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Brian Fior, A/Assistant Deputy Minister
Corporate Policy, Agency Governance, and Open Government
Treasury Board Secretariat
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Dear Mr. Fior,

We are writing to provide feedback for your consultation on the Draft Revised Transfer Payment Accountability Directive (TPAD). Thank you for the opportunity to comment.

Summary of recommendations:

1. The updated TPAD should reflect the [TPAM principles](#) generated through a collaborative government-nonprofit sector process, rather than developing a parallel set of principles.
2. The updated TPAD should define “Transfer Payment Agreement” as a partnership—a compact between two parties, each with their own missions, who enter into such an agreement when their objectives are aligned.
3. The TPAD should reflect the important distinction between the Broader Public Sector and the community-governed nonprofit sector.
4. The TPAD should address more directly the Ontario Government’s commitment to reduce the administrative burden for government and nonprofits.
5. The TPAD should reflect the emphasis on relationship-building, partnership, and trust embodied in the Joint Funding Reform Forum’s [Vision 2020](#) document.

As a 7,000-strong network, with a volunteer base of over 300 sector leaders, the Ontario Nonprofit Network (ONN) brings the diverse voices of the nonprofit sector to government, funders and the business sector to create and influence systemic change. ONN activates its volunteer base and network to develop and analyze policy, and takes action on strategic issues through its working groups. ONN convenes the approximately 55,000 nonprofit and charitable organizations across the province.

Nonprofits that receive funding from the Ontario Government to deliver services on its behalf are very interested in the [Joint Funding Reform Forum](#) (JFRF) and the corresponding work of modernizing transfer payment relationships. Led by ONN and the Ministry of Citizenship and Immigration, our two sectors have worked together since 2012 on funding reform, starting with the Open for Business process and since then through a joint table established to address the administrative burden—in its

current iteration, the JFRF. The Government of Ontario should be commended for opening up consultations to nonprofits for an accountability directive that is primarily a communication tool between a central agency and line ministries within the Government of Ontario.

Having reviewed the draft Directive, we would like to express our full support for the following elements of the Directive:

- the categorization of transfer payment relationships into “support payments” (transfers to individuals and other direct beneficiaries), “time-limited payments” (project grants), and “ongoing payments”—although the definitions of these categories will need clarification in the related guidance documents;
- the requirement to use a single business number for transfer payment recipients;
- the requirement that ministries, in most cases, must use a standard suite of agreement templates—although we hope that the number of exceptions will remain truly small;
- the introduction of mandatory operational policies that will provide a set of common business practices and tools to support the Directive;
- the introduction of an enterprise-wide proportional risk management framework; and
- the requirement that ministries must seek the consent of transfer payment recipients before amending agreements.

These elements reflect our two sectors’ longstanding efforts to reduce the administrative burden through the Joint Funding Reform Forum and its predecessor tables.

While we are pleased that the Directive is being updated to reflect the Government of Ontario’s intention to reduce the administrative burden both for transfer payment recipients and for government, we have five main issues to raise regarding the draft that has been circulated.

1. The updated TPAD should reflect the TPAM principles generated through a collaborative government-nonprofit sector process, rather than developing a parallel set of principles.

In late 2015, the Transfer Payment Administrative Modernization (TPAM) Office undertook a consultation process to develop principles to guide the modernization of transfer payment agreements. As outlined in the final report¹ from the engagement sessions, representatives from the Ontario Public Service and Ontario’s nonprofit sector co-designed a set of six principles as follows:

Three principles to guide the creation of transfer payment relationships:

1. Stewardship
2. Reciprocal Respect
3. Accountability

Three principles for administering transfer payments:

4. Simple
5. Proportional
6. Flexible

The nonprofits involved in the Funding Reform process were pleased with these principles and ONN would like to see them reflected in the updated TPAD. While the draft TPAD principles do reflect the

¹ Treasury Board Secretariat (Ontario)/ MaRS Solutions Lab.” Principles for Transfer Payment Administrative Modernization: Report Summary of Engagement Sessions on Co-designing Principles.” Feb. 2016. http://theonnc.ca/wp-content/uploads/2016/06/TPAM-Summary_Principles.pdf

spirit of the work conducted under the JFRF in broad strokes, it would be simpler to have one set of principles to guide transfer payment modernization. As the chart below indicates, there are some gaps in the TPAD principles that could be remedied by adopting the TPAM principles instead.

