Winnipeg | Audit

Independent Fairness Commissioner Summary Report Recommendations July 2019

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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 is independent of the Public Service and reports directly to Executive Policy Committee, which serves as the City's Audit Committee.
- 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.
- Council mandated the creation of an Independent Fairness Commissioner (IFC) role reporting under the authority of the City Auditor.

AUDIT BACKGROUND

- Council created the IFC role to have the power to review all Real Estate Transactions and Management Services before they are presented to the Standing Policy Committee and/or Council.
- In June 2017, the City Auditor engaged Deloitte LLP to provide certain services as part of the IFC role. The first six (6) months of the contract was devoted to developing a Compliance Framework, which is used as the basis for the performance of compliance audits, and creating a report template to ensure consistency in presentation of audit findings to Committee members.
- From January to July 2018, the IFC completed compliance audits in connection with twenty-five (25) real estate and management services transactions and submitted the associated reports to the SPC PDHDD.
- After reviewing the findings from the IFC reports issued, the City Auditor identified that a report summarizing the IFC observations would provide meaningful information to Committee members.
- The summary report was presented to SPC PDHDD on March 4, 2019.

AUDIT SCOPE

- This report details the IFC recommendations identified in the summary report and management's implementation plan.
- Implementation status will be monitored through the Quarterly Report Card process.

Section 1 - Criteria within the Compliance Framework were not met, due to either insufficient file documentation or lack of compliance with the associated by-laws, policies and/or procedures

RECOMMENDATION 1.1
Management should consider the following: • Additional ongoing training at regular intervals to ensure file preparers are versed in how to appropriately address specific items and related documentation in the Complete Reporting Checklist. • Identify a process for Management to contact the auditor to discuss any items of uncertainty identified as part of their review as it relates to provided sufficient and appropriate audit evidence.
MANAGEMENT RESPONSE
Staff training ongoing as the RETMF continues to evolve. The Real Estate Administrator now reviews all checklists for compliance and file documentation. Management and the IFC have initiated a round table discussion to address items of non-compliance that Management was uncertain how to address. Discussions to occur as needed moving forward.

IMPLEMENTATION DATE	Complete and ongoing

RECOMMENDATION 1.2
• Management should consider how to ensure that documentation of diligence associated with its review of the draft administrative report, Complete Reporting Checklist, and related attachments against the RETMF requirements is completed prior to submitting the administrative report to SPCPDHDD/Council for approval. • Management should consider where modifications to the Complete Reporting Checklist template may be required to provide for the documentation of their review and approval of these documents, prior to submission.
MANAGEMENT RESPONSE
The Real Estate Administrator is the single point of contact for all administrative reports and is best suited to evaluate deficiencies. As noted in 1.1, the Administrator now reviews all RETMF materials prior to IFC review. Management has completed several revisions to the checklist to better align the tool with the intent of the RETMF or to improve non-compliant/unaddressed items.

IMPLEMENTATION DATE	Complete and ongoing

RECOMMENDATION 1.3
Management should consider how it can evidence that the appraisal requirement is considered for all Transactions. A standardized template (the "Transaction Appraisal Template") is an example of what can be created to provide documentation and evaluation by the Appraisal Branch of the rationale where it is deemed an appraisal is not required.
MANAGEMENT RESPONSE
Management will need to consider this suggestion and further discussion may be necessary.
IMPLEMENTATION DATE | September 30, 2019

RECOMMENDATION 1.4
Management should consider if a standardized template should be created to assist in the documentation of the rationale relating to each of the considerations noted in our observation, as well as evidence of approval of the associated determinations by Management and the Appraisal Branch (as required by the RETMF). This template should be developed with consideration to the level of documentation and rigor of analysis that would be appropriate to satisfy the intent of the RETMF.
MANAGEMENT RESPONSE
Management has issued an IFC checklist to staff that outlines common file deficiencies (e.g. Legal has declared the terms and conditions are final), as well as the common report deficiencies (e.g. anticipated transaction date). Should other common items of non-compliance be identified, the checklist will be updated accordingly.
IMPLEMENTATION DATE | Complete and ongoing

RECOMMENDATION 1.5
The Transaction Appraisal Template should include a requirement to document, where an external appraiser is required, the Appraisal Branch's considerations regarding: • Management's considerations relating to the use of a competitive procurement process and engagement of Materials Management in the selection of an external appraiser, in accordance with the RETMF; and • In cases where an external appraiser was selected from the pre-approved list, confirmation of the appraiser's pre-approval with respect to the particular type of appraisal required.
MANAGEMENT RESPONSE
The RETMF is clear where an external appraiser is required. Materials Management and Legal Services have been consulted by Management with respect to the competitive bid process, pre-approved list and the creation of an appraisal contract. The Canadian Uniform Standards of Professional Appraisal Practice dictate the type of property which a professional can appraise.
IMPLEMENTATION DATE | Complete

