointments make up 33% of total board membership. In addition, USB's Board of Governors also includes: two members elected by the Senate, two members appointed by the Société Franco-Manitobaine; two members appointed by the Archdiocese of Saint-Boniface; one student selected by the USB Student Association, and two members appointed by the Board of Governors itself. USB's President (le Recteur/la Rectrice) is included as a board member. USB does not have a Chancellor, as degrees are conferred through its affiliation with University of Manitoba. The Board of Governors self-selects its Board Chair and Vice-Chair from amongst its members.

USB recognized \$18.1 million in provincial funding for the year ending March 31, 2018. This amounts to 53% of the total \$34.2 million recognized.

Provincial grants	\$18.1 million
Federal grants	\$5.0 million
Tuition fees	\$5.1 million
Other*	<u>\$6.0 million</u>
Total Revenue	\$34.2 million

*Other includes investment and other revenues.

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Valued for positively influencing public sector performance through impactful audit work and reports.

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