

Governance and Accountability Guidelines

For

District Social Services Administration Boards
(DSSABs)

DRAFT July, 2004

INTRODUCTION	3
Purpose	3
Context: Consultation Overview	3
Background on DSSABs	4
Standards of Accountability	5
GOVERNANCE MODEL FOR DSSABs.....	7
PART 1 General Guidelines	7
Guideline #1	8
Double Majority Consent	9
Guideline #2	10
French Language Services (FLS)	10
Guideline #3	10
Public Meetings	10
Guideline #4	12
Proposed Guideline #5:	13
Procedure By-law	13
Guideline # 6	16
Guideline #7	16
Conflict of Interest.....	17
Guideline # 8	17
Audits.....	17
Guideline #9	18
Guideline #10	18
PART 2 Selection Process for Territory Without Municipal Organization (TWOMO).....	19
Qualifications and Term of Office.....	19
Filling Vacancies When a TWOMO Representative Dies or Resigns	20
Administering the Election Process	21
Restricted Acts After Nomination Day.....	21
PART 3 Outstanding Issues	23
Investment and Borrowing Powers	23
Information Sharing on the Consolidated Revenue Fund (CRF)	23
Training.....	24

INTRODUCTION

Purpose

The purpose of these guidelines is to confirm governance and accountability requirements for District Social Services Administration Boards (DSSABs). The requirements are based on the provisions of the District Social Services Administration Boards Act (DSSAB Act), regulations and ministry policy, together with the provisions of the *Municipal Act, 2001* and other legislation affecting municipalities that apply to DSSABs either by virtue of legislation or by ministry policy.

These guidelines focus on those matters which will allow for improved governance and accountability for DSSABs. They incorporate certain requirements and obligations being imposed on local governments, their local boards and their council and board members by the *Municipal Act, 2001* into the standards applicable to DSSABs and their board members.

Where legislative amendment is required to implement the policy direction, the proposed change to the DSSAB Act and/or regulation is outlined.

Context: Consultation Overview

The consultation, completed in early spring, 2004, has included representative board members from all 10 DSSABs, the Northern Ontario Service Deliverers' Association (NOSDA) and the Northern Caucus of the Association of Municipalities of Ontario (AMO). The ministries of Community and Social Services (MCSS), Municipal Affairs and Housing (MMAH) and MNDM participated.

During the consultation, no items elicited a consensus response across all DSSABs. Differing perspectives often emerged within as well as across boards, and some geographical differences were noted. Board members indicated that they often looked to the *Municipal Act, 2001* (and its predecessor) for guidance. A significant number expressed interest in having the relevant provisions apply to them by legislation and not just by policy. Key recommendations provided during the consultation are noted under specific headings in the guidelines.

The Ministry of Community and Social Services (MCSS) is the lead Ministry for DSSABs. The Ministry of Northern Development and Mines (MNDM) and the Ministry of Municipal Affairs and Housing (MMAH) assist MCSS with respect to

DSSAB activities. DSSABs have accountability relationships with these ministries pertaining to specific programs.

However, there was some debate over which may be the most appropriate ministry to be the “lead”. A majority of those who raised concerns about which ministry was in the best position to address governance and accountability issues indicated either MMAH or MNDM would be preferable. Those who favoured a change were divided on whether MNDM or MMAH should be the lead. One DSSAB suggested that MMAH be the lead with MNDM being an advocate on behalf of DSSABs. The prevailing reason for identifying MNDM was its “northern presence”. Those who preferred MMAH did so on the basis of that ministry’s expertise on governance and accountability. The preference for one ministry over another was not necessarily based on geography.

One concern related to any new legislative or policy initiative that affected municipalities. The impact on DSSABs was often not adequately considered, if at all. The advice given was to develop a mechanism for ensuring that government considered implications of its actions for DSSABs whenever considering implications for municipalities. In particular, the DSSAB perspective should be incorporated into plans for stakeholder consultation and/or training initiatives wherever municipal interests are involved or potentially affected.

On a number of occasions during the consultation process, the ministries were asked to allow for further feedback on the guidelines before finalization. For example, some boards which were consulted early in the process had seen membership change significantly as a result of the 2003 municipal election process and the selection process for representatives from territory without municipal organization (TWOMO). In some cases, board members felt that they needed more time to consider and discuss the issues. As a result, the guidelines are being circulated in draft format to provide stakeholders with a further opportunity to reflect on the proposed guidelines for DSSAB governance and accountability and to provide additional feedback, if desired.

