Winnipeg

# *New Fire Paramedic Stations Construction Project*
# *Status of Audit Recommendations*
# *As at December 31, 2014*

- *Revised April 2015*

Audit Department

*Leaders in building public trust in civic government*

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# History

On September 24, 2012, upon receiving a recommendation from the City Auditor, Mayor Sam Katz announced a comprehensive review of the processes followed for constructing four new Fire Paramedic Stations will be performed.

On November 15, 2012 an award of contract was made to Ernst & Young to conduct an independent review of the Project and processes followed to construct the four new Fire Paramedic Stations for the City of Winnipeg.

On October 21, 2013 Ernst & Young reported to Audit Committee and EPC and made fourteen recommendations. On October 22, 2013 City Council adopted these recommendations and requested a quarterly update on the status of recommendations (see Appendix 1).

On January 22, 2014 the Public Service provided the first status report on the implementation of recommendations from the *Report on the New Fire Paramedic Stations Construction Project* to EPC.

On January 7, 2015 the Executive Policy Committee requested the City Auditor to provide a written report to its January 21, 2015 meeting, detailing the status of recommendations contained in the audits on the *New Fire Paramedic Stations Construction Project*, the *Winnipeg Police Service Headquarters Construction Project* and the *Real Estate Management Review*, which recommendations have been implemented and which are yet to be implemented.

This is an update of the second status report on the implementation of recommendations from the *Report on the New Fire Paramedic Stations Construction Project.* Where applicable, documentation supporting the implementation of the recommendation was reviewed by the Audit Department to confirm implementation has occurred.

# Summary of Audit Recommendations

December 31, 2014

*How was the Status of Audit Recommendations report produced?*

The Audit Department provided a template of the audit recommendations to the Acting CAO who identified staff that would be responsible for providing a status update on the implementation of the recommendations. The completed templates are forwarded to the Audit Department for review and compilation. The status report presents the Public Service's representations as to the status of recommendations implemented, in progress or not to be implemented as at December 31, 2014. The Audit Department summarized the status of implementation and prepared a brief overview for Audit Committee. Starting in 2015, documentation supporting the implementation of recommendations is reviewed by the Audit Department to confirm implementation has occurred. For recommendations in progress, an implementation strategy and timeframe is provided. For recommendations not to be implemented, an explanation is provided.

| AUDIT REPORT | RECOMMENDATIONS | | | | TARGET DATE FOR COMPLETION | | | |
|---|---|---|---|---|---|---|---|---|
| | Total | Complete | Percent Complete | Not to be implemented | 1st Qtr 2015 | 2nd Qtr 2015 | 3rd Qtr 2015 | 4th Qtr 2015 |
| New Fire Paramedic Stations Construction Project | 14 | 4 | 29% | - | 1 | 1 | 5 | 3 |

# Audit Observations

Four recommendations (2, 3, 5, and 6) were implemented in 2014. Ten recommendations are in progress and all are expected to be implemented in 2015. Recommendation 1 is targeted for implementation in the 1st quarter of 2015. Recommendation 10 is targeted for implementation in the 2nd quarter of 2015. Five recommendations (7, 11, 12, 13 and 14) are targeted for implementation in the 3rd quarter of 2015. Three recommendations (4, 8, and 9) are targeted for the 4th quarter of 2015. Three recommendations (4, 8 and 12) are associated with the development of a real estate management framework and will be addressed in conjunction with the implementation of recommendation #1 from the *Real Estate Management Review*.

Original Date: January 15, 2015
Revised: April 16, 2015

## Recommendations and Updates

| No. | Recommendation | Status | Update – December 31, 2014 |
|---|---|---|---|
| 1 | The City needs to examine the basis under which they allow single source contracting. We believe that Council needs to consider at what threshold single source negotiation decisions are brought to their attention. Council also should consider the contract award delegation limits as it relates to single source contracts. | In progress | Revision to the Materials Management Policy is expected to be approved by Council in February 2015. The reduction in the single source award authority of the Chief Administrative Officer is in practice since March 1, 2014.<br><br>Implementation Date: 2015 Qtr 1 |
| 2 | Currently City procurement policies allow for proponents to propose substitutes for City RFP specifications during the procurement process. We concur that proponents should be encouraged to offer suggestions or substitutes to be considered by the City. We however, suggest that the City change its current approach of not informing other proponents during the bidding process, of the City's acceptance of a substitute. A truly open and transparent process requires such. | Implemented | Effective June 2, 2014, the City's Substitutes clause was amended to include the issuance of Addenda to the City's Materials Management website whenever a substitute (equal or alternative) is approved by the Contract Administrator.<br><br>Implemented: 2014 Qtr 3 |

