

Legislative  
Assembly  
of Ontario



Assemblée  
législative  
de l'Ontario

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# STANDING COMMITTEE ON PUBLIC ACCOUNTS

## MEDIA TAX CREDITS

(Section 3.13, 2004 Annual Report of the Provincial Auditor)

2nd Session, 38th Parliament  
54 Elizabeth II

Legislative  
Assembly  
of Ontario



Assemblée  
législative  
de l'Ontario

The Honourable Michael A. Brown, MPP,  
Speaker of the Legislative Assembly.

Sir,

Your Standing Committee on Public Accounts has the honour to present its Report and commends it to the House.

Norman Sterling, MPP,  
Chair.

Queen's Park  
December 2005

STANDING COMMITTEE ON PUBLIC ACCOUNTS

MEMBERSHIP LIST

2<sup>nd</sup> SESSION 38<sup>th</sup> PARLIAMENT

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## PREAMBLE

The Standing Committee on Public Accounts held hearings on the Auditor General's report on Media Tax Credits (Section 3.13 of the *2004 Annual Report*) on April 28, 2005. The Committee endorsed the Auditor General's (formerly the Provincial Auditor) findings and recommendations.

The Standing Committee on Public Accounts (the Committee) would like to thank the deputy ministers of the Ministries of Finance and Culture, and the CEO of the Ontario Media Development Corporation (OMDC) for their attendance at these hearings. The Committee has acknowledged the assistance provided during these hearings and during its subsequent deliberations by the Office of the Auditor General (the Auditor), the Clerk of the Committee, and the Research Officer from the Ontario Legislative Library's Research and Information Services Branch.

The format of this Committee report is comprised of introductory information in each section based *directly* on the Auditor's report, followed by an overview of the hearings, and Committee recommendations. The Committee's recommendations are reproduced in the final section of this report for the reader's convenience.

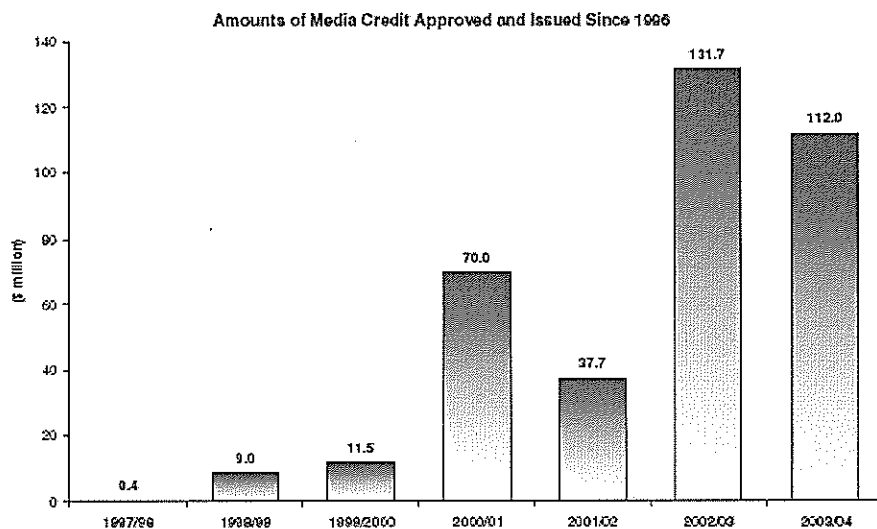
## Response to Committee's Report

The Committee requests that the auditees provide the Committee Clerk with a comprehensive response to this report within *120 days* of the date of tabling with the Speaker, Legislative Assembly of Ontario. Under certain circumstances, the Committee may conclude that additional time is warranted for a response, and in such instances an alternative timeframe will be indicated in the recommendation.

## 1. BACKGROUND<sup>1</sup>

The province of Ontario offers six types of media tax credits covering film and television, sound recording, book publishing, computer animation and special effects, and interactive digital media. These tax credits include the Ontario Film and Television Tax Credit, Ontario Production Services Tax Credit, Ontario Computer Animation and Special Effects Tax Credit, Ontario Book Publishing Tax Credit, Ontario Sound Recording Tax Credit, and the Ontario Interactive Digital Media Tax Credit.

The refundable credits are used by qualifying corporations to reduce the amount of any Ontario taxes payable, with the balance paid to the taxpayer. The OMDC, the Ministry of Finance and the Ministry of Culture (Ministries) share the administrative responsibilities for these credits. Since the introduction of the first credit in 1996, over \$372 million in credits have been issued to qualifying corporations for eligible expenditures. The following table provides an accounting of the dollar value of approved media credits issued for the period 1997/98 to 2003/04.



*Source of data: Ministry of Finance*

Source: Auditor General's 2004 Annual Report.

The Auditor concluded that a number of constructive steps had been taken in recent years to mitigate the potential risk of Media Tax Credits being incorrectly determined as a result of fraud or abuse. The audit report noted that improvements could be made in the timeliness of processing the Media Tax Credits and in measuring and reporting on the effectiveness in achieving the economic and cultural objectives. Specifically, the Auditor noted:

- Approximately one-quarter of the eligibility applications that the Auditor General reviewed were approved by OMDC more than 12 months after receipt. The delays by OMDC in determining eligibility were compounded by **processing delays** at the Ministry of Finance.
- Although the Ministry of Culture, Ministry of Finance, and OMDC had developed general high-level **performance measures**, the establishment of more specific indicators of economic and cultural performance would better measure the effectiveness of the Media Tax Credits in achieving their objectives. Also, each party's responsibilities with respect to performance measurement needed to be more clearly defined.

