

**Directives to Hospitals in respect of
Reporting Requirements under the
BPSAA**

**Issued By
Minister of Health and Long-Term Care**

Effective April 1, 2011

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1. BACKGROUND

Preamble:

The *Broader Public Sector Accountability Act, 2010* (the Act) received Royal Assent on December 8, 2010. Under the Act, “hospital” means:

- (a) a public hospital,
- (b) a private hospital that received public funds in the previous fiscal year of the Government of Ontario, and
- (c) the University of Ottawa Heart Institute

As of April 1, 2011, under the Act every hospital, in compliance with the directive(s) issued by the Minister of Health and Long-Term Care (the Minister), is required to:

- Prepare reports on the hospitals use of consultants – Section 6
- Publicly post expense claim information – Section 8
- Prepare compliance attestations – Section 15

Purpose, Application and Scope:

The purpose of this directive (the Directive) is to outline the requirements with which every hospital must comply under sections 6, 8 and 15 of the Act.¹

Every obligation of a hospital under the Act is deemed to be an obligation it is required to comply with under the terms of the service accountability agreement between the hospital and a Local Health Integration Network.²

For certainty, any term used in this Directive that is defined in section 1 of the Act shall have the same meaning as in the Act.

2. REPORT ON THE USE OF CONSULTANTS

Background:

This Directive outlines the requirements with respect to:

- (a) the information that every hospital must include in its Reports;

¹ As set out in the Act (s. 6, 8, 15)

² As set out in the Act (s. 18)

- (b) to whom the Reports shall be submitted; and
- (c) the form, manner and timing of the Reports.

Preservation of Solicitor – Client Privilege:

This legislation maintains the integrity of solicitor client privilege, litigation privilege and settlement privilege, and does not require the disclosure of information subject to any of these privileges. While hospitals are expected to report on their retention of lawyers and law firms for the provision of consulting services, they are not required to report on instances where they have retained lawyers and law firms to provide legal advice, draft legal documents, conduct litigation on behalf of a hospital, or otherwise for the purpose of providing legal services to a hospital.

Submission of Reports:

Every hospital shall submit its Reports to the relevant LHIN by June 30th every year, starting in 2012.

Reporting Period:

The first Reporting Period will be April 1, 2011 to March 31, 2012.

The Reporting Period for all subsequent years will be April 1 to the following March 31.

Form of Report:

A reporting template is attached to this Directive as Appendix A. Every hospital is required to submit its Reports using this template.

For every project for which the hospital retained a consultant during the Reporting Period, every hospital is required to report on the following information:

1. **Consulting Firm Retained by the Hospital:**

The name of the Consulting Firm (e.g. ABC Consulting Group) retained to complete work on the project.

2. **Name and Title of Consulting Contract:**

The name/title of each project listed and the purpose (e.g. Information Technology Refresh).

3. **Contract Term:**

The start and end-date of each consultant contract entered into by the hospital.

If there has been a change in the contract term, e.g. an extension, please note the original contract term and the revised contract term.

For example, a clinical/medical program design project with a contract term from August 3rd to November 9th, 2011, was extended to January 31, 2012, would be recorded as follows:

A: Original contract term: August 3 – November 9, 2011

B: Amended contract term: August 3, 2011 – January 31, 2012

4. **Total Procurement Value (\$) / Total Paid:**

The value of the original contract, the value of any amendments, and the total amount paid to each consulting firm by the hospital. This total amount must include the amount paid to the firm during the original contract term, and, in the event that the contract is amended, any subsequent amounts paid to the firm.

For example, a strategic consulting project on ER Capacity had an original contract price of \$65,000. However, the contract was changed, and the total value of the contract increased to \$90,000. The total procurement value should be recorded as:

A: Original Procurement Value: \$65,000

B: Amended Procurement Value: \$25,000

A+B=C

C: Total Procurement Value: \$90,000

If a contract term extends beyond the Reporting Period, the hospital must indicate the amounts paid to each consulting firm up until the end of the Reporting Period (e.g. if a contract term is for August 2011 to July 2012 – the hospital's Report for the period from April 1, 2011 – March 31, 2012 must include the amount paid on the contract for the period from August 2011 to March 2012). The amount paid on the contract for the period of April 1, 2012 until July 2012 will be included in the April 1, 2012 – March 31, 2013 reporting period.