Background on DSSABs

As part of Local Services Realignment, municipalities were asked to consolidate service management for social and community health services by means of locally agreed upon plans. Prior to consolidation, there were 87 municipalities and 6 District Welfare Administration Boards delivering Ontario Works and/or child care in northern Ontario.

Consolidation and streamlining of service management and delivery in northern Ontario took into account the challenges of geography, population distribution and municipal governance characterized by single-tier governments and unincorporated areas, also called territories without municipal organization

(TWOMO). Consolidation took the form of DSSABs, which came into existence in 1999.

Ten DSSABs and the City of Greater Sudbury and District Municipality of Muskoka are responsible for managing social assistance, child care and social housing in northern Ontario; eight DSSABs have also been approved by the Ministry of Health and Long Term Care to deliver land ambulance services.

Standards of Accountability

District Social Services Administration Boards Act (DSSAB Act)

DSSABs are service delivery mechanism for specific programs. These boards are statutory corporations with certain requirements specified in the regulations under the DSSAB Act:

- the services to be provided by the DSSABs
- grant structure
- apportionment of costs
- estimates and reserves (budget)
- Schedules 1 to 7, which detail the composition and member municipalities of each board
- qualification of members
- term of office of members, and
- chair of the boards.

Municipal Act, 2001

The enactment of the *Municipal Act, 2001*, as amended, has introduced a new standard of accountability to local governments in Ontario. DSSABs are composed primarily of individuals who have been elected to local municipal councils or directly elected to a DSSAB to represent an unorganized territory.

There are three specific references to DSSABs in the *Municipal Act, 2001*. The Act came into force on January 1, 2003.

In section 19 of the *Municipal Act, 2001*, DSSABs are included in the definition of “local body” for the purposes of section 19. This means that DSSABs, like municipalities, are restricted in their operations to their respective geographic jurisdictions as are municipalities, unless there is agreement otherwise. Agreement otherwise, for example, may include agreements through service contracting.

A second definition of “local board” is found in section 269 of *the Municipal Act, 2001*. This definition is applicable to sections 270 and 271 of the Act. These

sections go to the issue of accountability of municipalities and their local boards. DSSABs are expressly included in this definition of local board and thus are included for the purposes of section 270 and 271.

The final reference to DSSABs in the *Municipal Act, 2001* is found in section 321. This section deals with apportionment and in this instance DSSABs are defined as “district boards”.

The issue of accountability is one of the cornerstones of the *Municipal Act, 2001*, and is reflected throughout in a number of ways. Municipalities and their local boards are expected to be accountable to the public generally and also to the business community. This guideline outlines a number of examples of this new accountability and how some of the principles are applicable to DSSABs.

Ministry Policy That is Specific to DSSABs

These guidelines and appendices consolidate and update previous communications on governance and accountability for DSSABs, and replace Accountability and Governance guidance provided in the “Toolkit for District Social Services Administration Boards” 1998, and the Addenda to the Toolkit (December 18, 1998 to June 28, 2000)

GOVERNANCE MODEL FOR DSSABs

“Governance is the legitimate authority and responsibility to make decisions and take action.”

“Accountability is the obligation to answer for the results of authorized actions and the manner in which responsibilities have been discharged.”

Ministry of Community and Social Services *Governance and Accountability Framework*

PART 1 General Guidelines

DSSABs are composed of three types of members, all of whom hold office for three years.

The first type of member is one who is appointed by a member municipality. These members are detailed in the Schedules to O. Reg. 278/98. Members who represent one or more municipalities must be members of a municipal council. Thus, these members have all been elected or appointed to a municipal council in accordance with the *Municipal Act, 2001* and the *Municipal Elections Act*.

The second type of member is one who is selected to represent TWOMOs. They must be Canadian citizens, at least 18 years of age and permanent residents of the TWOMO; or an owner or tenant of property in the TWOMO; or the spouse or same-sex partner of an owner or tenant of property in the TWOMO.

Third, there are members at large who are appointed by the Lieutenant Governor in Council. There are two members at large provided for in Schedule 2 and Schedule 6 of the Regulation to the DSSAB Act: one each for the District of Cochrane DSSAB and the Thunder Bay DSSAB.

By virtue of the combined effect of subsection 3 (3) of the DSSAB Act and section 27 of the *Interpretation Act*, a DSSAB has the basic powers of a corporation in Ontario.

