Winnipeg

Councillors' Representation Allowance Fund
Report to Governance Committee of Council

June 2011

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Audit Department

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MANDATE OF THE CITY AUDITOR

The City Auditor is a statutory officer appointed by City Council under the *City of Winnipeg Charter*. The City Auditor reports to Council through the Audit Committee (Executive Policy Committee) and is independent of the City's Public Service. The City Auditor conducts examinations of the operations of the City, and its affiliated bodies, to assist Council in its governance role of ensuring the Public Service's accountability for the quality of stewardship over public funds, and for the achievement of value for money in City operations. Once an audit report has been communicated to Council, it becomes a public document.

OVERVIEW OF THE *COUNCILLORS' REPRESENTATION ALLOWANCE FUND POLICY REQUIREMENTS*

The Councillors Representation Allowance ("CRA") provides funds for City Councillors to pay for furnishings, office equipment, materials and administrative services required to operate their offices; the funds are also used for business expenses incurred to perform their duties, communicate with their constituents, and to represent their wards. The annual limit for the fund is currently $72,960 per ward (with a total allocation of $1,094,400).

The *Councillors' Representation Allowance (CRA) Fund Policy Requirements* ("the *Policy*") provides direction on the guiding principles for the allowance fund, general requirements for compliance with the *Policy*, and detailed roles and responsibilities for the fund's stakeholders.

The *Policy* establishes key controls over the administration of CRA expenditures. The *Policy* prescribes roles and responsibilities of the Councillors, the City Clerk's Department, the Governance Committee of Council, and the Audit Department. Any expenditure incurred in the fund may be reviewed by the four separate parties, at any point in time, to ensure that the expenditure complied with the intent of the *Policy.* Over the past several years, revisions have been made to strengthen the *Policy's* control framework.

ROLES AND RESPONSIBILITIES

Councillors are responsible for the spending of CRA funds allocated to their wards and ensuring that the funds are spent in compliance with the *Councillors' Representation Allowance Fund Policy Requirements*.

The City Clerk's Department is responsible for reviewing and processing CRA expenditures on an ongoing basis in accordance with the *Policy*. In the event that the City Clerk's Department requires policy interpretation, or guidance on the appropriateness of an expenditure, the matter is referred to the Governance Committee of Council.

The Governance Committee of Council makes decisions on the appropriateness of expenditures. The Committee is also authorized to do all things necessary to implement and make amendments to the *Policy* from time to time, as required.

The Audit Department is responsible for conducting an annual audit providing an opinion on whether the expenditures reported by the City Clerk's Department, to the Governance Committee of Council, and to Council, comply, in all significant respects, with the provisions of the *Policy*, and its principles. The Audit Department is also responsible for identifying specific areas where control mechanisms can be improved.

Our audits are conducted in accordance with Canadian generally accepted auditing standards. Those standards require that audits be properly planned and performed to obtain reasonable assurance that CRA fund expenditures comply with the criteria established by the *Policy*. The audit work completed includes examining, on a test basis, evidence that supports the amount, purpose, approval, recording and reporting of CRA expenditures for compliance with the *Policy*.

Our opinions on the 2010 CRA ward expenditure reports have been provided in our Audit Report to the Governance Committee of Council. The purpose of this report is to communicate the areas in the *Policy*, and its processes, where we believe improvements should be made to control mechanisms. The conclusions in our report are based upon information made available to us at the time of our work. In the event that significant information is brought to our attention after the completion of our audit, we reserve the right to amend the conclusions reached.

The Audit Department presented a *Review of the Councillors' Representation Allowance Fund - Policy Requirements Supplementary Report* to then Council Secretariat Committee in June 2010. We believe the recommendations contained within that report are still relevant and valid. This report only includes observations and recommendations arising from this year's audit.

OBSERVATIONS AND RECOMMENDATIONS

Overall, our audit revealed that the majority of transactions incurred in the Councillors' Representation Allowance fund during 2010 were correctly processed; we also identified several areas where we believe control improvements should be made.

Basis of Accounting

Our responsibility is to conduct a compliance audit and to give an opinion of whether the CRA fund expenditures reported to the Governance Committee of Council comply with all aspects of the *Policy*. Because the Councillors are personally responsible to reimburse over-expenditures of the fund back to the City, part of our audit is designed to give reasonable assurance that all expenditures that have been incurred are reported correctly.