5. **Consultant Selection Process:**

The Selection process used:

- Invitational competitive
- Open competitive
- Non competitive (if non-competitive, please provide an explanation)
- Other

6. **Modifications to Agreement:**

Indicate whether the contract term or the value of any consultant contracts have been modified (Yes or No).

If Yes, indicate whether the relevant procurement documents allowed for any modification (Yes or No) - i.e. a provision to extend the contract is in the contract documents.

If there is no provision in the relevant procurement documents to extend the contract term or value, please ensure the modification is captured in the Compliance Report – Attestation.

3. POSTING OF EXPENSES FOR HOSPITAL

Background:

The Minister has issued this Directive under the authority of subsection 8(2) of the BPSAA, and every hospital must post information about expense claims on its public website in a manner that complies with the requirements set out in this Directive.

Types of Expense Claims that Must be Posted:

Every hospital must post the required information about expense claims made for the following types of expenses:

- Travel
 - Vehicle rental or own use (mileage)
 - Train or air travel
 - Taxi or public transportation
 - Accommodation
 - Travel incidentals (insurance, parking, tolls)
- Meal
- Hospitality

Whose Expense Claim Information Must be Posted:

Every hospital must post the required information about expense claims made by the following individuals (the Designated Individuals):

- Every member of the Board of Directors;
- Chief Executive Officer/President/Administrator/Superintendent;
- Every member of the hospital's senior management group who reports directly to the CEO/President/Administrator/Superintendent.
- Chief Operating Officer (COO) and every member of the hospital's senior management group who reports directly to the COO.

For certainty, "a member of the hospital's senior management group" is an individual who is employed by the hospital as an executive member of the management group of the hospital that report directly to the hospital's chief executive officer (or, if there is not a chief executive officer, to anyone who holds a position equivalent to chief executive officer, regardless of title). This includes the Chief Nursing Officer and the Chief of Staff, if a direct reporting structure is in place.

A hospital is only required to post expense claim information about expenses claimed by Designated Individuals, where the expenses are reimbursed by the hospital using public funds.

Information About Expense Claims That Must be Posted:

Every hospital shall post the following information in respect of each travel, meal and hospitality expense claim made by a Designated Individual:

- Type of Expense Claim
- Date on which expense was incurred
- Amount claimed
- Description

Form, Manner and Timing of Posting:

Every hospital must complete an expense report, in the form shown in Appendix B for each Designated Individual, and post the completed form in an area on its public website that is clearly and readily accessible to the public.

Every hospital must post the required information on a semi-annual basis beginning in the 2011/2012 Fiscal Year. Expenses must be posted no later than 60 days following the end of the semi-annual reporting period. Each posting must include the required information in respect of all expenses approved within the applicable period.

For example, and as set out in the table below, this means that every hospital must post the required information about expense claims made from April 1, 2011 to September 30, 2011, by November 30, 2011. If a claim is incurred between April and September but not approved until October, the expense should appear in the next posting.

Every hospital shall continue to make the required information available on its public website for a period of 2 years from the date on which the expense was posted.

The annual public posting cycle is as follows:

Reporting Period	Public Posting date
April 1 to September 30	By November 30
October 1 to March 31	By May 31

4. COMPLIANCE REPORTS – ATTESTATIONS

Pursuant to section 15 of the Act, every hospital is required to prepare attestations, attesting to:

- The completion and accuracy of reports required on the use of consultants (s. 6 of the Act)
- Compliance with the prohibition on engaging lobbyist services using public funds (s. 4 of the Act)

- Compliance with expense claim directives issued by the Management Board of Cabinet (under s. 10 of the Act)
- Compliance with procurement directives issued by the Management Board of Cabinet (under s. 12 of the Act).

In addition, once ss. 15(1)(c.1) of the Act is proclaimed into force, every hospital will be required to attest to the hospital's compliance with perquisites ("perks") directives issued by the Management Board of Cabinet (under s. 11.1 of the Act).