The Ministry of Community and Social Services (MCSS) has specified that DSSABs must carry out certain broad roles and responsibilities related to program delivery. In doing so, DSSABs are expected to abide by ministry policies related to program delivery and governance and accountability. There is an expectation that democratic principles such as fairness, transparency and inclusiveness guide all service delivery.

The MCSS *Governance and Accountability Framework* (which encompasses the framework for DSSABs) applies to all ministry activity, including transfer payments to community agencies and to other levels of government.

The *Municipal Act, 2001*, includes new provisions relating to the roles of the board and administration. The provisions give clarification on some of the roles and responsibilities of elected officials. It is the elected body, council or the board, that is the decision-maker and the staff's role is to provide advice in order that the council or board can make a decision. Once that decision is made then it is up to staff to implement that decision. This forms part of any governance model.

The role of the head of council has also been updated in the *Municipal Act, 2001*, and while of limited application to DSSABs, certain guidance is provided on the role of the chair that is also relevant to DSSABs.

These requirements complement the expectations of the Ministry under the *MCSS Governance and Accountability Framework* and *Roles and Responsibilities: The Provincial-Municipal Relationship in Human Services (June 2001)*.

Recommendation: To clarify the roles and responsibilities of DSSABs

Guideline #1

The role of the DSSAB board is to provide overall governance responsibility in order to carry out the duties of the board, including:

- ***to abide by the regulations set out in the DSSAB Act and all statutes related to the core programs (Ontario Works Act, Day Nurseries Act, Social Housing Reform Act and legislation of the Ministry of Health and Long Term Care (MOHLTC), where applicable);***
- ***to act as financial administrator and maintain the financial integrity of the board;***
- ***to develop and abide by policies, processes and procedures established to manage the activities of the board:***
- ***to be accountable for all program delivery responsibilities including service management, quality control and performance monitoring for Ontario Works, child care, and social housing, and land ambulance and public health (where applicable);***
- ***to provide policy and planning direction and evaluation on program responsibilities and input on social services policy issues;***

- ***to ensure open communication channels through: fostering positive working relationships with provincial government ministries, specifically MCSS, MMAH and the Ministry of Health and Long Term Care (MOHLTC);***
- ***designating a spokesperson, when required, regarding the actions and plans of the board;***
- ***to represent the public and to consider the well-being and interests of all of the member municipalities and TWOMOs;***
- ***to determine which non-mandatory services the board provides;***
- ***to ensure that administrative practices and procedures are in place to implement the decisions of the board.***

The Role of the Chair is:

- ***to act as chief executive officer of the board;***
- ***to preside over board meetings;***
- ***to provide leadership to the board;***
- ***to represent the board at official functions;***
- ***to carry out the duties of the Chair under the DSSAB Act or any other Act.***

The role of the officers and employees of the DSSAB is:

- ***to implement board's decisions and establish administrative practices and procedures to carry out the board's decisions;***
- ***to undertake research and provide advice to the board on the policies and programs of the board;***
- ***to carry out other duties required under the DSSAB Act or any Act and other duties assigned by the board.***

Double Majority Consent

Rules for apportioning costs are set out in O. Reg. 278/98 under the DSSAB Act. The board does not have to follow the formula set out in regulation if both of the following conditions apply: a majority of the municipalities and unorganized areas within the board's geographic area consent to a different cost apportionment formula; and those municipalities and members who have consented represent a majority of the electors ("double majority"). The rationale behind this requirement for double-majority is that a very significant proportion of the electorate should have a say if there is to be a deviation from the legislated formula.

DSSABs were given direction previously to apply the double-majority rule for changes to DSSAB board representation, geographic boundaries or mandate

(i.e. additional services which a board member may deliver). A regulation amendment is needed to make these changes, and double-majority consent is part of the requirement by ministry policy.

Where a significant proportion of the electorate has determined that a different method of cost-apportionment is appropriate, by ministry policy, DSSABs are to follow the same approach when changing the agreed-upon arrangements. None who were consulted disagreed with this requirement.

Recommendation: To clarify rules related to double-majority consent

Guideline #2

DSSABs shall demonstrate double majority consent by means of a resolution of each municipal council and the written consent of each board member representing the unorganized area.

Once double-majority consent is given for changing apportionment of costs, the DSSAB may only revert to the apportionment formula set out in the Regulation by means of double majority consent.