> Each Councillor is personally responsible for reimbursing any over-expenditure of his/her CRA funds.
>
> *The Councillors' Representation Allowance (CRA) Fund Policy Requirements ~ Section D.2.a*

The *Policy* does not prescribe either the cash method or the accrual method of accounting for fund reporting purposes. The cash method records expenditures when they are paid for, regardless of when the actual good or service is provided. The accrual method records expenditures when the good or service is provided, regardless of when the payment is made. Choosing one method over the other can produce significantly different reporting results.

> Each Councillor shall have until January 15 of the following year to submit all receipts for the preceding year for payment. Any authorized expenditures submitted after January 15 will be a first charge on the current year's expenses.
>
> There shall be no carry over of monies from year to year. Monies not expended in the calendar year shall be returned to General Revenue at the end of the calendar year, unless specifically authorized by the Governance Committee of Council for special projects. Funds appropriated for special projects shall be disclosed in the annual report referred to in Section D.5 below.
>
> *The Councillors' Representation Allowance (CRA) Fund Policy Requirements ~ sections D.4.a & D.4.b*

We identified some sections of the *Policy* that suggest that a cash method is to be used (because emphasis of the guidance is placed on the timing of cash payment, rather than the timing of provision of goods or services). However, the City's consolidated financial statements are based on the accrual method of accounting. The omission of a prescribed accounting basis from the *Policy* has resulted in a lack of clear guidance for City Clerk's staff regarding the treatment of certain expenditures and consequently, we observed that a combination of both cash and accrual methods had in fact been used for some expenditures. We also observed that significant transactions for identical types of expenditures had been recorded using both of the two different methods.

We believe the Governance Committee of Council should adopt the accrual method of accounting starting in 2012. This would improve the consistency of the reporting of expenditures and provide the City Auditor the appropriate basis to properly examine compliance with respect to reporting expenditures in the proper period.

Recommendation 1

We recommend that Governance Committee of Council amend the Councillors' Representation Allowance (CRA) Fund Policy Requirements to prescribe that the fund account for expenditures using the accrual method of accounting commencing in 2012.

Completeness of Expenditures Reported

The CRA provides funds for Councillors to pay for normal expenses in connection with representing their wards. There are, however, certain other boards and committees that Councillors may sit on that also provide funds in connection with the duties associated with those boards and committees. The funds provided for these other boards are not reported in the CRA fund report because they are not costs of representing a particular ward.

The *Councillors' Representation Allowance (CRA) Fund Policy Requirements*, or any other City policy, does not specify which expenditures should be included in the CRA fund report and which expenditures are allowable in the accounts of other boards and committees. As a result, we observed that certain general expenditures, such as monthly parking fees and the cost of office phone lines, were spread over several funds by some Councillors, who were on other boards and committees, while the same types of expenditures were required to be entirely included in the CRA fund expenditures of Councillors that were not on other boards and committees. This is not equitable expenditure treatment for all Councillors.

Recommendation 2

We recommend that Governance Committee of Council amend the Councillors' Representation Allowance (CRA) Fund Policy Requirements to provide guidance regarding which expenses should be included in the CRA fund, or which expenditures can be allocated to other funds.

Transportation Allowance

The *Policy* allows for Councillors to claim a per kilometer rate when they are required to use their personal vehicles for City business. The condition for Councillors to claim a regular rate is that Councillors must document their detailed auto activities for one full month, once per four-year term.

Over the past few years we have observed that the amount of kilometers claimed fluctuated greatly over the course of a Councillor's term and that the number of kilometers claimed by the majority of Councillors has been on the increase.

With the escalating pattern of usage and the degree of fluctuation in business travel, it is important that City Councillors maintain complete and accurate supporting documentation. We believe that tracking one full month of vehicle activity, once per term, as is currently required, does not provide adequate support. Canada Revenue Agency does not specifically state what types of records should be kept to support a "reasonable allowance" paid for business use of personal vehicles;[1] however, clear evidence can be found that Tax Courts require detailed mileage logs to support mileage claims.[2]

> Councillors who use their personal vehicles for City of Winnipeg business may make car allowance claims on a monthly basis. Councillors who are regular users must document the detailed activities for a full month, identifying the date of travel, the purpose of each business trip, the kilometers traveled, as well the opening and closing kilometers, once per term.
>
> *The Councillors' Representation Allowance (CRA) Fund Policy Requirements ~ Section D.11.a*

