

# **Ontario's "Delegated Administrative Authority" Model of Alternative Service Delivery:**

## **A Public Management Success Story for the 21<sup>st</sup> Century**

**Presented to  
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## **What is the Delegated Administrative Authority Model?**

The Ontario Ministry of Consumer & Business Services (MCBS) "Delegated Administrative Authority" (or DAA) model of alternative service delivery, and the Technical Standards & Safety Authority (TSSA) case in particular, is a viable and proven alternative approach to public management.

Under this model, private, not-for-profit corporations or DAAs have been created to administer specific statutory responsibilities and deliver related public services under the terms of a ministerial delegation. Services are provided on a cost recoverable, fee-for-service basis.

Ontario first implemented this alternative service delivery model in earnest in 1996, based on the 25 year success of the Ontario New Home Warranty Program, Ontario's first DAA, the success of the Delegated Administrative Organization (DAO) model in Alberta and experience with the model in other jurisdictions including the United Kingdom and New Zealand.

Ontario applied the model to the administration of specific consumer protection and public safety statutes under the *Safety and Consumer Statutes Administration Act, 1996*.

As a result, today, Ontario has seven Delegated Administrative Authorities – the Real Estate Council of Ontario (RECO), the Travel Industry Council of Ontario (TICO), the Ontario Motor Vehicle Insurance Council (OMVIC), the Electrical Safety Authority (ESA), the Board of Funeral Services (BoFS), the Ontario New Home Warranty Program (ONHWP) and the Technical Standards & Safety Authority (TSSA). Each DAA is unique and enjoys varying degrees of independence from government, depending on the nature of the specific statute being administered by the DAA.

DAAs are not crown agencies or crown corporations. They are private, not-for-profit corporations with boards of directors reflecting consumer, government and industry interests impacted by the legislation the DAA administers on behalf of the government. Responsibility for legislation, policy and standards setting and implementation oversight remains with the Ontario Government.

## TSSA

The Technical Standards & Safety Authority (TSSA) is the only DAA whose mandate to regulate public safety standards covers a variety of diverse interests. TSSA regulates the safety of Ontario's amusement rides, boilers and pressure vessels, elevating devices, hydrocarbon fuels (natural gas, petroleum and propane), operating engineers and upholstered and stuffed articles industries under Ontario's *Technical Standards and Safety Act, 2000* and supporting Regulations.

A recent independent report of the effectiveness of the Delegated Administrative Authority model commissioned by MCBS and carried out by PSTG Consulting confirmed that “**Ontario’s move to a Delegated Administrative Authority model was well founded**”<sup>1</sup>. The evaluation focused on two key components – governance and public accountability and management and performance.

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<sup>1</sup> An Evaluation of Ontario's Delegated Administrative Authority Model, PSTG Consulting, June 2001

In its Final Report released in June 2001, PSTG Consulting concluded that: **“The mechanisms, tools and leadership put in place to support the transition, has provided the landscape for DAAs to critically re-examine “old” ways of doing things and to explore new and innovative strategies aimed at furthering public safety and consumer protection and improving service delivery standards”<sup>2</sup>.**

PSTG Consulting was particularly impressed with TSSA’s performance and concluded **“TSSA has developed significant expertise in the field of public safety and, quite rightly, is acknowledged as a leader in the field”<sup>3</sup>.**

More specifically, on governance and accountability, PSTG Consulting concluded that **“The practices of the Board appear to be models for not only DAAs, but also to corporations more broadly (profit and not-for-profit)”<sup>4</sup>. “The development of Industry Advisory Councils and a Consumers Advisory Council are important elements in a full accountability regime”<sup>5</sup>.**

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<sup>2</sup> *Ibid*

<sup>3</sup> *Ibid*

<sup>4</sup> *Ibid*

<sup>5</sup> *Ibid*

On operations and management, PSTG Consulting concluded that **“Since delegation, the number of incidents, serious injuries and fatalities have reduced in virtually all industry settings which is impressive”<sup>6</sup>. “TSSA’s business planning and risk management approaches are of a very high quality and play a central role in the operational improvements that have been made”<sup>7</sup>.**

**“Maintaining an effective public safety system is TSSA’s core competence. They have the necessary inspection, design review, practitioner training & certification processes, infrastructure and systems to effectively do their work. They are also a leader in the development of risk management processes for managing compliance in the public safety arena.”<sup>8</sup>**

TSSA has recognized the importance of public accountability and demonstrates this in many tangible ways. The Minister of Consumer & Business Services reserves the right to withdraw the delegation if he or she believes it is in the public interest to do so. TSSA publishes an annual report that includes analysis of public safety trends in its regulated sectors. A more comprehensive “State of Safety” report is also made available on TSSA’s web site ([www.tssa.org](http://www.tssa.org)). TSSA holds an annual general meeting that is open to the public, it

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<sup>6</sup> *Ibid*

<sup>7</sup> *Ibid*

has developed and implemented its own Access and Privacy Code, it meets semi-annually with its Consumers Advisory Council and nine sector specific Industry Advisory Councils. TSSA surveys its clients on a bi-annual basis and consults with its Councils and stakeholders on all major safety and operational initiatives. Ontario's Information and Privacy Commissioner has acknowledged TSSA for its public accountability.