French Language Services (FLS)

The *French Language Services Act* (“FLSA”) sets out the province’s responsibility for the provision of French language services in Ontario. Some DSSABs applied for designation under the FLSA.

As part of planning for the assumption of service delivery, DSSABs had to plan for the provision of services in French where people had been receiving services from the Province as designated under the FLSA. This expectation still exists.

Recommendation: To clarify the policy on services in French

Guideline #3

Services are to be provided in French if there is a requirement in the agreement between the Province and the DSSAB requiring that services be provided in French, whether or not a DSSAB is designated under the FLSA. [Note: to be expanded in final guidelines]

Public Meetings

There was much debate on the topic of meetings during the consultation. Boards were often divided internally on a number of issues. There was an

almost even split among boards on whether or not every meeting must be face-to-face. However, whatever position was taken, those consulted generally agreed that the board itself should decide whether to allow meetings by teleconference or videoconference.

Strong views were expressed about the use of alternates. Alternates are not currently permitted, and this rule continues to be supported by many if not most boards. The majority felt that allowing greater flexibility in the use of teleconferencing and videoconferencing would alleviate the pressure to use alternates. However, a few of those consulted noted that it can be difficult to attract and maintain board members, and that permitting alternates (who were well-informed) would be advantageous. The dilemma was noted for representatives from TWOMO: while municipal councils could appoint an elected alternate, how would this work for the TWOMO representative.

Face-to-Face Meetings

One of the fundamental principles of the old *Municipal Act* that has been carried forward into the new legislation is that meetings of municipal councils and committees be open to the public. This rule applies whether it is a regular meeting of council or a special meeting called for a specific purpose. It is perhaps the most basic form of accountability in that members of the public are entitled to be present at meetings. Often the public is represented in the form of the local media.

The old *Municipal Act* contained a list of subject matters for which a council or committee could hold a closed meeting. That list has been carried forward into the new Act. It has been changed in only one respect. Under the old Act there was no authority for municipal councils or committees to go into a closed meeting for the disposition of real property. It is now a permitted subject matter for closed meetings.

In addition, there is a new provision that allows councils or committees to meet in closed session for any matter that relates to the *Municipal Freedom of Information and Protection of Privacy Act*.

The section also sets forth a process to be followed before a closed meeting is held. There is a requirement that a resolution be passed which shall state the fact of holding a closed meeting and the general nature of the matter being considered. This provides a permanent record of those times that the board or one of its committees conducts a closed meeting.

Use of Alternates

Use of alternates is contrary to the provisions of the DSSAB Act, and is incompatible with the need for consistency in decision-making and public accountability. However, the ministry will explore the feasibility of legislative

amendment provided that appropriate safeguards can be developed and similar arrangements can be provided for both municipal and TWOMO representatives.

Virtual Meetings

One of the realities of creating boards whose jurisdiction extends over vast areas is the travel time and inconvenience of attending meetings. For many this would require an overnight stay in order to attend. The concept of a virtual or electronic meeting is that one or more members may “attend” the meeting electronically from their own community or another location. They would be entitled to vote and participate in the meetings. Examples of virtual meetings include meetings by teleconference or videoconference.

The technology is available to conduct virtual or electronic meetings. The facilities for example at Contact North are available in many communities throughout northern Ontario. The use of virtual meetings by DSSABs could allow board members the opportunity to make better use of their time while allowing them to participate in the board’s deliberations and decisions.

The current regulations do not permit meetings to be held other than face-to-face. Amendments to the DSSAB Act would be required in order to make a regulation permitting virtual meetings.

Recommendations: To clarify the rules for holding closed meetings

To make the legislative changes necessary to permit DSSABs to hold virtual meetings (video/teleconferencing).

Guideline #4

DSSABs may only hold a closed meeting if the matter relates to:

- ***the security of the property of the board;***
- ***personal matters about an identifiable individual, including employees of the board;***
- ***a proposed or pending acquisition or disposition of land by the board;***
- ***labour relations or employee negotiations;***
- ***litigation or potential litigation, including matters before administrative tribunals, affecting the board;***
- ***advice that is subject to solicitor-client privilege, including communications necessary for that purpose;***
- ***a matter in respect of which a council, board, committee or other body may hold a closed meeting under another Act.***

DSSABs must hold a closed meeting if the matter relates to:

- ***the consideration of a request under the Municipal Freedom of Information and Protection of Privacy Act if the board is the head of an institution for the purposes of that Act.***

Before holding a closed meeting, or part of a meeting which is closed, the DSSAB shall state by resolution, the fact of the holding of the closed meeting, and the general nature of the matter to be considered at the closed meeting.