## 1.1. Audit Objectives/Timeframe and Conclusions

### 1.1.1. Objectives and Timeframe

The audit objectives were to assess whether the Ontario Media Development Corporation, the Ministry of Finance and the Ministry of Culture had collectively established adequate procedures to:

- ensure tax credits were provided only for eligible expenditures actually incurred by corporations located in Ontario; and
- measure and report on the effectiveness of the Media Tax Credits in meeting their stated goals and objectives.

The audit work covered applications processed during the period from April 1, 2002 to December 31, 2003.

### *1.1.2. Audit Conclusions*

The Auditor noted that steps have been taken through improved tax credit administration to mitigate the potential risk of tax credits being incorrectly determined. However, the Auditor identified the need for additional improvements in the following areas:

- OMDC introduced reasonable procedures for assessing the eligibility of tax credit applications for the six tax credits, but eligibility applications were not processed in a timely manner;
- the issuing of OMDC certificates of eligibility was delayed, resulting in a backlog in tax credit applications resulted;
- delays at the Ministry of Finance in processing company tax credit claims;
- absence of documented evidence that the Ministry of Finance selected claims for audit verification using a risk-based approach; and
- although general high-level performance measures had been developed, specific indicators of economic and cultural performance would better measure the effectiveness of the Media Tax Credits in achieving established objectives, and responsibility for measurement should be defined.

## **DETAILED AUDIT OBSERVATIONS**

### *Amended Tax Credits*

In December 2004 the provincial government amended certain tax credits to remain competitive with other jurisdictions and to increase productions in Ontario. Specifically, the film/television tax credit was increased from 20% to 30% and the production services tax credit from 11% to 18%.<sup>2</sup>

## **2. THE TAX CREDIT CLAIM PROCESS**

A corporation follows the following steps to apply for a cultural tax credit:

- a qualifying corporation must apply to OMDC for a “certificate of eligibility;”
- OMDC’s Tax Credit Department evaluates the corporation’s eligibility based on criteria established in legislation;
- the eligible corporation claims the tax credit when filing its Ontario corporations tax return;
- the Ministry of Finance processes the claim if it has a matching copy of the certificate of eligibility; and
- the Ministry of Finance issues a refund cheque or applies the credit to income taxes payable. Certain fast track provisions may apply to the Ontario Film and



Television Tax Credit (OFTTC) and the Ontario Production Services Tax Credit (OPSTC).

The benefit derived from the Media Tax Credits depends on the amount of taxes owing. The credits usually yield cash refunds, given the industry practice of production corporations creating a separate company for each project to limit liability.

### **3. OMDC'S ASSESSMENT OF ELIGIBILITY**

#### **3.1. OMDC Internal Controls**

Controls are necessary to efficiently and effectively administer tax credits. OMDC has developed policies and procedures to minimize abuse and to ensure consistency in evaluating tax credit applications. The process entails OMDC conducting an assessment of eligibility of tax credit applications, based on information provided by the applicant, prior to issuing a "certificate of eligibility" indicating the estimated amount of the tax credit.

However, the Auditor noted that OMDC did not have criteria for identifying high-risk applications (e.g., risk-based analysis to determine the level of expertise required for identifying and processing high-risk applications); and Ontario Film/Television Tax Credit (OFTTC) applicants were requested to provide audited financial information, which was not the case for Ontario Production Services Tax Credit (OPSTC) applicants.

#### **3.2. Timeliness of Processing**

Government financial support has become an important component in the viability of certain media projects, and therefore delays in the approval of applications may have detrimental consequences. The Auditor expressed the following concerns:

- OMDC had not processed eligibility applications on a timely basis, which was attributed to several factors; namely, applicants not forwarding the required documentation, an increasing volume of applications, and limited staff resources.
- OMDC had attempted to reduce the backlog (e.g., the processing cycle had been reduced from 27 weeks in the 2002/03 fiscal year to about 19 weeks at the time of the audit). In other jurisdictions the average standard for the assessment process was approximately 12 weeks, which is in line with industry expectations.

The Auditor recommended that to better manage the risk of non-compliance and improve the turnaround time for applications, the Ontario Media Development Corporation should consider the complexity of each application and the risk of non-compliance when assigning assessment staff to review applications. It should

also expedite the claim review and approval process without sacrificing the key verification and approval processes.

In its 2004 response OMDC addressed the processing of complex files, due diligence standards, and file turnaround:

- Assessing Complex Files - OMDC ensures that the risk of non-compliance is low by making certain that all analysts are capable of assessing complex files on current industry practices and trends;
- Due Diligence - due diligence has not been sacrificed in order to streamline processing, and there have been no fraudulent claims due to OMDC oversight or error;
- Turnaround Time - the turnaround time has decreased since the audit was completed due to internal streamlining and measures introduced to address inadequate staffing resources (a sample indicated that the average turnaround time for the issuance of certificates was 15.5 weeks).

OMDC indicated plans to continue to reduce delays through internal streamlining and co-operative efforts with the Ministry of Finance and federal agencies. Initiatives include the adoption of improved risk assessment procedures to help focus efforts on the main issues in each application and avoid the risk of certifying fraudulent claims.