### **Benefits of the Delegated Administrative Authority Model and the Capabilities of TSSA**

Implementation of the Delegated Administrative Authority model of alternative service delivery and creation of TSSA has brought about many tangible benefits for consumers, government and industry:

#### **Consumers**

The DAA model has driven a consistent high standard of service delivery in Ontario and has made public safety and consumer protection “outcomes” the measure of performance. It has driven a focus on the adoption of best practices and given consumers a stronger and more meaningful voice in consumer protection and public safety administration (in the case of TSSA, through the creation of a voluntary Consumers Advisory Council, which is

comprised of representatives from consumer advocacy and other non-industry associations).

On the public safety side, the adoption of risk management practices has led to a stronger emphasis on root cause analysis and identification of the need for greater investments in behavioural research to enable development and implementation of more effective, targeted public education and awareness programs that address both equipment failure and human error.

#### **Government**

Implementation of the DAA model has effectively refocused the role of government towards public service management (setting policy and service delivery standards) and DAA oversight.

Concurrently, it has assigned the DAAs responsibility for improving compliance with consumer protection and public safety statutes and improving service quality and client service.

This refocusing has “freed up” resources and time within government (that otherwise would have been allocated to direct service delivery), and strengthened the government's focus on continual improvement of consumer protection and public safety policy and standards. It has enabled the successful passage of Ontario's *new Technical Standards and*

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<sup>8</sup> *Ibid*

*Safety Act, 2000* and supporting Regulations, adoption of risk management practices and procedures improved capacity and flexibility to respond to rapidly changing industry needs and advancing technology, products and materials and nimbler service delivery/decision-making structures.

## Industry

Implementation of the DAA model has effectively given industry greater participation in and accountability for industry standards of performance, service delivery, improved standards of performance, client and consumer relations and input into statute and regulation development. It has also brought about better quality service and efficiency, which has resulted in improved levels of client satisfaction.

More specifically in the case of TSSA, since it received its delegation from Ontario's Consumer Minister on May 5<sup>th</sup>, 1997, TSSA has made (and continues to make) significant progress in enhancing the overall standard of public safety in Ontario and in improving service quality and operational efficiency in each of the regulated sectors, including:

- Refined its risk management inspection process and is expanding it to include all activities for regulated devices;

- Led the establishment of an enhanced crisis communication protocol with the Minister and Ministry of Consumer & Business Services to ensure clear roles and responsibilities and prompt and consistent standards of communication during significant, high profile incidents and their investigation;
- Maintained the independence of its statutory directors;
- Maintained and updated memoranda of understanding with the Ministry of Environment (Spills Action Centre) and the Ministry of the Solicitor General (Office of the Fire Marshal) to clarify incident reporting and improve the standard of co-operation during incident investigations. TSSA has arranged with the Ministry of the Solicitor General for notice to be provided to all Ontario police forces as to the existence and authority of TSSA including contacts. As a result, municipal police forces are now including TSSA on their lists of other law enforcement agencies to be contacted in the event of incidents;
- Developed and implemented an enhanced incident investigation protocol with the Ministry of Labour to improve the overall standard of accountability and to remove perceived or real conflicts associated with incident investigations (i.e., incidents where TSSA inspectors have investigated

- devices that they had inspected). This protocol includes specific investigation requirements, which trigger a change in TSSA's internal approach to incident investigations and lead to the participation of the Ministry of Labour. Currently, TSSA and the Ministry of Labour are updating this protocol to address incidents involving joint jurisdiction;
- Worked in partnership with the Ministry of Consumer & Business Services and its diverse stakeholders to modernize the regulatory environment for public safety regulation in Ontario by facilitating passage of *the Technical Standards and Safety Act, 2000* and supporting Regulations;
  - Utilized risk-based cyclical and targeted inspections effectively – injury trends are positive in all sectors;
  - Developed and implemented a corporate risk map and assigned responsibilities for monitoring to ensure that corporate decision-making is risk-based;
  - Begun to strengthen its data gathering and incident/root cause analytical capabilities through implementation of a new \$3.5M Public-One-Stop-Service® (POSSE/Ranger) information system;
  - Observed positive improvements in incident trends in all regulated sectors;
  - Reviewed and is now enhancing its core inspection and engineering design review quality assurance procedures;
  - Identified gaps in inspector and engineering training needs and is developing and implementing a “Learning Strategy” to close those gaps;
  - Increased training standards for tradespersons working in the regulated industries;
  - Introduced voluntary Facility Quality Assessment and Contractor Quality Assessment Programs designed to enhance public safety. These programs have been very well received by industry in Ontario and have generated revenue which TSSA is re-investing in targeted public education and awareness programs;
  - Introduced new targeted public safety education and awareness programs (RideSmart®, StartSmart®, HeatSmart®).
- There is a consensus, and an acknowledgement by the Government<sup>9</sup>, that Ontario needs a comprehensive groundwater management and protection

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<sup>9</sup> “Harris Government’s 21 Step Action Plan” New Release, Government of Ontario, May 2, 2001

strategy. The Environmental Commissioner of Ontario (ECO), responding to Walkerton in his most recent report <sup>10</sup> indicated that the ECO had suggested that the strategy could include many interrelated elements. These elements included a strong regulatory program aimed at preventing contamination.