Subsection 15(2) of the Act requires that the following individuals make the attestations, which must be approved by the hospital's board:

- In the case of a public hospital, the administrator
- In the case of a private hospital, the superintendent
- In the case of the University of Ottawa Heart Institute, its chief executive officer.

This Directive is issued by the Minister of Health and Long-Term Care under the authority of subsection 15(3) of the Act. Every hospital is required to comply with this directive.

As required by subsection 15(5) of the Act, the hospital must post its attestations, after they have been approved by the hospital's board, if it has one, on its public website.

Form, Timing and Submission to LHINs:

Reporting Period:

Hospitals will be required to submit attestations on an annual basis. The reporting period for which a hospital is required to submit an attestation is April 1 to the following March 31.

Submission of Reports for Attestations:

Every hospital is required to submit to the relevant LHIN, the required attestation, approved by the hospital's Board, covering the Reporting Period (i.e. April 1 to the following March 31), by June 30th of every year.

Format of the Attestation:

Every hospital is required to complete the attestation in the format set out in the attachment to this Directive (Appendix C).

Information to be included in Attestations:

Every hospital is required to prepare an attestation, in which the individual required to make the attestation, attests to the following:

1. the completion and accuracy of reports required in section 6 of the BPSAA on the use of consultants;
2. the hospital's compliance with the prohibition in section 4 of the BPSAA on engaging lobbyist services using public funds;

3. the hospital's compliance with the expense claims directive issued under section 10 of the BPSAA by the Management Board of Cabinet;
4. once ss. 15(1)(c.1) of the Act is proclaimed into force, the hospital's compliance with the perquisites directive issued under section 11.1 of the BPSAA by the Management Board of Cabinet; and
5. the hospital's compliance with the procurement directive issued under section 12 of the BPSAA by the Management Board of Cabinet.

If there are material exceptions to the hospital's compliance with any of these requirements, the attestation is required to list the exception(s), and provide a rationale/explanation for each incidence of non-compliance, and describe what, if any, actions the hospital has taken to address the incidents of non-compliance.

Public Posting:

Every hospital is required to post its Board approved attestations on its public website by August 31st of each year.

Attestations should remain on main public websites for a period of one year, after which time they may be moved to the archive section of the website.

APPENDIX A – HOSPITAL REPORT ON CONSULTANT USE

Sample - Draft Hospital Report on Consultant Use

Name of Hospital:

LHIN:

Reporting Period: April 1, 2011 to March 31, 2012

No.	Consultant Firm Name(s)	Name and Title of Consulting Contract	Contract Term If the contract term has been extended please include the original contract term and the amended contract term	Procurement Value (A) Original value plus (B) Value of amendments and (C) Total procurement value (\$)/ Total Paid	Consultant Selection Process (Open Competitive, Invitational Competitive, Non-competitive) If non-competitive, please provide an explanation	Modifications to Agreement (Yes/No) If Yes, did the procurement documents permit modifications to the term or value of the agreement?
1.	<ul style="list-style-type: none"> • ABC Consulting Group 	<ul style="list-style-type: none"> • Strategic Consulting Project – ER Capacity 	<p><u>Original Contract Term:</u> August 3 to November 9, 2011</p> <p><u>Amended Contract Term:</u> August 3, 2011 to January 31, 2012</p>	<p>A Original Procurement Value \$65,000</p> <p>B Amended Procurement Value \$25,000</p> <p>C Total Procurement Value \$90,000</p> <p>A+B=C</p> <p>Total Paid for reporting period - \$90,000</p> <p>(Note – if contract term extends beyond the Reporting Period, indicate total paid during the reporting period of April 1 to March 31)</p>	Open competitive	Yes
						<p>If the procurement documents did not permit for modifications to the term or value of the agreement then please ensure the modification is captured in the Compliance Report/Attestation</p>

Preservation of Solicitor –client privilege:

This legislation maintains the integrity of solicitor client privilege, litigation privilege and settlement privilege, and does not require the disclosure of information subject to any of these privileges.