Proposed Guideline #5:

Note that a guideline will be provided once the legislative framework is in place. Strict parameters in the regulation will ensure safeguards protect the public interest and ensure full public access to decision-making by the board.

Example of criteria that would apply before a board can decide to hold virtual meetings:

- ***provision be made in the board's procedure by-law;***
- ***the board meeting shall be held at its regular meeting place, in accordance with its procedure by-law;***
- ***no more than 3 members of the board may virtually attend any meeting of the board; or***
- ***a quorum must be physically present at the meeting location;***
- ***members intending to attend a meeting virtually shall give notice in writing to the board secretary at least 48 hours prior to the meeting;***
- ***the chair shall be physically in attendance at the location of the meeting; and***
- ***matters such as closed meetings and Municipal Conflict of Interest be included in any policy on virtual meetings.***

Procedure By-law

Until the early 1990s, municipalities in Ontario were not required to have a procedure by-law in place. A large number of municipalities, particularly smaller ones, did not have a by-law governing the conduct of their meetings. The *Municipal Act* was amended to make a procedure by-law mandatory. It is intended at a minimum to be the rulebook for the calling of meetings, the location of meetings and the rules of procedure generally. But in reality the procedure by-law is much more.

A well drafted procedure by-law sets a framework for decision making at its most fundamental level. It is the document that will, together with the statutory requirements, set the governance model for the organization. It tells the members, the staff and the public how business will be done and most importantly how decisions will be made.

A procedure by-law will set the decision-making structure for the organization. For example, will there be a committee system or will all decisions be made by the board? Will the committees be ad hoc in nature or will there be standing committees or a combination? Will there be a committee of the whole? What is the role of staff within the organization and what is the reporting relationship? How does a member of the public make representations to the organization? Each organization must answer these fundamental governance questions and develop a model that is most effective for it. There is no right and wrong model. Each must be developed to reflect the nature of the organization.

The importance in developing and maintaining an effective procedure by-law is that it brings certainty to the elected officials, staff and the public. It is a key element of the principle of accountability. DSSABs were given direction previously to adopt a procedural by-law governing the calling, place and proceedings of meetings.

Notice

Some of those consulted expressed concern about the notice requirements under the *Municipal Act, 2001* and their application to DSSABs. The notice policy with respect to DSSABs is clarified below.

The *Municipal Act, 2001*, has dramatically changed the rules relating to notice. Municipalities must develop, maintain and adhere to a notice policy unless otherwise required. This policy must include the form of the notice, the manner in which it is to be given and the times it is to be given. The section provides that council will determine what is adequate notice. This is a whole new discretion given to municipal councils and local boards.

It would not be appropriate for DSSABs to give notice in all of the circumstances for which municipal councils are now required to do so. But the principle of requiring notice to the public is a good one and applies by policy to DSSABs in certain circumstances.

The size of the DSSABs and the number of communities within a DSSAB area make the development of a notice policy unique. There are opportunities to use different types of media in getting notice to the public in advance of making certain decisions. For example the use of a website to provide notice can be combined with other means of giving notice to ensure that there is public

awareness of the board's intentions. The internet is proving to be a relatively low-cost alternative for giving notice by public authorities.

One caution in developing a policy is to ensure that it is administratively workable. It cannot be so complex that it is difficult to administer on a day to day basis. Also, there must be a record available. This is particularly important when the internet is used.

The procedure by-law was discussed above. One aspect of the procedure by-law as it relates to notice is that it provides the mechanism for advising the public when regular board and committee meetings will be held. It will also specify a mechanism for the calling of special meetings. It is also a guide to members of the public who wish to become involved and make comments before a decision is made. This is in the purest sense a form of public notice.

One of the more controversial requirements in the *Municipal Act, 2001* relates to the giving of notice for approving or amending the annual budget. The requirement is that notice be given of the adoption of the budget. In most municipalities the formal adoption of the budget is a mere formality with the significant budget process being the meetings leading up to the approval. Notice need not be given of these meetings.

The most challenging issue has been what is meant by "amending the budget". There are views ranging from the restrictive one that many councils amend their annual budget at almost every meeting to the opposite extreme of those who don't believe that the budget is amended unless there is a direct impact on the tax rate. The better interpretation is the more restrictive one, particularly until there is some caselaw to support one view or another. Some municipalities are creating different classes of budget amendments and then providing for different types of notice for each class.