Related Canada Revenue Agency guidance states logbooks should include the following details:

[1] *Income Tax Act* Section 6(1)(b)(vii.1)
[2] Example: *Graves et al v The Queen*, 90 DTC 6300; [1990] 1 CTC 357

- daily record of kilometers traveled for business and non-business use,
- the date,
- the destination,
- the purpose (name and address of client), and
- the distance traveled for each trip.[3]

Recommendation 3
We recommend that Governance Committee of Council amend Section D 11 of the Councillors' Representation Allowance Fund Policy to require Councillors who use their personal vehicles for City business to maintain supporting documentation of their auto activities that is consistent with the requirements detailed by the Canada Revenue Agency. The Governance Committee of Council could also explore the feasibility of allowing Councillors to receive a monthly transportation allowance.

Casual Services

The CRA fund allows for Councillors to hire service providers for special purposes that would otherwise not be considered Councillors' Assistants' services. The *Policy* gives guidance on this expenditure type noting that the Councillors must consider whether an "employer-employee" relationship exists resulting from the services, as defined by Canada Revenue Agency, so that proper deductions can be made and remitted to Canada Revenue Agency. In a case where Canada Revenue Agency deemed that payments made to service providers did represent an "employer-employee" relationship, and proper deduction were not made, then the City, or possibly the Councillor, would be liable to pay both the employer's and employee's portions of the worker's CPP and EI that should have been remitted, along with any other penalties and interest assessed. We were informed by City Clerk's Department staff that the two main factors they considered in determining if there is an "employer-employee" relationship are the length of time that services are provided and whether there is an employment contract in place for the worker. Canada Revenue Agency has six primary tests, and one supplementary test, that they use to determine if there is an "employer-employee" relationship—length of service provision is not one of the tests. The tests are:

> A Councillor may contract for casual services. The Councillor must submit appropriate documentation concerning casual services when requesting payment, and maintain copies of such documentation on file. If an "employer-employee" relationship exists as defined by Canada Revenue Agency, then the appropriate statutory deductions must be remitted.
>
> *The Councillors' Representation Allowance (CRA) Fund Policy Requirements ~ Section D.15*

- the level of control that the payer has over the worker;
- whether the worker provides his or her own tools and equipment;
- whether the worker has the ability to sub-contract the work or hire assistants;
- the degree of financial risk taken by the worker;
- the amount of responsibility of investment or capital management the worker must take on to provide the work;
- the risk of profit or loss for the worker; and
- any other relevant factors, such as written contracts.[4]

[3] *IT-521R – Motor Vehicle Expenses Claimed by Self-Employed Individuals*: page 14.
[4] *Employee or Self-Employed?* Canada Revenue Agency; www.cra-arc.gc.ca; page 4.

The documentation also states that all of the tests are considered together and, if the primary tests are inconclusive, they consider the provisions detailed in a written contract. Due to the potential liabilities assessable to the City for an incorrect assessment of the relationship of engaging casual services, we believe that the guidance on relationship determination should be strengthened in the *Policy*.

Recommendation 4
We recommend that Governance Committee of Council amend Section D.15 of the Councillors' Representation Allowance (CRA) Policy Fund Requirements to provide more detailed guidance on what constitutes an "employer-employee" relationship as determined by Canada Revenue Agency.

Donations

The *CRA Fund Policy* allows for Councillors to make charitable donations with CRA funds. For those organizations that issue official donation receipts for income tax purposes, or "charitable donation receipts," the policy states that the receipt should be addressed to the City of Winnipeg.

> If an organization issues a charitable donation receipt for an expenditure involving CRA funds, the receipt shall be issued to the City of Winnipeg. If a donation receipt is not issued, and the donation is to a group or organization, then a confirmation receipt must be requested. If a donation is made to individual constituents, the Councillor shall keep records of the participants on file. All receipts shall be retained on file, to be made available to the City Auditor and/or City Clerk upon request.
>
> *The Councillors' Representation Allowance (CRA) Fund Policy Requirements ~ Section D.13.b*

In conducting our fieldwork we observed several instances where a charitable organization issued donation receipts, but the receipts were inconsistently addressed. In some cases, the receipts were addressed to Councillors, but noted that they were care of the City of Winnipeg, which is acceptable under the *Policy*. In other cases, receipts were only personally addressed to the individual Councillor, which is not permitted under the *Policy*. Based on our initial observations, we expanded our audit sample to include a review of all donation expenditures over a $500 threshold. This resulted in the identification of seven instances where the donation receipt was incorrectly addressed, affecting seven of nineteen Councillors.