### **Committee Hearings**

The Committee noted OMDC's efforts in 2004 with respect to the processing of complex files, due diligence standards, file turnaround, and internal streamlining and co-operation. During the 2005 hearings, the Committee focused on several other related areas.

#### *Shared Administration Responsibilities*

The Committee enquired about the complexity of the current administrative system which entails audit and certification functions performed by various offices, and the processing of tax credits.<sup>3</sup> OMDC focuses on the assessment procedures to establish the applicant's eligibility, while mitigating the risk of fraud or abuse.<sup>4</sup> The Ministry of Culture provides policy advice on cultural industries and the impact of the tax credits, and the Ministry of Finance is responsible for processing files and audits returns.<sup>5</sup>

OMDC reports on film, and books and sound credits are reported by the Ministry of Finance. The value of books and sound tax credits are reported in the Ministry of Finance's annual tax expenditure review report.

#### **Variations in the Reporting Framework**

Annual statistics on all applications are reported with certain variations. Film and television and production services, for example, have dollar values only.<sup>6</sup> In the case of books and sound recordings, there is no OMDC estimate of credit dollar

value, nor total production value.<sup>7</sup> The Ministry of Culture has a legal responsibility for all credits.

Following the hearings OMDC provided the following supplementary information to clarify this matter:

Book and Sound credits were originally administered by the Ministry of Culture and as a result information collected was not consistent with credits administered by OMDC. When certification was transferred to OMDC in 2001 OMDC implemented a process to harmonize applications for the credits and began requesting financial information from applicants. From the fiscal year starting April 1, 2003 OMDC reports Book and Sound credit values in their annual report and will continue to going forward. It is Culture/OMDC's legislated responsibility to estimate the amount of the credit for OFTTC, OPSTC, OCASE and OIDMTC (Film & TV and Digital Media credits) but not for the OSRTC and OBPTC credits.

The remaining media tax credits are included as part of the general tax system, and they are administered through the Ministry of Finance.<sup>8</sup> The Ministry of Finance has plans to look into exchanging information among the various parties through the Memorandum of Understanding (MOU), with the objective of exploring ways to streamline the reporting system.<sup>9</sup>

The Committee expressed concern with the inconsistency in reporting and concluded that to demonstrate accountability, the process must be transparent in all respects for each media sector. It is acknowledged that the private sector may have concerns with confidentiality generally, and specifically privacy matters as they relate to such disclosures. However, the Committee felt that the public was entitled to know who received media tax credits and the related amount regardless of what type of media was involved.

#### *Managing Risk and Administrative Initiatives*

The Committee addressed the identification of risk in the issuance of certificates, specifically, whether the number of applicants in the higher-risk category is decreasing.<sup>10</sup> The response indicated that the management of risk by the three parties is not identical, for example:

- the Ministry of Culture considers certain expenditure information, but its focus is on assessing risk based on a consideration of whether an applicant meets established eligibility criteria;
- according to the OMDC, audit risk assessment was not documented in the Ministry of Finance's audit files, although high-level performance measures

(refer to a section entitled *Performance Measurement*) had been developed;<sup>11</sup> and

- since the 2004 Auditor General's report, the Ministry of Culture developed a formal candidate review process comprised of eligibility risk-indicators.<sup>12</sup>

The Ministry of Culture noted that the processing of repeat clients has a bearing on risk assessment. For example, if a corporation has been certified in a previous fiscal year, it may be appropriate to initiate the review process assuming a lower risk factor.<sup>13</sup> Upon certification, issues such as risk would have been resolved, and subsequently a copy of the Ministry of Culture certificate with notes, and supporting schedules are filed with the Ministry of Finance. Issues are noted in the review process for follow-up by the Ministry of Finance.

### Administrative Initiatives

Additional administrative initiatives have been introduced:

- File Assignment – the introduction of a restructured file assignment system to improve the management of risk (e.g., effectively managing more complex files);
- Risk Assessment Process - formalizing the risk assessment process with tax credit analysts identifying high-risk applications at the start of the review process (high-risk files undergo a more rigorous secondary review). OMDC is of the opinion that risk has been lowered through outreach initiatives with industry (e.g., Canadian Audio-Visual Certification Office (CAVCO) and other federal bodies);<sup>14</sup>
- Skills and Knowledge Index - implementation of this Index to ensure that officers reviewing applications have the requisite assessment skills for complex files and to formalize the training (performance planning and regular monitoring of industry practices and trends);
- Processing Turnaround - significant reduction of turnaround time since the introduction of the tax credits, and a concerted effort to reduce the backlog. Streamlining efforts are ongoing by OMDC with assistance from the Ministries of Finance and Culture, and objectives have been established for each credit (e.g., film and TV).<sup>15</sup> The number of applications increased from fiscal year 2000 to 2003. Processing timeframes were reduced from 27 weeks to 19 weeks. Following the audit, cycle time was reduced again to approximately 14 weeks; and
- Demonstration of Due Diligence - OMDC has not sacrificed due diligence in the streamlining of processing. It has committed to continue to reduce the turnaround through internal streamlining in co-operation with the Ministry of Finance and federal agencies.