Sections 270 and 271 of the *Municipal Act, 2001* apply to DSSABs. Each requires that policies be in place before January 1, 2005. Notice will be required before any policy is adopted or amended.

Section 270 deals with the hiring of employees and speaks specifically about the hiring of relatives of members of the board and existing members of staff. It is not a prohibition on hiring but a policy indicating the process that will be followed. Notice is required for the adoption of such a policy or any amendments thereto.

In section 271, boards will be required to develop policies respecting the procurement of goods and services. This is a critical section in the new Act. Its requirements are detailed and deal with matters such as:

- Types of procurement processes
- Goals to be achieved in using each type
- Circumstances under which each process will be used

- When tendering is not required
- When in-house bids will be encouraged
- How the integrity of each process will be maintained
- How the interests of the board, the public and the bidders will be protected
- How and when the processes will be reviewed to evaluate effectiveness.

The importance of a purchasing by-law is strongly emphasized. Persons wishing to do business with a public entity need to know the rules and need to be confident that they are participating in a process that is a level playing field and the rules are set and known in advance.

These two sections go directly to the issue of accountability of the board. In each case the Minister of Municipal Affairs and Housing has the authority to make regulations.

Recommendations: To clarify 'procedure by law' requirements for DSSABs

To clarify the notice requirements for DSSABs

Guideline # 6

A procedure by-law governing the calling of meetings, place and proceedings of meetings shall be adopted.

Guideline #7

A notice policy shall be adopted in which the board gives notice in a form and in a manner and at the times that the board considers adequate to give reasonable notice for each of those matters.

At a minimum, the following matters shall be covered by the notice policy:

- ***before adopting or amending all or part of the budget;***
- ***before enacting or amending its procedure by-law;***
- ***before adopting or amending its notice policy;***
- ***before adopting or amending its hiring policy as required under section 270 of the Municipal Act, 2001;***
- ***before adopting or amending its procurement policy as required under section 271 of the Municipal Act, 2001;***
- ***before establishing or amending any fee or charge.***

Conflict of Interest

The *Municipal Conflict of Interest Act* has been in effect in Ontario since 1972. It imposes a statutory duty on members to declare pecuniary interests, direct or indirect, and refrain from participating and voting on any matter in which they have a pecuniary interest. It also prohibits influencing others before, during or after the meeting.

Members not at large who are representing municipalities are familiar with this legislation and indeed have sworn an oath of office that requires compliance.

DSSABs were given direction previously to comply with the requirements of the *Municipal Conflict of Interest Act*.

Recommendation: To clarify 'conflict of interest' requirements for DSSABs

Guideline # 8

The Municipal Conflict of Interest Act applies to all members of a DSSAB.

Audits

The rationale for imposing a requirement to use the auditor of the largest municipality on local boards of more than one municipality is to provide clarity and support cost-effectiveness. The ministry has provided similar direction to DSSABs regarding auditors in the past.

There was general agreement during the consultation that the board should decide on the auditor. A number of boards were using the auditor of the largest municipality and were satisfied. Others expressed concern about the cost effectiveness of such a requirement and indicated a preference for tendering.

Appointment of Auditor

The *Municipal Act, 2001*, requires municipalities to appoint an auditor licensed under the Public Accountancy Act to annually audit the accounts and transactions of the municipality and its local boards and express an opinion on the financial statements of these bodies. The auditor must not be appointed for a term exceeding five years, and the auditor of a municipality shall not be an employee of the municipality or of a local board of the municipality.

If a local board is a local board of more than one municipality, the auditor of the municipality which is responsible for the largest share of the operating costs of the local board is required to audit the local board. The requirement is consistent with established practice in the municipal sector.

Preparation and Sharing of Financial Statements

Governments are required to use Public Sector Accounting Board (PSAB) recommendations for accounting principles. A government organization is an organization that is accountable for the administration of its financial affairs and resources either to a minister of a government or directly to the legislature or local government council and is owned or controlled by the government.

DSSABs are closely linked with the Ontario government and municipalities (who utilize PSAB recommendations).

Municipalities also include an apportioned share of the DSSAB year end in their Financial Information Return (FIR). If DSSABs are late producing these year end statements, production of municipal FIRs is delayed, which can also delay receipt of CRF payments.

None of those consulted disagreed on the rules for producing the financial statements: the rules used by municipalities should also be followed by DSSABs.