Recommendation 5
We recommend that Governance Committee of Council require City Clerk's staff to review donation receipts submitted by Councillors to ensure that they are issued to the City of Winnipeg.

Supporting Documentation

The *CRA Fund Policy* details the level of supporting documentation required for different types of transactions. We observed two specific areas where we believe that the documentation kept on hand was not meeting the intent of the *Policy*.

Purpose of Expenditure Documentation

The *Policy* requires that expenditures related to both business meetings and ward activities shall detail the purpose of the expenditures on appropriate documentation. We observed that it was a fairly common practice for Councillors to write "ward issues" on receipts for business meetings and ward activities. We do not believe that this meets the intent of the *Policy* because no expenditure for the fund should be made unless it is related to ward issues.

> A Councillor shall identify the purpose of the expenditure(s) on the appropriate documentation when requesting a reimbursement for business meetings.
>
> A Councillor shall identify the purpose of the expenditure(s) on the appropriate documentation when requesting a reimbursement for ward activities.
>
> *The Councillors' Representation Allowance (CRA) Fund Policy Requirements ~ Sections D.12.a (Business Meetings) & D.12.c (Ward Activites)*

Recommendation 6

We recommend that the Governance Committee of Council instruct the City Clerk's Department to strengthen its reimbursement practices to allow reimbursements only when adequate documentation has been made regarding the purpose of business meetings and ward activities.

GST Documentation

The *Policy* requires that Councillors who use the City's Purchasing Card ("PCard") Program comply with the provisions of the program. One of the requirements of the program is that invoices and receipts submitted to support PCard expenditures must clearly contain the vendor's GST registration number. This is an important feature of the program because the City must have sufficient documentation of the GST paid to be eligible to receive GST input tax credits under the GST rebate program. We observed that it was common practice for Councillors to only submit PCard receipts for meal expenditures without submitting the detailed restaurant receipts. PCard receipts do not detail the amount of GST paid on the receipt, nor do they contain the vendor's GST registration number. Therefore, the documentation that is being submitted may not qualify as sufficient information to entitle the City to the GST rebate associated with the expenditure.

> Each Councillor entering into an agreement for the use of a purchasing card shall comply fully with the terms of the agreement and the purchasing card program procedures.
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> *The Councillors' Representation Allowance (CRA) Fund Policy Requirements ~ Section D.6.a*
>
> The supplier's GST no. must be on the receipt.
>
> *City of Winnipeg Councillors' Representation Allowance (CRA) Purchasing Card Program Procedures ~ Section 4(a)(iii)*

Recommendation 7

We recommend that Governance Committee of Council instruct the City Clerk's Department comply with the Purchasing Card Program Procedures and the GST rebate program.

Use of City's Purchasing Card Program

The City of Winnipeg uses three major processes for payment of expenditures: direct vouchers, purchase orders, and purchasing cards. The most cost-effective process is through the use of the City's Purchasing Card Program. The purpose of the City of Winnipeg's Purchasing Card

Program is to establish an alternative method of payment for small dollar transactions where a contract in the form of a purchase order is not necessary. Purchasing cards provide significant flexibility in terms of facilitating various categories of purchases and are also a highly visible and transparent method of payment.

Purchasing cards can be used to purchase various types of items from vendors but only require a monthly payment to the purchasing card provider. The use of the card reduces the number of payments made by the City and the administrative costs. Some Councillors use their own purchasing card when incurring expenditures under the *CRA Policy* that results in increased effort and costs for City staff to process those transactions. Eliminating the use of personal credit cards for purchases would allow the Public Service to streamline the credit card payment process

Recommendation 8
We recommend that Governance Committee of Council require that only the City's purchasing cards can be used to make purchases with a credit card.

ACKNOWLEDGEMENT

The Audit Department wants to extend its appreciation to the management and staff from City Clerk's Department and the Councillors' Office who assisted us with the audit.

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City Auditor/Chief Performance Officer

Date