The following initiatives are ongoing:

- Streamlining the Application Process - OMDC, with the federal government, is working on further streamlining of the application process for the various sectors.<sup>16</sup>
- Access to Information - the exchange of information among the three parties (Ministries and OMDC) is being addressed under the MOU with the objective of improving the reporting system.<sup>17</sup>
- New Database - OMDC is introducing a new database to more effectively manage applications. Certain recurring files have become familiar to OMDC, for example Ontario based book publishers, which may help to expedite the approvals process.<sup>18</sup>

The province and the federal government have decided against electronic processing at this time, due to the complexities of the current processing system.<sup>19</sup>

### *Staffing and IT Requirements*

According to OMDC, approximately 1,000 applications are processed annually by 17 professional staff.<sup>20</sup> OMDC specialists have in-depth knowledge of the industries and are able to respond to files faster than a generalist.<sup>21</sup>

OMDC has invested in training to assist in processing, and the performance index has provided business officers with insight into critical areas requiring follow-up. OMDC and the Ministry of Finance are addressing staff complement and skill sets required for processing applications expeditiously.

## **Committee Recommendations**

### **Streamlining File Processing**

OMDC has introduced “reasonable procedures” for assessing the eligibility of applicants.<sup>22</sup> The focus is on improved risk assessment procedures to reduce risk in the certification of fraudulent claims. The Committee noted that OMDC was in the process of formalizing risk assessment with its tax credit analysts, with the objective of identifying high-risk applicants at the first stage of the review process.<sup>23</sup> Finally, the Committee enquired whether the number of applicants in the higher-risk category was decreasing.<sup>24</sup>

OMDC indicated in its 2004 response that it planned to reduce the wait period for credits through internal streamlining and co-operative efforts with the Ministry of Finance and federal agencies. The Committee noted that the Ministry of Finance, and OMDC with Canada Revenue Agency (CRA) are working to further streamline the payment process, providing the industry with funding at the point at which preliminary reviews have been conducted. Several additional steps have been taken in this regard:

- plans to enhance the exchange of information through an amended Memorandum of Understanding (MOU); and

- the introduction of OMDC's new database for applications.

The Committee therefore recommends that:

**1. The Ontario Media Development Corporation should report to the Standing Committee on Public Accounts on their efforts to streamline the process and to further reduce delays in the payment process. The following specific areas should be addressed:**

- the results of the introduction of an improved risk assessment process and file assignment restructuring;
- updated statistical information on OMDC's processing turnaround time;
- efforts in working with the federal government as well as the Ministries of Finance and Culture to streamline the application process; and
- the status of the introduction of a new database to more effectively manage the application process.

**The Committee requests that a written response to this recommendation be provided to the Committee Clerk within 120 days of the date of tabling this report to the Legislature.**

#### Public Information and Accountability

The Committee is of the opinion that the awarding of media tax credits (i.e., "who got what") be made available to the public through regular reporting. The Committee acknowledges that matters of confidentiality and privacy, including any legislative disclosure restrictions, will have to be addressed within the context of the Committee's overriding concern for transparency and accountability for public expenditures. It is proposed that a disclosure provision would be set out in the application process as a condition of approval.

The Committee therefore recommends that:

**2. The Ontario Media Development Corporation should publish information on all tax credits awarded. This information should include, but should not be limited to the recipient's name, a project description, the amount awarded, and the date of approval. This information should be posted upon awarding the credit by the Ministry of Finance.**

**The Committee requests that a written response to this recommendation be provided to the Committee Clerk within 120 days of the date of tabling this report to the Legislature.**

## 4. MINISTRY OF FINANCE'S PROCESSING OF CLAIMS

### 4.1. Timeliness of Processing

The Ministry of Finance's Special Assessment Unit (SAU) ensures that eligible claims are verified and paid on a timely basis. A corporation must include a schedule of its cultural media tax credit claim and a certificate of eligibility with its Ontario Corporations Tax Return. In April 2002, the Ontario government announced a new "fast-track system" to address backlogs and industry complaints. The objective was to ensure that tax credits are received faster by domestic and foreign film and television producers. Of concern was the processing of backlogs for tax credit claims at OMDC, which were compounded by processing/payment delays at the Ministry of Finance.

To enhance the efficiency and effectiveness of the Media Tax Credits and to encourage corporations that depend on cultural media tax credits to invest in Ontario-based productions, the Auditor recommended that the Ministry of Finance should ensure that eligible claims are processed in a timelier manner.

The Ministry of Finance's response in 2004 indicated that partial refunds had been introduced in 2002, at which time there had been a backlog of claims. Processes were introduced to issue partial refunds and to clear the backlog. On the completion of the audit the Ministry indicated that it was issuing 75% of the partial refunds within the target six-week period and 87% within eight weeks. Furthermore, the Ministry and OMDC were discussing concurrent reviews of tax credit claims with the objective of enhancing procedures and expediting tax credit refund process.