Recommendations: To clarify the requirements for DSSABs regarding auditors, allowing for flexibility

To clarify requirements for producing financial statements

Guideline #9

The accounts and transactions of DSSABs are to be audited by an auditor of the municipality that is responsible for the largest share of the operating costs of the DSSAB, unless the board agrees otherwise.

In the event that the board determines not to use the auditor of the largest municipality, an appropriate tendering process is to be followed (i.e. in the year prior to the audit year in question).

Guideline #10

Audited financial statements are prepared in accordance with PSAB recommendations

In accordance with the terms of the Service Contract, Reconciliation Report and Audited Financial Statements are submitted within 4 months of the DSSAB's fiscal year end.

PART 2 Selection Process for Territory Without Municipal Organization (TWOMO)

There was much debate on the selection process during the consultation and board members were often divided internally. Strong views were expressed, both pro and con, on whether or not a person must be a resident of the territory in order to hold office. Some boards were in favour of changing the current regulations which allow for property owners to hold office, but require residency to vote, to the opposite: residency to hold office, but property ownership to vote. Overall, the ministries heard that the current rules were confusing, and the more consistency with municipal elections rules the better.

Several boards requested that the ministry align the term of office with the term of office for municipal councils. A few of those consulted, including representatives from the municipal sector, recommended that the ministry hold the election and/or appoint the TWOMO representative.

Guidance on filling vacancies was requested by some of those consulted.

Qualifications and Term of Office

The integrity of the election process for representatives from territories without municipal organization (TWOMOs) is the assurance that those individuals who are elected to public office have been elected using a process that is fair, open and professionally administered.

The DSSAB Act and Regulations provide that a member (or members) for a TWOMO shall be selected by the residents of that territory. The TWOMOs represented by these members are detailed for each DSSAB in the Schedules to the regulations. The residency requirements to select a representative for a TWOMO are different from the residency requirements to be that representative.

The residency requirements to select a TWOMO representative differ from the requirements to elect a member of municipal council. However, the qualifications for office of a member(s) selected to represent TWOMOs are found in the regulations and are identical to the qualifications for a member of a municipal council.

This legislative outline has been supplemented by policy requirements in the form of guidelines for the election process, which are provided in the summer of the municipal election year.

The term of office for a board member (other than a member at large appointed by the Lieutenant Governor in Council) is for three years commencing on January 1 next following the commencement of the term of the municipal council

that the member represents, and shall not exceed three years. TWOMO representatives begin their term at the same time.

Taking into consideration the advice received during the consultation, ministry staff plans to bring forward proposals for the following legislative changes:

- ***to align with the Municipal Elections Act the requirements for selecting TWOMO representatives, and the qualifications of those who can hold office as the TWOMO representative;***
- ***to align the term of office for DSSAB board members with the term of office for municipal councils***

Filling Vacancies When a TWOMO Representative Dies or Resigns

The *Municipal Elections Act* is the governing statute in Ontario for the conduct of elections to municipal councils, former hydro-electric commissions, and local boards including school boards.

For filling vacancies when a member representing a TWOMO dies or resigns, the regulation under the DSSAB Act provides for the board to fill the vacancy by appointment. The board has discretion on how the appointment will occur.

Taking into consideration the advice received during the consultation, ministry staff plans to bring forward proposals for the following legislative changes, to follow the appointment process used by school boards under the *Municipal Elections Act*:

DSSABs may appoint a representative to fill a vacancy when a TWOMO member dies or resigns in a manner similar to that of school boards:

- ***the person is qualified to be elected as a representative of a TWOMO;***
- ***has consented to accept the office if appointed;***
- ***if more than one person is nominated to fill a vacancy, the board votes to determine which person shall fill it:***
 - ***a person who receives more than half the votes shall fill the vacancy;***
 - ***if no person receives more than half the votes, another vote is taken which excludes the person who received fewest votes in the previous vote;***
 - ***if two or more persons received fewest votes, the person to be excluded is chosen by lot.***

Administering the Election Process

DSSABs are responsible for administering the TWOMO election. However, the DSSAB may use a municipal clerk to conduct the election process.

The expertise in election administration resides with municipal clerks in Ontario. The use of an outside expert, namely a municipal clerk as the board's election clerk should be cost-effective and best assure the board, the Ministry and the public that the election process is being conducted fairly. The Ministry provides an amount to the board to cover reasonable costs associated with the election.