| No. | Recommendation | Status | Update – December 31, 2014 |
|---|---|---|---|
| 3 | Shindico was provided information not available to other proponents in respect to both RFP's. Prior to issuance of a RFP, MM should obtain the details of all discussions that have taken place with proponents from the user departments in order to develop a strategy to inform all proponents of information that may not be known and not disclosed in the RFP. Such action is required to ensure all proponents are bidding from a level playing field. | Implemented | Prior to the issuance of each tender/RFP issued by Materials Management, Materials Management will enquire with the writer of the tender/RFP and receive written confirmation from same of any discussions or correspondence with potential contractors/subcontractors regarding the specific tender/RFP.<br><br>Implemented: 2014 Qtr 3 |
| 4 | The competitive nature of the original RFP was considerably limited by the City's desire to try and identify properties to be used for construction of new stations. We recommend that the City, via PP&D, conduct a detailed assessment of City owned properties potentially available and/or conduct land only acquisitions in advance of similar future RFP's. The use of design/build or build only RFP's rather than ones that include the provision of land will create a more competitive environment that should help ensure good value to the City. | In progress | In taking action on the recommendations in the June 19, 2014 City of Winnipeg Real Estate Management Review (REMR), the Public Service is working to prepare and issue an RFP to engage an external consultant to develop and recommend a detailed Real Estate Transaction Management Framework. The recommended review of land acquisition practices will be addressed and documented as part of that work.<br><br>Implementation Date: 2015 Qtr 4 |
| 5 | Project management of real estate construction projects and the lead in all real estate transactions should reside with PP&D. If capacity constraints exist, a plan to address such needs should be developed. | Implemented | This recommendation has been implemented. PP&D continues to take the lead in project management of real estate construction projects and real estate transactions.<br><br>Implemented: 2014 Qtr 4 |

| No. | Recommendation | Status | Update – December 31, 2014 |
|---|---|---|---|
| 6 | We are concerned that certain policies such as the establishment of a Major Capital Steering Committee and delegations established by Council, including the authority to enter into contracts above $10 million can be by passed if a project is split into a number of smaller contracts. Council should make a clear statement to the Public Service in respect to their expectations in this regard. | Implemented | If a project is over the $10 million threshold, it is classified as a Major Capital Project and must report to SPC Finance. Programs over $10 million do not report, but if there were an individual project within the program that is over the threshold, that project would be required to report.<br><br>In normal circumstances, each individual building would be considered a 'project'. Constructing four similar facilities over a period of time would normally be considered a 'program'.<br><br>In order to provide greater certainty to Council as to which projects have reporting requirements to SPC Finance as a Major Capital Project, the 2014 Capital budget disclosed which projects are Major Capital Projects. This practice will be continued on a go forward basis.<br><br>Delegated authority to the CAO has been reduced to $5 million (November 13, 2013).<br><br>Contract award authorities are determined by the value of each contract. (In all cases, there must be funds in an approved budget). The criterion set out in Administrative Standard FM-002 outlines the delegation of authority and requires concurrence with Materials Management and Legal Services (as to legal issues) prior to approval by the award authority.<br><br>Implemented: 2014 Qtr 4 |

| No. | Recommendation | Status | Update – December 31, 2014 |
|---|---|---|---|
| 7 | Clear policies must be established which document expected disclosure to Council, when transactions have not occurred in a manner that is established by City Policies. For example, disclosure to Council should be required when the following situations occur: the commencement of construction in advance of contract award, splitting of contracts due to lack of approved funding, real estate transactions not having been led by PP&D, and Legal agreements not having been approved by Legal Services. | In progress | All transactions should be conducted in accordance with Council adopted policies.<br><br>Regarding commencement of construction and contracts, additional guidance to staff will be added to the Project Management Manual to reinforce policy.<br><br>Regarding land transactions and legal agreements, additional guidance to staff will be included in either the Project Management Manual or FM-004.<br><br>Implementation Date: 2015 Qtr 3 |
| 8 | PP&D needs to develop, for Council approval, a policy regarding land exchange transactions that will speak to the timing and basis under which land valuations are to be done and the means under which any value gaps determined are to be dealt with. | In progress | In taking action on the recommendations in the June 19, 2014 City of Winnipeg Real Estate Management Review (REMR), the Public Service is working to prepare and issue an RFP to engage an external consultant to develop and recommend a detailed Real Estate Transaction Management Framework. The development of this Framework will include a review of the existing Council Policy (Offers to Purchase City-Owned Property - December 6, 2006) which states that "The Department may act on unsolicited offers for City-owned land that involves an exchange of land.". The revised draft policy (for consideration by Council or a Commitee thereof) will speak to the timing and basis under which land valuations are to be done and the means under which any determined value gaps are to be dealt with. The analysis work undertaken in recommendation #9 will be integrated into the revised draft policy.<br><br>Implementation Date: 2015 Qtr 4 |

