

Red Tape Reduction for the Nonprofit Sector

An ONN primer for Ontario Budget 2020

Ontario's nonprofits continue to innovate, partner, and create public value while also contributing to Ontario's economy. They provide meaningful work and volunteer opportunities, and maintain bridges between government and communities. A supportive public policy environment would enable Ontario's nonprofits to maximize their social and economic contributions.

To reduce red tape for nonprofits across Ontario, Budget 2020 should include the following provisions:

- The announcement of a joint government-nonprofit table on red tape reduction in transfer payment agreements (TPAs).
- A proclamation date for the Ontario Not-for-Profit Corporations Act (ONCA), and a commitment to make public the accompanying nonprofit registry data.
- A commitment to create an equivalent to the Small Business Access portal for nonprofits so that they can easily access legislation, regulations, and funding opportunities that affect them.
- A commitment to cut red tape for volunteers who need police record checks.

Background

For Budget 2020, ONN offers recommendations under three broad themes:

1. RED TAPE REDUCTION: Continue to tackle red tape that has the nonprofit sector (and government) spending too much time on paperwork.
2. INCLUSIVE LOCAL ECONOMIES: Build local prosperity across Ontario through nonprofit social enterprise.
3. DECENT WORK: Support the hard-working people who staff the nonprofits that help communities thrive.

This primer is about how Budget 2020 can support red tape reduction for the nonprofit sector.

Opportunity: Continue to tackle red tape that has the nonprofit sector (and government) spending too much time on paperwork.

We are simplifying transfer payments so that our service partners can spend less time on paperwork, and more time making a real difference in the lives of the people they serve.

- The Honourable Peter Bethlenfalvy,
President of the Ontario Treasury Board¹

ONN is pleased to see action by the Ontario government on our 2019 pre-Budget recommendation to tackle red tape in Transfer Payment Agreements (TPAs) through which nonprofits deliver services on behalf of government. In fall 2019, we met with representatives of the President of the Treasury Board and the Associate Minister of Small Business and Red Tape Reduction to discuss our proposals further. Minister Bethlenfalvy's subsequent announcement² of a Transfer Payment Consolidation initiative was welcome news to ONN and the sector, especially the reference to consolidating multi-ministry agreements³, an important change for organizations that receive funding from more than one program stream.

We offer the following four recommendations as ways to build on this promising announcement.

a. Create a joint government-nonprofit table on Transfer Payment Agreement (TPA) Consolidation and Red Tape Reduction

As the Auditor General's 2019 report on time-limited funding indicates, progress has been slow in migrating TPA management systems to Grants Ontario (now Transfer Payment Ontario), which was designed to centralize and streamline funding processes and save money on administration. Despite making the system mandatory for time-limited agreements in 2016 (with a deadline of 2019), provincial ministries still maintain 26 other systems for managing and administering TPAs. These systems, not counting Transfer Payment Ontario, cost \$45 million in total to operate. Most ministries are not inputting all information into Transfer Payment Ontario even if they are using it, and only three per cent are using it to support cross-government risk management.⁴

The slow adoption of a centralized TPA system is an example of how complex it is to implement change management initiatives across multiple ministries and provincial funding agencies. While the roll-out of a

¹ Minister Peter Bethlenfalvy. "Remarks: Transfer Payment Consolidation." Press Conference. Ontario International Trade Centre. November 21, 2019.

² Ontario Treasury Board Secretariat. "News Release: Ontario Building Smarter Government Through Transfer Payment Consolidation." November 21, 2019.
<https://news.ontario.ca/tbs/en/2019/11/ontario-building-smarter-government-through-transfer-payment-consolidation.html>

³ Ontario Treasury Board Secretariat. "Backgrounder: Smart Initiatives." October 23, 2019.
<https://news.ontario.ca/tbs/en/2019/10/smart-initiatives.html>

⁴ Auditor General of Ontario. "Section 3.11: Oversight of Time-Limited Discretionary Grants." Annual Report Vol. 1. December 4, 2019. p. 624, 634.
http://www.auditor.on.ca/en/content/annualreports/arreports/en19/v1_311en19.pdf

Transfer Payment Accountability Directive⁵ (2017) and a Transfer Payment Operational Policy⁶ (2018) were promising milestones, too much of their implementation is still decentralized and ad hoc on the part of ministries and funding programs, especially in terms of:

- mandating standard agreements with a common chart of accounts (i.e., a small number of standard budget lines and reasonable administrative cost ranges), a form of standardization that is essentially a precondition for umbrella agreements across program streams;
- having agreements and funding in place at the beginning of the fiscal year for ongoing programs (along with adequate notice for any changes); and
- developing a standardized risk assessment process across ministries to determine which TPA holders should be eligible for a reduced reporting burden and budget flexibility.