### Committee Hearings

#### *Fast-Track System (2002 -2005)*

Delays in processing applications and issuing eligibility certificates resulted in the backlog.<sup>25</sup> OMDC noted that delays in determining eligibility were complicated by various circumstances such as delays at the Ministry of Finance in processing tax credit claims.<sup>26</sup> As noted, a new fast-track system was introduced in 2002 to rectify backlogs, and the Ministry of Finance reported in 2005 that the system helped to address processing concerns, specifically, the timeliness of payments, as follows:

- A Specialty Assessment Unit – the Unit was established to address the delay in payments to the industry, dealing exclusively with approved credit claims; and
- Payment Time Frame – the payment time frame has been reduced, with 85% of the funds being paid out within a six-week time frame. (Note: The current processing record [April 2005] is 75% of the partial refunds paid within the six-week target period and 87% within eight weeks).<sup>27</sup>

Ongoing delays are attributed in part to such factors as obtaining the necessary documentation from applicants when filing a claim, and the finalization of audits by the Ministry of Finance prior to payment.<sup>28</sup>

### **Committee Recommendation**

#### **Expediting Processing**

The Ministry of Finance's response in 2004 indicated that processes had been introduced to issue partial refunds and to address the backlog of claims. As noted, on completion of the audit the Ministry reported that it was issuing 75% of the partial refunds within the target six-week period and 87% in eight weeks.

The Ministry's response in 2004 also indicated that discussions were underway with the OMDC on concurrent reviews of tax credit claims with the intent of improving procedures and expediting the refund process. In conjunction with procedural improvements, the Committee noted the importance of addressing the staff complement and information technology in resolving administrative challenges.<sup>29</sup>

The Committee therefore recommends that:

**3. The Committee stressed the need to expedite the processing of tax credits, given the importance of these funds to the viability of the media industry in Ontario. As such, the Ministry of Finance and the Ontario Media Development Corporation should report to the Standing Committee on Public Accounts on the status of the feasibility of concurrent reviews of tax credit claims to improve the administrative review process and expedite refunds.**

**In addition, the allocation of resources for this function should be assessed to ensure that staffing and information technology requirements are adequately addressed.**

**The Committee requests that a written response to this recommendation be provided to the Committee Clerk within 120 days of the date of tabling this report in the Legislature.**

#### **4.2. Audit Selection**

The Auditor concluded that several factors contribute to making Media Tax Credits inherently risky to administer, for example, low profits and lack of tangible assets often deter private investment and lead to low company valuations. The Auditor also concluded that to ensure that tax credits are allowed only for eligible expenditures, the Ministry of Finance's audit function should target those claims with the highest assessed risk. Currently, the system provides for the following steps in the audit selection process:



- SAU managers assess all claims for risk when the claims are filed, based on assessment criteria such as the results of audits in prior years;
- on the basis of the risk assessment, claims are accepted as filed, assigned for desk audit or assigned for field audit, with audit staff resources being allocated accordingly; and
- claims are categorized and an auditor reviews the file documentation and completes a Preliminary Assessment Form (a confirmation of the initial allocation or a re-assignment of the claim).

The Auditor reviewed the SAU audit coverage and concluded that it was decreasing, largely due to the maturity of the Media Tax Credits. Ministry auditors had performed sufficient analyses to support payments for most of the claims reviewed. However, several concerns with the Ministry's claim verification processes were noted in the audit report; namely:

- the absence of documented evidence of risk assessment by senior managers;
- lack of information to determine the basis for allocating audit resources to the different types of tax credits;
- approximately half of the files reviewed did not contain the required Preliminary Assessment Form;
- often insufficient documented analysis or support for accepting claims for "filed" audits; and
- inadequate information summarizing field audit results (e.g., certain types of expenditures or tax credits may be higher risk).

It was concluded that some audit coverage of smaller claims is necessary to encourage broad compliance throughout the industry. The Auditor recommended that to enhance the effectiveness of the Ministry of Finance's audit function, the Ministry should ensure that:

- claims are selected for audit based on assessed documented risk and stated ministry policy; and
- the results of audits are summarized to assist with the identification of possible trends warranting increased vigilance.

The Ministry of Finance's 2004 response elaborated on action taken: namely; a process using assessed risk and established policies to determine which files are selected for audit had in fact been introduced; a working paper must be included in files to document this process; and the Ministry was setting up a process to identify potential trends (based on audit results).

## **Committee Hearings**

### *Audit Files Review/Documentation*

According to the OMDC, audit risk assessment has not been documented in the Ministry of Finance audit files, although high-level performance measures had

been developed (see section entitled Performance Measurement).<sup>30</sup> Each file is allocated a risk component and at the conclusion of the review process a summary sheet is prepared for insertion in the file for follow-up.

The Ministry of Finance has introduced the following steps in the file review process:<sup>31</sup>

- risk criteria for the review of all claims; and
- determination of accounts requiring either desk review or field review.

## Committee Recommendation

### Claim Verification Processes

The Committee concluded that the concerns noted by the Auditor with respect to the Ministry's claim verification processes required follow-up. The focus had been on the absence of documented evidence of risk assessment and information to determine the basis for allocating audit resources to the different types of tax credits; files that lacked the required Preliminary Assessment Form; insufficient documented analysis for claims for "filed" audits; inadequate information summarizing the results of field audits, and the Ministry of Finance's progress in setting up a process to identify trends resulting from audits for communication to the OMDC.