Co-designed TPAM Principles	Updated TPAD principles (draft)	ONN Comments
Stewardship – <i>includes best value, focus on outcomes</i>	Focus on outcomes Value for money	The language of “stewardship” reflects a broader concern for careful management of resources (including value for money and a focus on outcomes) and is based on “mutually agreed upon indicators” in the TPAM principles.
Reciprocal respect	Communication – <i>ongoing, meaningful, and respectful</i>	“Reciprocal respect” encompasses good communication practices but also recognizes that government and nonprofits each have their own objectives that must be aligned if a TP agreement is to be undertaken.
Accountability – <i>defined in mutual terms related to the complementary roles of government and nonprofits.</i>	Accountability – <i>defined in one-way terms of Ministries holding TP recipients responsible to deliver.</i> Fairness, integrity and transparency	“Accountability” in the TPAM principles is a two-way street that reflects the mutually beneficial roles of funder and service delivery agent. The TPAM “accountability” principle encompasses fairness and transparency. Integrity is captured under “stewardship.”
Simple – covers streamlining, digitization, and standardization; includes clear communication and limits on information collected	Information sharing Common processes – to support consistent “oversight”	Simplicity in TP agreements goes beyond information sharing and common processes to cover other elements of reducing the administrative burden, such as the elimination of reporting that is done “just in case” information is needed.
Proportional	Risk-based approach	The TPAM principle of “proportionality” covers the entire funding cycling, including proportional application processes, reporting, and budget flexibility.
Flexible	?	The principle of “flexibility,” especially as it relates to the budget flexibility that nonprofits need to be innovative and responsive, is important. This principle does not appear to be reflected in the updated TPAD.

2. The updated TPAD should define “Transfer Payment Agreement” as a partnership—a compact between two parties, each with their own missions, who enter into such an agreement when their objectives are aligned.

The updated TPAD does not actually include a definition of *Transfer Payment Agreement*, instead defining only “transfer payments,” reduced to the writing of a cheque along with “oversight” functions (for government) on one hand, and “activities,” defined narrowly as the responsibilities of a transfer payment recipient, on the other. This understanding does not capture the roles of the Ontario

Government and nonprofits as partners in a mutual undertaking to deliver services to Ontarians. Without a definition of a “transfer payment agreement,” the updated Directive is unable to speak to the broader elements of the investment relationship, including trust, reciprocal respect, and the need to negotiate outcomes based on the mutual objectives of independent parties.

3. The TPAD should reflect the important distinction between the Broader Public Sector and the community-governed nonprofit sector.

The TPAD’s scope refers to “individuals and organizations that are outside government (not a ministry or a provincial agency)” but it does not pay sufficient attention to a distinction that is of critical importance in delineating the scope of accountability in the government-nonprofit relationship. The *broader public sector* (BPS) includes entities that have at least some of their governing board appointed by government. They receive their mandate from statute and most, if not all, of their funding from government/taxation. The *independent nonprofit sector*, by contrast, is wholly governed by independent community members. The primary accountability of these latter organizations is to their communities via their elected boards. Provincial funding may make up only a minority of their overall budgets. As such, the accountability relationship with government is limited to the deliverables outlined in a transfer payment agreement and does not encompass the organization’s direction or mission as a whole. The nonprofit sector has had to raise this point numerous times when the Ontario Government has introduced policy, legislation, or regulations that treat the independent nonprofit sector as though it were an arm of government. *It is critical that the TPAD recognize the BPS-nonprofit sector distinction in order to properly frame the accountability relationship for funders across all Ministries.*