Given the complexity of such a change management initiative, ONN recommends the creation of a joint multi-ministry and nonprofit table to oversee the process of consolidating and modernizing TPAs across government. To ensure success, the table must include senior representation from the Treasury Board Secretariat and from the most significant funders of the nonprofit sector. ONN would be pleased to co-convene such a table with Treasury Board Secretariat.

b. Proclaim an effective date for the Ontario Not-for-Profit Corporations Act (ONCA) in 2020 to prevent its expiry at the end of this year, and make public the new nonprofit registry data.

As a requirement of the Legislation Act, 2006, the Attorney General will table during the first week of the 2020 Legislative session an annual report naming Acts or parts of Acts that are not yet in force and that were at least nine years old on Dec. 31, 2019.

On this list will be the Ontario Not-for-Profit Corporations Act, 2010⁷ (ONCA), corporate legislation that is critical to the modern operation of tens of thousands of nonprofits in Ontario.

By the end of 2020, one of three things will have to happen: ONCA will be given a formal proclamation date; the Legislature will adopt a resolution that the Act not be repealed (giving the government a one-year reprieve); or the Act will be automatically repealed on December 31, 2020.

Much work went into ensuring that ONCA reflects the needs and expectations of the sector. It is unacceptable that the Ontario government has not yet given it a proclamation date. This unprecedented delay has caused a great deal of confusion, uncertainty, and red tape for Ontario nonprofits. Since 2007 when the Ontario government began consulting nonprofits on ONCA, several generations of volunteers serving two- or three-year terms on boards of directors have been trained on the implications of ONCA, perhaps consulted with lawyers, and then grappled with whether to update organizational bylaws under the outdated Ontario Corporations Act or wait for ONCA to come into force. It is time to end this uncertainty and get ONCA done.

⁵ Ontario Treasury Board Secretariat. "Transfer Payment Accountability Directive." March 30, 2017. Updated July 19, 2019. <https://www.ontario.ca/page/transfer-payment-accountability-directive>

⁶ Ontario Treasury Board Secretariat. "Transfer Payment Operational Policy." April 3, 2018. Updated August 23, 2019. <https://www.ontario.ca/page/transfer-payment-operational-policy>

⁷ Government of Ontario. "Not-for-Profit Corporations Act, 2010." <https://www.ontario.ca/laws/statute/10n15>

On a related point, ONN spent time during the 2019 legislative recess meeting with individual MPPs. The most common question we were asked by new legislators was how to obtain a list of nonprofits in their constituency. We told these MPPs that there was, in fact, no complete list available, and the only way one would be created was through an open-access directory under the forthcoming ONCA. Knowing how useful such a directory would be, we urge the Ontario government to ensure that, in keeping with the Ontario Open Data Directive,⁸ the database of nonprofits that will be created under ONCA will be available in an open format at no charge to the user. This will help to fill some of the significant knowledge gaps on the Ontario nonprofit sector. Members of Provincial Parliament, along with all others who need to know the size, scope, and make-up of the nonprofit sector, will be pleased to see this done.

c. Create an equivalent to the Small Business Access portal for nonprofits so that they can easily access legislation, regulations, and funding opportunities that affect them.

Half the organizations in the nonprofit sector have no paid staff and another quarter are very small, with ten or fewer employees. As a rule, these organizations do not have dedicated directors of finance or human resources, but they are still expected to know about and comply with many laws and regulations, such as health and safety, accessibility, employment standards, donation tracking and taxes, corporate governance, and more. ONN often hears from organizations that want to make sure they are compliant, but they do not know where to go.

There is currently no “one-stop shop” online where nonprofit leaders and employers can visit to understand their legal and regulatory obligations. The Ontario government has established a helpful model with its Small Business Access portal that provides everything from information about investment channels to training support to legal guidance.⁹ A significant feature of this site explains all the legal and regulatory requirements that apply to small businesses. We encourage the government to replicate this success with a comparable site for nonprofits.