The Committee therefore recommends that:

**4. The Ministry of Finance should report to the Standing Committee on Public Accounts on the shortcomings noted by the Auditor General in the Ministry's claim verification processes, related to documented evidence on risk assessment; the allocation of audit resources to tax credits; inclusion of the Preliminary Assessment Form in files; sufficient documented analysis for claims post audit; the preparation of summaries of field audits; and the identification of trends based on audit results.**

**The Committee requests that a written response to this recommendation be provided to the Committee Clerk within 120 days of the date of tabling this report in the Legislature.**

## 5. PERFORMANCE MEASUREMENT

Standards and targets are used to measure progress towards defined objectives and performance expectations, using quantifiable levels of performance. Media tax credits normally have defined expectations in terms of economic and cultural contributions; however, performance standards and targets were not established for evaluation purposes.

The Auditor expressed concern that it was not clear how the responsibilities associated with establishing and monitoring performance standards and targets were to be shared among OMDC, the Ministry of Finance, and the Ministry of Culture, and there was no consensus as to what should be measured (e.g., measurement of the cultural contributions and economic objectives, such as those relating to value of production). Also, effective performance measurement was restricted by the limitations placed on the sharing of confidential taxpayer information.

The following treatment of indicators was noted in the audit report:

- the competitiveness of the Media Tax Credits relative to tax credits offered in other jurisdictions inside and outside Canada was monitored;
- some general industry statistics were compiled using industry and Statistics Canada data (e.g., the number of workers employed in the Ontario film and television production industry);
- OMDC data were used to compile statistics on the number of certificates of eligibility issued and the value of productions utilizing tax credits; and
- statistics were not compiled to demonstrate the impact caused specifically by the tax credit initiatives as opposed to other factors (e.g., value of the Canadian dollar or the availability of production facilities).

The three parties finalized a new Memorandum of Understanding covering statutory and administrative responsibilities; however, it does not address all concerns related to performance measurement and information-sharing.

The Auditor recommended that in order to ensure that the Media Tax Credits are achieving their objectives, the Ontario Media Development Corporation, the Ministry of Culture, and the Ministry of Finance should work collaboratively to develop specific performance standards and targets for the Media Tax Credits; and update the Memorandum of Understanding to more clearly define each party's responsibilities with respect to performance measurement and obtaining the information needed to monitor and report on performance.

The Ministries of Culture and Finance, and the Ontario Media Development Corporation responded to the Auditor's recommendation in 2004:

- the province introduced the *Fiscal Transparency and Accountability Act* to require the annual publication of information on the estimated cost of expenditures made through the tax system;
- the Ministries and the Ontario Media Development Corporation committed to explore ways to implement this recommendation, while noting the difficulties in isolating and measuring the impact of a given tax credit (e.g., many external factors such as the value of the Canadian dollar that may influence a tax credit);

- the Ministries and OMDC monitor the media tax credits (including take-up of the credits, reviewing Ontario's competitiveness and employment growth in targeted industries); and
- the Ministries and OMDC planned to update the Memorandum of Understanding (clarify respective roles/work collaboratively to optimize the level of monitoring of the tax credits).

## Committee Hearings

### *Ministry Review/Assessment Process*

The Ministry of Finance explained that a process of regularly reviewing all tax expenditures has been initiated, with the objective of increasing fiscal responsibility and accountability.<sup>32</sup> This review process includes the following features:<sup>33</sup>

- new tax expenditures would be time-limited, ensuring that they are reviewed to determine their effectiveness; and
- a commitment to publish estimates of the cost of tax expenditures each year (Note: The *Fiscal Transparency and Accountability Act* requires the Minister of Finance to release this information with an annual mid-year review of the fiscal plan on or before November 15).

The Ministry of Finance outlined the proposed assessment process:

- the announcement in December 2004 on the amended credit entails an annual review or a performance review before the end of the lifetime of a credit (e.g., a production services credit annual review); and
- the Ministry of Finance will be working with the Ministry of Culture and OMDC on the appropriate performance elements, including take-up statistics.<sup>34</sup>

### Performance Targets/Standards

The Ministry of Finance, with OMDC, is involved in exploring the feasibility of applying specific performance targets and standards to tax credits.<sup>35</sup> Possible performance measurements under consideration include:

- tax credit take-up;
- increases in the film and television production activity associated with the credits; and
- the number of projects undertaken or that have received credits (e.g., films, books, sound recordings, and the other media credits).

Certain conditions apply to the use of these credits, namely that film and television tax credit enhancements announced in December 2004 were to be time-limited and subject to performance reviews. In addition, the Ministry of Finance and the OMDC are updating the Memorandum of Understanding to clarify

responsibilities (with respect to performance measures and the information needed to monitor performance).<sup>36</sup>

#### Program Endorsement and Program Benefit

The Committee enquired about the level of satisfaction with the tax credits.<sup>37</sup> The Minister of Culture conducts roundtable sectoral discussions with various components of industry and the feedback assists with programming and future adjustments.<sup>38</sup> Also, the Ministry of Culture meets with industry representatives to discuss programs on a regular basis. Complaints in recent years have addressed the processing of tax credits, which were resolved by 2005.<sup>39</sup>

#### *Business Development/Canadian Content*

Media tax credits encourage publishing, film, television, digital media and computer animation, while supporting content development.<sup>40</sup> Films are treated equally, that is subject to the same processes; however, different tax credits apply in the case of products with Canadian or Ontario content.<sup>41</sup> Ontario and the federal government are participating with UNESCO and various countries in developing a proclamation on the ability of countries to produce cultural products.<sup>42</sup> In the case of the sound recording industry, the Ministry is considering options to assist through content development.<sup>43</sup>