| No. | Recommendation | Status | Update – December 31, 2014 |
|---|---|---|---|
| 9 | Legal Services should establish clear policies regarding:<br><br>► Land acquisition agreements;<br>► Construction contracts related to land acquisition; and<br>► Authorities to be sought for LOI or similar documents | In progress | Formulation and finalization of drafts is ongoing with Legal Services & PP&D Staff.<br><br>Implementation Date: 2015 Qtr 4 |
| 10 | We do not believe that Legal Services acted in a manner to sufficiently protect the interests of the City. Additionally we believe at least part of this was caused by the reporting structure at the City. The Legal Services "gatekeeper" function would be enhanced if Legal Services reported to City Council rather than the City Administration, via the CAO. This is the structure in place for at least one major city in Canada. | In progress | Legal Services is preparing a report with implementation recommendations for Council consideration in Q2 of 2015.<br><br>Implementation Date: 2015 Qtr 2<br><br>Update – February 2015<br>Over the course of the past year, Legal Services has done research into the reporting relationship between the Legal Department and Municipal Council's in other jurisdictions, to prepare an implementation report for Council consideration. The advancement of this report was delayed due to the Municipal Election in 2014 and internal resource issues including the appointment of the City Solicitor/Director of Legal Services to the role of Acting Chief Operating Officer. |

| No. | Recommendation | Status | Update – December 31, 2014 |
|---|---|---|---|
| 11 | Prior to issuing building permits on City projects, PP&D should be required to obtain from MM signed statements that appropriately awarded contracts are in place and from Legal Services that all ownership rights in the subject property are unconditionally held by the City. | In progress | This recommendation has been partially implemented.<br><br>A "City Project" Flag has been added to the AMANDA System to indicate / flag permits related to City construction projects and/ or projects on City land. Municipal Accommodations (MA) and Development & Inspections (D&I) staff have been made aware of this system enhancement.<br><br>This process, and the need to obtain the necessary statements and supporting documentation from MM and Legal Services will be integrated into the Real Estate Transaction Management Framework being developed and implemented relative to the Real Estate Management Review (REMR).<br><br>Implementation Date: 2015 Qtr 3 |
| 12 | We recommend that City policies regarding real estate transactions, including the declaration of surplus properties, be clarified as to identify at what stage of a proposed transaction Council Approval is to be sought. | In progress | In taking action on the recommendations in the June 19, 2014 City of Winnipeg Real Estate Management Review (REMR), the Public Service is working to prepare and issue an RFP to engage an external consultant to develop and recommend a detailed Real Estate Transaction Management Framework. The recommended clarification will be addressed through a review of existing of policies / practices regarding real estate transactions, including the declaration of surplus properties. Any needed revisions will be addressed as part of that work and integrated into the Transaction Management Framework.<br><br>Implementation Date: 2015 Qtr 3 |

| | | | |
|---|---|---|---|
| 13 | Corporate Finance should determine a standardized protocol for the challenging of capital budget submissions and project reporting. | In progress | This recommendation has been partially implemented.<br><br>The Public Service is in the process of implementing its Asset Management Program Initiative. As part of this process, each capital project/program requires preparation of a business case. The department preparing the business case is required to hold an internal challenge session which examines need (level of service and risk), assumptions and recommended solutions. This part of the recommendation has been implemented.<br><br>It is also contemplated that the Infrastructure Planning Division would conduct a secondary review of the business cases and would perform other quality assurance procedures on the business cases prepared by the departments on a sample basis considering dollar value and risk. To begin performing this secondary review process function, an additional FTE will be required. A report for Additional Staffing for Asset/Project Management has been prepared and will be submitted to the 2015 Budget process for approval by Council.<br><br>Implementation Date: 2015 Qtr 3<br><br>Update – February 2015<br>Appendix A of the Additional Staffing for Asset/Project Management report identifies 4.58 FTEs being requested across the organization for the Investment Planning function. This includes 1 FTE within the Infrastructure Planning Division of Corporate Finance (Asset Management Coordinator). |
| 14 | Corporate Finance should develop a means under which non cash transactions, such as a land exchange, are captured so that the true costs of projects can be reported against the approved capital budget. | In progress | Departments were surveyed regarding non-monetary transactions and it is concluded that they are rare.<br><br>Should land exchanges with third parties occur in the future, they will be budgeted and accounted for in accordance with generally accepted accounting principles. FM-004 will be updated to address this recommendation appropriately.<br><br>Implementation Date: 2015 Qtr 3 |