While hospitals are expected to report on their retention of lawyers and law firms for the provision of consulting services, they are not required to report on instances where they have retained lawyers and law firms to provide legal advice, draft legal documents, conduct litigation on behalf of a hospital, or otherwise for the purpose of providing legal services to a hospital.

Appendix B – Posting of Expenses

Draft Form or Template Form

Name:

Title:

Reporting Period:

Date	Amount	Expense Category	Description
April 10-12, 2011	\$125.00	Travel – Meals	Conference
April 10-12, 2011	\$275.00	Travel – Accommodation	Conference
April 16, 2011	\$16.00	Travel – Mileage	Board meeting

Definitions:

Date(s): - when expense(s) were incurred

Amount: - the value of the approved expense

Expense Category: - the type of expense incurred:

- Travel
 - Vehicle rental or own use (mileage)
 - Train or air travel
 - Taxi or public transportation
 - Accommodation
 - Travel incidentals (insurance, parking, tolls)
- Meal
- Hospitality

Description: Notes explaining the context in which the expenses were incurred, or any other relevant details.

APPENDIX C - ATTESTATION

Draft Attestation Form

Prepared in accordance with section 15 of the *Broader Public Sector Accountability Act, 2010* (BPSAA)

TO: The Board **[insert Name of Hospital]**, (the “Board”)
FROM: **[insert Name]**
Administrator/Superintendent/CEO
[insert Name of Hospital]
Date: **[insert date]**
RE: **[insert dates of reporting period]** (“the Applicable Period”)

On behalf of the **[name of hospital]** (the Hospital) I attest to:

- the completion and accuracy of reports required of the Hospital pursuant to section 6 of the BPSAA on the use of consultants;
- the Hospital’s compliance with the prohibition in section 4 of the BPSAA on engaging lobbyist services using public funds;
- the Hospital’s compliance with any applicable expense claims directives issued under section 10 of the BPSAA by the Management Board of Cabinet;
- [to be added once ss. 15(1)(c.1) of the Act is proclaimed into force] the Hospital’s compliance with any applicable perquisite directives issued under section 11.1 of the BPSAA by the Management Board of Cabinet; and
- the Hospital’s compliance with any applicable procurement directives issued under section 12 of the BPSAA by the Management Board of Cabinet,

during the Applicable Period.

In making this attestation, I have exercised care and diligence that would reasonably be expected of a **[select applicable title: hospital administrator/superintendent/CEO]** in these circumstances, including making due inquiries of Hospital staff that have knowledge of these matters.

I further certify that any material exceptions to this attestation are documented in the attached Schedule A.

Dated at **[insert city]**, Ontario this **[insert date]**, 20xx.

[insert name of [select applicable title: Administrator/Superintendent/CEO]]

[insert title: Administrator/Superintendent/CEO]

[insert: Name of Hospital]

I certify that this attestation has been approved by the board of the **[insert Name of Hospital]** on **[insert date]**.

[insert: Name of Board Chair]

Chair of the Board

[insert: Name of Hospital]

SCHEDULE A to Attestation

Instructions [please delete instructions once you have completed the Schedule]:

If, on behalf of your Hospital, you have no material exceptions to declare, please include a “no known exceptions” statement in each section to this schedule.

If, on behalf of your Hospital, you have material exceptions to declare with respect to any of the matters set out below, please:

- a) list them accordingly
 - b) provide a rationale for each exception in respect of why the Hospital did not comply with the requirement, and
 - c) describe what actions have been, or will be taken, to address each exception.
1. Exceptions to the completion and accuracy of reports required in section 6 of the BPSAA on the use of consultants;
 2. Exceptions to the Hospital's compliance with the prohibition in section 4 of the BPSAA on engaging lobbyist services using public funds;
 3. Exceptions to the Hospital's compliance with the expense claims directive issued under section 10 of the BPSAA by the Management Board of Cabinet;
 4. [to be added once ss. 15(1)(c.1) of the Act is proclaimed into force] Exceptions to the Hospital's compliance with the perquisites directive issued under section 11.1 of the BPSAA by the Management Board of Cabinet; and
 5. Exceptions to the Hospital's compliance with the procurement directive issued under section 12 of the BPSAA by the Management Board of Cabinet.