The Committee noted the strong U.S. influence in music and publications in Canada. This fact has made content development a priority in the Canadian sound recording industry, as well as in books and films.<sup>44</sup> The economic development benefits are evident in the growth of local media businesses.<sup>45</sup>

OMDC conducts outreach promoting the tax credit, in conjunction with a series of marketing programs developed in co-operation with industry.<sup>46</sup> Initiatives include:<sup>47</sup>

- programs to allow the various sectors to attend book and music fairs or television marketing of products;
- opening of OMDC office in Los Angeles, U.S. as a joint venture with the City of Toronto Film Office and the Association Film Ontario (Note: In excess of \$100 million in new production in Ontario has been attributed to this U.S. office.); and
- trade missions with the music industry in co-operation with Trade Routes.

Quebec has additional up-front funding for development programs, thereby assisting industries in the initial development of their products.<sup>48</sup>

#### *Economic Benefits*

The Committee was interested in the overall impact of the tax credits, acknowledging that many factors have a bearing, such as currency fluctuations.<sup>49</sup> According to the Ministry of Finance, the tax credits attract jobs and investment to Ontario, enhancing the entertainment sector in a highly competitive

environment, while promoting tourism.<sup>50</sup> As noted, the tax credits were amended in December 2004, and currently they have an estimated value of \$48 million.<sup>51</sup> According to the Ministry of Culture, the impact thus far has been significant in bringing new business to Ontario.<sup>52</sup>

The Ministry of Culture noted that the tax credits have contributed to Ontario's position as the leading jurisdiction in media development in Canada, providing \$7 billion in revenues and over 45,000 direct jobs and an estimation of three times that in indirect jobs in the industries.<sup>53</sup> Furthermore, stakeholders appreciate that this initiative promotes growth and the development of their products, resulting in unique Canadian films, records and books.<sup>54</sup>

### Assessing Economic Impact

The Ministry of Finance pointed to the complexity of trying to assess the impact of tax credits, given that it is difficult to isolate and measure certain economic factors.<sup>55</sup> However, monitoring is ongoing and it has been acknowledged that the regional bonus provision, for example, has been popular, assisting smaller productions in Ontario, particularly in francophone communities.<sup>56</sup>

As noted, annual statistics are reported on all applications (with certain variations), and the Ministry of Culture compiles statistics on the overall performance of other Canadian jurisdictions with similar tax credits for comparative purposes.<sup>57</sup>

Monitoring is conducted regularly in Ontario to track the number of productions and employment statistics. In addition, the Ministry is asking film companies that benefit from the tax credit to record their production expenses for a given film or a book with the objective of identifying overall costs.<sup>58</sup> The short term objective is to document examples in each industry.

The option of permitting the value of the credit to float with fluctuations in the value of the dollar was raised, with the objective of attracting American film companies.<sup>59</sup> The province has given consideration to this option.<sup>60</sup>

### Committee Recommendations

#### Development of Performance Measures

The Committee considered overall performance in the broadest sense, to determine whether Media Tax Credits are achieving a diverse set of objectives. A committee representing the Ministries and OMDC meets regularly to review policies and the MOU, and the overall tax credit system.<sup>61</sup> A new Memorandum was prepared addressing statutory and administrative responsibilities; however, certain concerns related to performance measurement were not addressed (i.e., definition of each party's responsibilities with respect to performance measurement). In addition, the Ministry of Finance with the Ontario Media Development Corporation have committed to explore the feasibility of developing specific performance targets and evaluating the effectiveness of the media tax credits.<sup>62</sup>

The Committee therefore recommends that:

**5. The Ministries of Finance and Culture, and the Ontario Media Development Corporation should report to the Standing Committee on Public Accounts on the development of specific performance measures/targets, and prepare an evaluation of the effectiveness of the media tax credits. In addition, the report should comment on the progress made in updating the Memorandum of Understanding to more clearly define each party's responsibility with respect to performance measurement and obtaining necessary information to monitor and report on performance.**

**The Committee requests that a written response to this recommendation be provided to the Committee Clerk within 120 days of the date of tabling this report to the Legislature.**

#### Comparative Information from Other Provinces

The Committee concluded that comparative information is needed to determine how well Ontario is performing in relation to other provincial jurisdictions, taking into account market variations in these provinces and the nature of the credits available. As part of this process, the Ministries and OMDC need to consult on a regular basis with stakeholders to understand the media industries' evolving requirements. Such information would assist in the development of performance measures.

The Committee therefore recommends that:

**6. The Ontario Media Development Corporation should report to the Standing Committee on Public Accounts on the marketing of media tax credits in Ontario. The report should include comparative information on programs in other provinces, with special attention to British Columbia, Manitoba and Quebec.**

**The Committee requests that a written response to this recommendation be provided to the Committee Clerk within 120 days of the date of tabling this report in the Legislature.**

## **6. LIST OF COMMITTEE'S RECOMMENDATIONS**

The Committee requests that reports on the following recommendations be provided to the Committee Clerk within 120 days of the date of tabling this report in the Legislature, unless otherwise specified in a given recommendation.