4. The TPAD should address the Ontario Government’s intention to reduce the administrative burden more directly.

The Directive offers an opportunity to emphasize the primary objective of the Joint Funding Reform process, that is, to reduce the administrative burden for both the Ontario Public Service and the nonprofit sector. ONN would like to see a reference to reducing this burden not only in the consultation guide but in the Directive itself. For instance, where the Directive refers to proportional risk management, the emphasis should be placed on *reducing* reporting requirements. Instead of “Ministries are expected to exercise *greater* ministry oversight where they have deemed activities to be *higher* risk than an activity and/or recipient deemed *lower* risk,” the Directive should say, “Ministries are expected to exercise *reduced* ministry oversight where they have deemed activities to be *lower* risk than an activity and/or recipient deemed *higher* risk.”

As a guide, the Directive could refer to the TPAM principle of proportionality, which states that “having a reasonable and proportional approach to administration reduces administrative burden for both funder and recipient while enhancing accountability.” Without an explicit commitment to lower the administrative burden, we will see a continued tendency for accountability requirements to trend upwards over time.

The Directive could also support the reduction of administrative burdens by explicitly referring to the budget flexibility that must accompany a relationship of trust and a focus on outcomes. Nonprofits must be given the flexibility they need to innovate and respond to emerging community needs and priorities. The more time nonprofits and government officials spend on seeking approval for minor budgetary variances, the less time they can spend on relationship management and achieving results. The TPAD should recognize that budget flexibility, in the context of proportional risk management, is necessary to achieve the outcomes that Government and nonprofits, working together, seek to achieve.

5. The TPAD should reflect the emphasis on relationship-building, partnership, and trust embodied in the Joint Funding Reform Forum’s [Vision 2020](#) document.

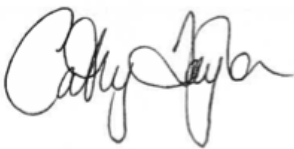
Vision 2020 guides the broader funding reform process between the Ontario Government and nonprofits. This vision document calls for both sectors to operate in the knowledge that “the two sectors are essential partners in the delivery of community programs.” As noted above, the updated Directive is lacking a holistic understanding of this transfer payment relationship. In the shift toward an “investment mindset,” the relationship between government and a nonprofit engaged to deliver services should be characterized by trust, a sense of partnership, and an understanding that the two organizations (the government and the nonprofit) have found common ground in a set of mutually-agreed-upon outcomes. In the words of *Vision 2020*, it is “conscientious relationship management that builds trust and cooperation.”

The Directive, by contrast, uses the term “oversight” to characterize the funding relationship. “Oversight,” while commonly used in government contexts, does not capture the full extent of the *directions* and *levels* of accountability in a relationship in which two partners negotiate a set of mutual outcomes. While it is warranted that the Ontario Government exercise controls over the funding it administers, these controls must be proportionate to the level of risk associated with the nonprofit organization itself and the activities it undertakes on behalf of government. Furthermore, this “oversight” must be tempered by the *relationship of trust* that is established over time and reflected in the *proportionality* of reporting requirements. We would like to see the concept of “oversight” embedded in an understanding of accountability as a two-way street and the broader context of a TP Agreement as reflecting a partnership between two sectors, undertaken to deliver services to Ontarians.

Putting the emphasis on trust, partnership, and relationship development would have the added benefit of providing the Ontario Government with ongoing reassurance that its service delivery partners also enjoy the trust and support of their community—and how else could the Government gauge “public perception” as an element of recipient risk management, as suggested in the draft TPAD?

In closing, we would like to reiterate that we are encouraged by the move toward open government reflected in this consultation on an internal directive and we appreciate the opportunity to participate. We strongly recommend, however, that the updated TPAD reflect the set of principles for transfer payment modernization that was co-designed by government and the nonprofit sector, rather than create a new set. Thank you for giving serious consideration to our feedback.

Sincerely,



Cathy Taylor
Executive Director
Ontario Nonprofit Network