The clerk of the largest municipality is the clerk for school board elections under the *Education Act*. Often the municipal clerk of the largest member municipality will be in the best position to oversee the DSSAB election. However, there may be a better choice of municipality for a particular board. For example, the board may feel an adjacent municipality to be more appropriate to take on the role.

The DSSAB in each instance would sit in the place of the municipal council for making those decisions that a municipal council would normally make during the election process. The municipal clerk, as the election clerk for the DSSAB would be required to make the necessary reports to the board for direction on those matters.

Subject to approval by municipal council, the clerk of a member municipality may be appointed the DSSAB election clerk.

Restricted Acts After Nomination Day

The Municipal Act, 2001, as amended, changed the rules relating to the ability of municipal councils to operate after nomination day to the last day of the term of the board. The rules set out in section 275 are not applicable to DSSABs as there is no way of determining which members of the board will be reappointed by the member municipalities. However, a similar need for some restriction on the exercise of board positions exists between nomination day and first of the new term.

Taking into consideration the advice received during the consultation, ministry staff plans to bring forward proposals for the following legislative changes to restrict board powers from nomination day to the first day of the new term:

Any action described below should not be taken after the last day for nominations for new municipal council or TWOMO representatives:

- ***appointment or removal from office of any member of the board;***

- ***hiring or dismissal of any employee of the board;***
- ***disposition of any real or personal property of the DSSAB which had a value exceeding \$50,000 when it was acquired by the DSSAB (unless the disposition was included in the most recent budget adopted by the DSSAB before nomination day)***
- ***making any expenditures or incurring any other liability which exceeds \$50,000 (unless the liability was included in the most recent budget adopted by the DSSAB before nomination day), excluding normal day to day business expenditures e.g. Ontario Works***

PART 3 Outstanding Issues

During the consultation, several issues were raised which require further exploration or action. In some cases, legislative and/or regulatory change is needed before a guideline can be issued. In other cases, there is need for an interministry strategy to tackle the concerns.

For example, holding virtual meetings requires legislative and regulatory change. There is sufficient clarity on what would be included in a guideline, and thus "Proposed Guideline #5" was included in Part 1. However, in other cases the parameters for a future guideline are less clear.

Investment and Borrowing Powers

As part of their powers under the Municipal Act, 2001, municipalities may invest money that is not required immediately, in prescribed securities, according to prescribed rules.

During the consultation, several DSSABs expressed interest in being allowed to invest "surplus" monies in a fund that is used by municipalities for this purpose, for example funds sponsored by the Municipal Finance Officers' Association of Ontario (MFOA). They requested that guidelines provide eligible instruments and investment policy. Some interest was also expressed in being able to borrow from reserve funds rather than from a bank.

There is currently no power or authority under the DSSAB regulations to make investments or to borrow from reserve funds.

The recommendation to explore making legislative changes necessary to permit DSSABs to invest surplus monies and to borrow from reserve funds is being pursued. MCSS is working on this issue with MMAH and MFOA. A small group of interested DSSABs has offered to continue providing input. Once the legislative framework is in place, a guideline will be drafted.

Information Sharing on the Consolidated Revenue Fund (CRF)

There was much interest on the topic of CRF during the consultation. Depending on the specific DSSAB, concerns were expressed about the inability to reconcile CRF, the difficulties in routinely obtaining information on CRF and the need for detailed presentations and training involving the ministries of Finance, Municipal Affairs and Housing and Community and Social Services.

Several DSSABs indicated an interest in receiving the CRF directly, with invoices provided to municipalities for the balance. A significant number of DSSABs requested that MCSS clarify the breakdown for social assistance costs apportioned between Ontario Works and the Ontario Disability Support Program.

Note that the Ministry of Finance only provides information to the municipal level province-wide. DSSABs as well as Consolidated Municipal Service Managers (CMSMs) are affected by this. MMAH is exploring an option which would help to address the DSSAB need for more detail on CRF.

Training

Training issues concerning two specific areas were raised during the consultation. The first was in relation to CRF, and those concerns are set out in the previous section.

The second area of concern related to training provided by ministries on initiatives that impact DSSABs. While training is invariably targeted to municipalities, DSSAB administration may or may not be aware that such training is being held. The recommendation is that whenever new legislative or policy initiatives that affect municipalities are being developed, DSSABs also need to be considered. And when the initiative is being implemented, training needs for DSSABs also must be addressed.

As a result of the recommendation, the ministry is investigating opportunities internally and with other ministries.