## Additional Recommendations adopted by Council

| No. | Recommendation | Status | Update – December 31, 2014 |
|---|---|---|---|
| 15 | That the report be revisited by Ernst and Young (Auditor) and all members of Council be interviewed and the results incorporated into the report. | Complete | EY reported to Audit Committee and EPC on July 2, 2014. Report was tabled in Council on July 9, 2014. |
| 16 | Whereas that the report recommendations affect at least four departments throughout the City of Winnipeg, that regular, quarterly reports cards be provided to Council about the implementation of the recommendations including regular Council seminars over the next year. | On-going | The Public Service reported to Council on January29, 2014. |

# Appendix 1

**Minute No. 639**
**Report – Executive Policy Committee – October 21, 2013**

**Item No. 1 Report to Winnipeg City Council - New Fire Paramedic Stations Construction Project**

COUNCIL DECISION:

Council concurred in the recommendation of the Executive Policy Committee, as amended, and adopted the following for immediate implementation:

1. The City needs to examine the basis under which they allow single source contracting. We believe that Council needs to consider at what threshold single source negotiation decisions are brought to their attention. Council also should consider the contract award delegation limits as it relates to single source contracts.

2. Currently City procurement policies allow for proponents to propose substitutes for City RFP specifications during the procurement process. We concur that proponents should be encouraged to offer suggestions or substitutes to be considered by the City. We however, suggest that the City change its current approach of not informing other proponents during the bidding process, of the City's acceptance of a substitute. A truly open and transparent process requires such.

3. Shindico was provided information not available to other proponents in respect to both RFP's. Prior to issuance of a RFP, MM should obtain the details of all discussions that have taken place with proponents from the user departments in order to develop a strategy to inform all proponents of information that may not be known and not disclosed in the RFP. Such action is required to ensure all proponents are bidding from a level playing field.

4. The competitive nature of the original RFP was considerably limited by the City's desire to try and identify properties to be used for construction of new stations. We recommend that the City, via the Planning, Property and Development Department, conduct a detailed assessment of City owned properties potentially available and/or conduct land only acquisitions in advance of similar future RFP's. The use of design/build or build only RFP's rather than ones that include the provision of land will create a more competitive environment that should help ensure good value to the City.

COUNCIL DECISION (continued):

5. Project management of real estate construction projects and the lead in all real estate transactions should reside with the Planning, Property and Development Department. If capacity constraints exist, a plan to address such needs should be developed.

6. We are concerned that certain policies such as the establishment of a Major Capital Steering Committee and delegations established by Council, including the authority to enter into contracts above $10 million can be by passed if a project is split into a number of smaller contracts. Council should make a clear statement to the Public Service in respect to their expectations in this regard.

7. Clear policies must be established which document expected disclosure to Council, when transactions have not occurred in a manner that is established by City Policies. For example, disclosure to Council should be required when the following situations occur: the commencement of construction in advance of contract award, splitting of contracts due to lack of approved funding, real estate transactions not having been led by the Planning, Property and Development Department, and Legal agreements not having been approved by Legal Services.

8. The Planning, Property and Development Department needs to develop, for Council approval, a policy regarding land exchange transactions that will speak to the timing and basis under which land valuations are to be done and the means under which any value gaps determined are to be dealt with.

9. Legal Services should establish clear policies regarding:
    - Land acquisition agreements;
    - Construction contracts related to land acquisition; and
    - Authorities to be sought for LOI or similar documents

10. We do not believe that Legal Services acted in a manner to sufficiently protect the interests of the City. Additionally we believe at least part of this was caused by the reporting structure at the City. The Legal Services “gatekeeper” function would be enhanced if the Director of Legal Services / City Solicitor reported to City Council rather than the City Administration, via the Chief Administrative Officer. This is the structure in place for at least one major city in Canada.

11. Prior to issuing building permits on City projects, the Planning, Property and Development Department should be required to obtain from MM signed statements that appropriately awarded contracts are in place and from Legal Services that all ownership rights in the subject property are unconditionally held by the City.

COUNCIL DECISION (continued):

12. We recommend that City policies regarding real estate transactions, including the declaration of surplus properties, be clarified as to identify at what stage of a proposed transaction Council Approval is to be sought.

13. Corporate Finance should determine a standardized protocol for the challenging of capital budget submissions and project reporting.

14. Corporate Finance should develop a means under which non cash transactions, such as a land exchange, are captured so that the true costs of projects can be reported against the approved capital budget.

15. That the report be revisited by Ernst and Young (Auditor) all members of Council be interviewed and the results incorporated into the report.

16. That regular, quarterly reporting be provided to Council about the implementation of the recommendations including regular Council Seminars over the next year.

17. That the Proper Officers of the City be authorized to do all things necessary to implement the intent of the foregoing.