Chapter 30
Education—Enforcing P3 Joint-Use School Project Agreements

1.0 Main Points

This chapter is our first follow-up on the recommendation made in our 2017 audit of the Ministry of Education's processes to manage the enforcement of its public-private partnership (P3) joint-use school Project Agreements. By July 2019, the Ministry implemented the recommendation.

The Ministry actively monitors the maintenance services provided by the private sector partner (Project Co.) responsible for both P3 projects using expectations set out in each of the two, 32-year P3 Project Agreements. It obtains and reviews regular reports received from Project Co. for each Project Agreement. It also works with Project Co. to obtain services as expected, and applies penalties consistent with the Agreements when warranted.

Consistent enforcement of contract provisions is critical given the 32-year duration of the P3 Project Agreements. It ensures the public receives the scope of services anticipated under the Agreements. Consistent monitoring and enforcement of all reporting provisions reduces the risk of not attaining expected value when using P3s.

2.0 Introduction

2.1 Background

In 2014, the Government decided to use a public-private partnership (P3) approach to finance, build, and operate 18 new, joint-use schools at nine joint-use sites located in Regina, Saskatoon, Martensville and Warman.

In August 2015, the Ministry of Education selected one private sector partner, Project Co., for two, 32-year Project Agreements. One P3 Project Agreement is for six schools located in Regina (Greens on Gardner, Rosewood Park, and Harbour Landing) in two different school divisions. The other Agreement is for another 12 schools located in Saskatoon, Martensville, and Warman (Hampton Village, Evergreen, Rosewoood, and Stonebridge) in three different school divisions.

Under each agreement, the private sector partner (Project Co.) builds, finances, and maintains the new elementary (Kindergarten to Grade 8) schools. These two agreements collectively cost the Ministry approximately $731 million.

The Ministry is responsible for overseeing the P3 Project Agreements' execution and enforcement, while relevant school divisions own the new schools located in their respective division post-construction.

2.2 Focus of Follow-Up Audit

This chapter reports the results of our first follow-up of management's actions on a recommendation we made in 2017.

Our *2017 Report – Volume 2,* Chapter 21, reported that the Ministry needed to enforce all reporting provisions for P3 Project Agreements for which it is responsible. We made one recommendation.

To conduct this follow-up audit engagement, we followed the standards for assurance engagements published in the *CPA Canada Handbook—Assurance* (CSAE 3001). To evaluate the Ministry's progress toward meeting our recommendations, we used the relevant criteria from the original audit. Ministry management agreed to the criteria in the original audit.

We discussed Ministry processes since 2017 with relevant management. We reviewed each Project's reports (e.g., Performance Monitoring Report, Penalty Summary Report, Annual Service Plan). We tested a sample of monthly and annual reports, as well as analyzed related Authority Review Reports and reporting requirements.

3.0 Status of Recommendation

This section sets out the recommendation including the date on which the Standing Committee on Public Accounts agreed to the recommendation, the status of the recommendation on July 31, 2019, and the Ministry's actions up to that date

3.1 Ministry Actively Using Reports to Monitor Compliance with P3 Joint-Use School Project Agreements

We recommended the Ministry of Education enforce all reporting provisions of public-private partnership Project Agreements for which it is responsible. (*2017 Report – Volume 2*, p.130, Recommendation 1; Public Accounts Committee agreement June 12, 2018)

Status—Implemented

As of July 31, 2019, the Ministry enforced reporting provisions of P3 Project Agreements for which it is responsible.

The Ministry received regular project monitoring reports as required by the P3 Project Agreements. These reports include Annual Service Plans, and monthly Performance Monitoring Reports and Penalty Summary Reports.

- The Annual Service Plan sets out the expectations of all services the Agreement requires Project Co. to provide such as a helpdesk, and life-cycle maintenance and general management services.

- The Performance Monitoring Report includes information such as maintenance summaries, helpdesk response times and life-safety equipment (e.g., fire extinguishers) testing.

- The Penalty Summary Report contains information on Project Co.'s service deliveries and service failures, planned corrective actions, and penalty adjustments, if any, made to its billing.

The two Annual Service Plans we tested reported the expected information to the Ministry as set out in the Agreement (e.g., contract obligations, policies, procedures and staffing, maintenance management, Occupational Health and Safety Report).

The seven Performance Monitoring Reports we tested contained the reporting expected under the Project Agreement.

The six Penalty Summary Reports we tested reported the expected information to the Ministry as delineated in the Agreement.

The Ministry documents its review of Project Co.'s reports in other reports referred to as Authority Review Reports. It prepares these review reports demonstrating whether the Ministry agrees with Project Co.'s self-assessment of fulfilling Agreement requirements. It prepares these reports using the same format as the Performance Monitoring Reports.

We found the Ministry formally reviewed the Project Co. reports and applied penalties to Project Co. when it did not meet service provisions (e.g., failure to meet response times) consistent with provisions of the Agreements. The Ministry also ensured payments to Project Co. adjusted for these penalties. The four Authority Review Reports we reviewed followed the same template as the Performance Monitoring Reports, and contain expected information for any implemented penalties or any discrepancies found (e.g., penalty deductions for service failures).

Consistent monitoring and enforcement of all reporting provisions reduces the risk of not attaining expected value when using P3s. In addition, obtaining and actively reviewing the required reports reduces potential delays in identifying issues and facilitates making appropriate and timely adjustments to ensure Project Co. delivers services as, and when, expected.