There is an opportunity to build such a portal on the existing platform of two government sites: the “Rules for Not-for-Profit and Charitable Corporations” site¹⁰ (which provides governance information) and the Transfer Payment Ontario portal. A single site with plain-language legal information, along with funding opportunities, would be easy to implement and would go a long way to ensuring nonprofits can spend less time on red tape and more time on their missions. ONN would be pleased to convene the nonprofit sector to ensure the site design is most appropriate and efficient.

⁸ Ontario Treasury Board Secretariat. “Section 3: Principles.” Ontario’s Open Data Directive. Updated March 28, 2019. <https://www.ontario.ca/page/ontarios-open-data-directive#section-3>

⁹ Ontario Ministry of Economic Development, Job Creation and Trade. Small Business Access web portal. Updated: December 10, 2018. Published: October 16, 2017. <https://www.ontario.ca/page/small-business-access>

¹⁰ Ontario Ministry of Government and Community Services. Rules for not-for-profit and charitable corporations. Updated: June 27, 2018. Published: November 10, 2016. <https://www.ontario.ca/page/rules-not-profit-and-charitable-corporations>

d. Cut red tape for volunteers who need police record checks.

Nonprofits often use police record checks (PRCs) in the screening process for employees and volunteers, especially for those who will be working with vulnerable populations, such as children and seniors. ONN was pleased to see the Police Record Checks Reform Act come into effect a year ago, standardizing both the process and content of PRCs. While this legal framework is a positive step, there remain outstanding concerns that must now be addressed through regulations, namely, processing fees and timelines for volunteer checks.

In some Ontario jurisdictions, volunteers pay too much and wait too long for their clearance. We have heard from nonprofits that some police services conduct the process in days, while others take 10 weeks or more. There is also significant variability between jurisdictions in terms of the fees charged to volunteers - half the police services in the province still charge volunteers for this service, which can cost up to \$71. There is considerable public support for free checks for volunteers: the Ottawa Police Service found that almost two-thirds of their 2,946 survey respondents in 2018 supported keeping checks free for volunteers.¹¹ Despite this, the cost for volunteers in that jurisdiction just doubled,¹² though it is far from the highest in Ontario.¹³

Part of the challenge is that the PRC system is still paper-based in some jurisdictions. Police forces and municipalities could generate savings if this service were digitized across the board and, in the process, reduce costs for volunteers. As a red tape reduction measure for volunteers and nonprofits, we ask that the Ontario government catalyze the modernization of the PRC system across Ontario. We recommend the establishment of Ontario-wide regulations to make PRCs more affordable and to ensure they are processed in a timely manner by police services. In the absence of such regulations, we will only see a continued increase in costs, as well as in the number of police services employing private corporations to process checks, adding the cost of profit to the overall system.¹⁴ We encourage the Ontario Government to take measures to eliminate the red tape on volunteering by ensuring free and timely police record checks for Ontario's volunteers.

¹¹ Jon Willing. "Police board keeps background checks free for volunteers, but hikes fees for jobseekers." Ottawa Citizen. October 29, 2018.

<https://ottawacitizen.com/news/local-news/police-board-keeps-background-checks-free-for-volunteers-but-hikes-fees-for-jobseekers>

¹² Ottawa Police Service. "Fees and Payment Methods."

<https://www.ottawapolice.ca/en/about-us/Fees-and-Payment-Methods.aspx#is-my-police-record-check-for-service-with-the-Vulnerable-Sector-transferrable-from-one-organization-to-another>

¹³ In York Region, the volunteer fee increased to \$31 for 2020. If a person's name results in a match with a record in the database, that person must then pay the fingerprint fee to distinguish them from someone with the same name. See York Regional Police. "Vulnerable Sector Check." <https://www.yrp.ca/en/services/vulnerable-sector-check.asp>

¹⁴ E.g., see Colin Gowdy, "Sarnia police to offer online background checks." Blackburn News. December 12, 2019. "Chief Hansen said the service's fee for a background check, which is about \$43 for the public and less for students and volunteers, will increase a bit when the online system is implemented."

<https://blackburnnews.com/sarnia/sarnia-news/2019/12/12/sarnia-police-offer-online-background-checks/>

The ONN is the independent nonprofit network for the 58,000 nonprofits in Ontario, focused on policy, advocacy, and services to strengthen the sector as a key pillar of our society and economy. We work to create a public policy environment that allows nonprofits to thrive. We engage our network of diverse nonprofit organizations across Ontario to work together on issues affecting the sector and channel the voices of our network to government, funders, and other stakeholders.

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