It is also well understood that excellent strategies may fail because they are poorly implemented. TSSA has a proven track record that it could effectively and successfully implement this element of the strategy if given the opportunity. To illustrate, it is useful to compare TSSA's capability against the Total Quality Water Management System, a report prepared for the Walkerton Inquiry<sup>11</sup>. This report, based on research into best practices into Ontario, Canada, Great Britain and Australia, suggests a drinking water utility model that would be capable of providing the required level of protection to the public (Technical Capability).

The process would be operated, controlled and monitored by operators with the appropriate skills (Operator Capability). An intricate set of supports for the operators (Utility Supports/Management) would be in place to facilitate the desired operation of the process. The system would operate within the laws, regulations and rules of the

Province (Regulatory Environment). Finally, all components of the system would be transparent so that public confidence is restored.

Implementation of the model would further ensure a healthy tension is created in the dynamics of stakeholder relations.

**TSSA's core strength is statute administration** and its capability is clearly indicated when compared to these elements:

### Utility Regulation

The report states, **"The regulator will be responsible for licensure of all water utilities in the Province. The regulator is responsible for reviewing all aspects of a water utility, including its TQWMS, Financial Plan, Governance, Personnel Management, Reporting and Communication programs, and Standards compliance. All of the above components must be approved by the Regulator, in order for the water utility to receive an operating license."**<sup>12</sup>

This is TSSA's core competence. TSSA administers Quality Management Plans and licenses all facilities in the areas that it regulates. TSSA registers the contractors that both install and maintain these facilities.

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<sup>10</sup> 1999/2000 Annual Report of the Environmental Commissioner of Ontario, Office of Ontario's Environmental Commissioner

<sup>11</sup> A Total Quality Water Management System for Ontario, CH2M Hill Canada Limited and Diamond Management Institute, June 2001

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<sup>12</sup> *Ibid*

## Operator Competency

The report suggests **“the competency of operators be assured by following the Triple-E process (Experience, Education, and Examination).”**<sup>13</sup>

TSSA certifies approximately 50, 000 tradespersons who currently work in the trades that it regulates. TSSA develops the training standards (theory and practical), accredits training programs and training providers and examines applicants for competence. In some cases, TSSA has developed training programs where it was not satisfied that a quality program existed. TSSA can apply its core competency in this way to the water utility industry.

## Utility Management

The report suggests **“Participation in a Total Quality Water Management System will be a requirement of each and every employee of the water utility.”**<sup>14</sup>

TSSA has introduced voluntary Facility Quality Assessment and Contractor Quality Assessment Programs that have been very well received by industry. Potentially, TSSA could apply these types of quality assessment programs to the water utility management industry.

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<sup>13</sup> *Ibid*

<sup>14</sup> *Ibid*

TSSA is an accredited auditor for Quality Systems administered by the American Society of Mechanical Engineers (ASME International) pertaining to both conventional and nuclear vessel fabrication. It is in the process of seeking accreditation for its own operations under ISO 9000:2000.

TSSA will also be seeking ISO accreditation under its Standard for Inspection Bodies when the Standards Council of Canada commences this program of accreditation.

## Technical Capability

The report states that **“At the heart of a water utility is the technology and the equipment used to treat and transport the water provided to the customer.”**<sup>15</sup>

TSSA has demonstrated its ability to ensure that appropriate technology is used and is an active participant in the consensus standards development process. Wherever appropriate, TSSA promotes the adoption of the highest quality international and national public safety standards. TSSA currently sits at various national and international standards development tables with among others, the Canadian Standards Association (CSA) and ASME International.

From time to time TSSA develops its own codes in some areas, carries out reviews of equipment designs and has expertise in risk assessment.

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<sup>15</sup> *Ibid*



## Transparency

The report states “**Transparency is required for accountability and trust. The public must be able to trust that the water they are being supplied is safe.**”<sup>16</sup>

The report also highlights the need for a cultural change to ensure an environment of transparency.

TSSA already has successfully accomplished this cultural change. TSSA has demonstrated in many tangible ways that it operates in a transparent fashion. In addition to the public information that it provides (e.g., annual reports, operating plans, “State of Safety” reports) TSSA was pro-active in the formation of a Consumers Advisory Council. Additionally, three of TSSA’s Board members are ministerial appointments, two of whom reflect consumer interests.

The report also states “**The regulator must have a transparent assessment practice that ensures that the water utilities are aware of processes used to evaluate them.**”<sup>17</sup>

This is TSSA’s practice. TSSA ensures that its assessment systems are both technically effective and practical. Eight sector specific Industry Advisory Councils, an Agricultural Advisory Council and Training & Certification Advisory Boards currently advise TSSA.

TSSA has demonstrated its competence as an effective regulator outside of government. It already touches the lives of every Ontario resident.

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<sup>16</sup> *Ibid*

<sup>17</sup> *Ibid*