**1. The Ontario Media Development Corporation should report to the Standing Committee on Public Accounts on their efforts to streamline**

the process and to further reduce delays in the payment process. The following specific areas should be addressed:

- the results of the introduction of an improved risk assessment process and file assignment restructuring;
- updated statistical information on OMDC's processing turnaround time;
- efforts in working with the federal government as well as the Ministries of Finance and Culture to streamline the application process; and
- the status of the introduction of a new database to more effectively manage the application process.

2. The Ontario Media Development Corporation should publish information on all tax credits awarded. This information should include, but should not be limited to the recipient's name, a project description, the amount awarded, and the date of approval. This information should be posted upon awarding the credit by the Ministry of Finance.

3. The Committee stressed the need to expedite the processing of tax credits, given the importance of these funds to the viability of the media industry in Ontario. As such, the Ministry of Finance and the Ontario Media Development Corporation should report to the Standing Committee on Public Accounts on the status of the feasibility of concurrent reviews of tax credit claims to improve the administrative review process and expedite refunds.

In addition, the allocation of resources for this function should be assessed to ensure that staffing and information technology requirements are adequately addressed.

4. The Ministry of Finance should report to the Standing Committee on Public Accounts on the shortcomings noted by the Auditor General in the Ministry's claim verification processes, related to documented evidence on risk assessment; the allocation of audit resources to tax credits; inclusion of the Preliminary Assessment Form in files; sufficient documented analysis for claims post audit; the preparation of summaries of field audits; and the identification of trends based on audit results.

5. The Ministries of Finance and Culture, and the Ontario Media Development Corporation should report to the Standing Committee on Public Accounts on the development of specific performance measures/targets, and prepare an evaluation of the effectiveness of the media tax credits. In addition, the report should comment on the progress made in updating the Memorandum of Understanding to more clearly define each party's responsibility with respect to performance



**measurement and obtaining necessary information to monitor and report on performance.**

**6. The Ontario Media Development Corporation should report to the Standing Committee on Public Accounts on the marketing of media tax credits in Ontario. The report should include comparative information on programs in other provinces, with special attention to British Columbia, Manitoba and Quebec.**

## NOTES

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<sup>1</sup> The introductory text in each section is based directly on the Auditor General's *2004 Annual Report*.

<sup>2</sup> Ontario, Legislative Assembly of Ontario, Standing Committee on Public Accounts, Official Report of Debates (*Hansard*), First Session, 38<sup>th</sup> Parliament (28 April 2005): P-367.

<sup>3</sup> *Ibid.*, P-372.

<sup>4</sup> *Ibid.*, P-368.

<sup>5</sup> *Ibid.*

<sup>6</sup> *Ibid.*, P- 371.

<sup>7</sup> *Ibid.*

<sup>8</sup> *Ibid.*

<sup>9</sup> *Ibid.*

<sup>10</sup> *Ibid.*, P-376.

<sup>11</sup> *Ibid.*, P-368.

<sup>12</sup> *Ibid.*, P-374.

<sup>13</sup> *Ibid.*

<sup>14</sup> *Ibid.*, P-373 and P-368.

<sup>15</sup> *Ibid.*, P-373.

<sup>16</sup> *Ibid.*, P-371.

<sup>17</sup> *Ibid.*

<sup>18</sup> *Ibid.*, P-369.

<sup>19</sup> *Ibid.*

<sup>20</sup> *Ibid.*

<sup>21</sup> *Ibid.*, P-370.

<sup>22</sup> *Ibid.*, P-368.

<sup>23</sup> *Ibid.*

<sup>24</sup> *Ibid.*, P-376.

<sup>25</sup> *Ibid.*, P-368.

<sup>26</sup> *Ibid.*

<sup>27</sup> *Ibid.*, P-372 and P-368.

<sup>28</sup> *Ibid.*, P-368.

<sup>29</sup> *Ibid.*, P-372.

<sup>30</sup> *Ibid.*, P-368.

<sup>31</sup> *Ibid.*, P-369.

<sup>32</sup> *Ibid.*

<sup>33</sup> *Ibid.*

<sup>34</sup> *Ibid.*, P-373.

<sup>35</sup> *Ibid.*, P-369.

<sup>36</sup> *Ibid.*

<sup>37</sup> *Ibid.*, P-372.

<sup>38</sup> *Ibid.*

<sup>39</sup> *Ibid.*

<sup>40</sup> *Ibid.*, P-367.

<sup>41</sup> *Ibid.*, P-370.

<sup>42</sup> *Ibid.*, P-375.

<sup>43</sup> *Ibid.*

<sup>44</sup> *Ibid.*, P-370.

<sup>45</sup> *Ibid.*, P-375.

<sup>46</sup> *Ibid.*, P-376.

<sup>47</sup> *Ibid.*

<sup>48</sup> *Ibid.*

<sup>49</sup> *Ibid.*, P-370.

<sup>50</sup> *Ibid.*, P-367.

<sup>51</sup> *Ibid.*, P-375.

<sup>52</sup> Ibid., P-368.

<sup>53</sup> Ibid., P-367.

<sup>54</sup> Ibid.

<sup>55</sup> Ibid., P-372 and P-373.

<sup>56</sup> Ibid., P-373.

<sup>57</sup> Ibid.

<sup>58</sup> Ibid., P-373.

<sup>59</sup> Ibid., P-370.

<sup>60</sup> Ibid.

<sup>61</sup> Ibid., P-375.

<sup>62</sup> Ibid., P-373.