RECOMMENDATION 1.6
Management should consider how the Complete Reporting Checklist should be amended to provide for documentation of review of the property appraisal by an accredited member of the AIC as well as a member of RED or PMB (as applicable to the Transaction). This documentation should include the name of the reviewer, date of review, verification that the form of documentation is compliant with the RETMF, as well as evidence of the reviewed document in the file.
MANAGEMENT RESPONSE
The checklists and appraisal reviews can function independently and combining the two may impact productivity. The Checklist and Appraisal Review Memo now provide a sufficient level of review.

IMPLEMENTATION DATE	Complete

RECOMMENDATION 1.7
Management should consider developing a standardized market analysis template to ensure that a consistent approach is utilized, and that the analysis completed is appropriate and sufficiently thorough in every instance. PMB should ensure that the Client department completes the Client Questionnaire template provided in the RETMF.
MANAGEMENT RESPONSE
Management agrees and will begin developing a Market Analysis template for use in the future. Management also agrees Client Questionnaires should be completed.

IMPLEMENTATION DATE	In process

RECOMMENDATION 1.8
• Management should consider formalized and documented guidelines that are clear as to the required recipients of Information Circulars under various applicable circumstances. • The RETMF Complete Reporting Checklists should be amended to include documentation of responses received to Information Circulars.
MANAGEMENT RESPONSE
Circulars are standardized and do not change from property to property or from staff to staff. The circulation is addressed through an email mailing list which cannot be altered by staff. Management agrees with inclusion of circulation responses.

IMPLEMENTATION DATE	September 30, 2019

RECOMMENDATION 1.9
The terms and conditions template provided by Legal Services for use in these Transactions should be reviewed with Management to ensure the objectives of the RETMF are met, and to ensure the corresponding evidence required is retained within file documentation.
MANAGEMENT RESPONSE
Legal Services will add a clause to the Terms and Conditions attached to the administrative report that clarifies tenants are responsible for the cost of remediation where the tenant has contaminated the City property.

IMPLEMENTATION DATE	August 30, 2019

RECOMMENDATION 1.10
Management and Legal Services should consider how it can formalize a process to ensure that Legal Services' confirmation and approval of transaction legal documentation in its final form is documented and retained in the Transaction file.
MANAGEMENT RESPONSE
Management has requested email confirmation from Legal Services that the terms and conditions of the transaction are finalized, which is then placed on file.

IMPLEMENTATION DATE	complete

RECOMMENDATION 1.11
Management should ensure that a Risk and Complexity tool is completed, reviewed, and retained within each Transaction file, as required by the RETMF.
MANAGEMENT RESPONSE
Management agrees and this is being done.

IMPLEMENTATION DATE	complete

Section 2 - Aspects of the Compliance Framework that do not align with current departmental practices

RECOMMENDATION 2.1
Management should formalize and document clear guidelines as to the required recipients of Information Circulars under various applicable circumstances and types of transaction.
MANAGEMENT RESPONSE
As noted earlier, circulation recipients do not change and are consistently applied.
IMPLEMENTATION DATE | complete

RECOMMENDATION 2.2
A review as to the relevance of an appraisal with respect to particular types of transaction should be undertaken by PP&D. To the extent that it is agreed and determined appropriate that an appraisal would not be warranted for a specific Transaction or circumstance, the RETMF should be amended to provide for these situations.
MANAGEMENT RESPONSE
Management agrees and will further evaluate
IMPLEMENTATION DATE | September 30, 2019

RECOMMENDATION 2.3
Management should consider an amendment to the Framework which removes this criterion (4.01), and consider the implementation of an alternate process, if required, to ensure compliance with the criterion.
MANAGEMENT RESPONSE
Criteria 4.01 (delegation of transaction approval) is not relevant for IFC purposes and should be removed from the Compliance Framework.
IMPLEMENTATION DATE | To be reviewed by IFC

Section 3 - Certain types of transactions were not specifically contemplated within the Compliance Framework

RECOMMENDATION 3.1
• These transaction types should be reviewed in light of the RETMF as well as other applicable City by-laws, policies, and procedures to determine the appropriate criteria to ensure a Transaction is completed in a fair, transparent and open manner. • Management should formalize and document these criteria through an amendment to the Compliance Framework.
MANAGEMENT RESPONSE
Two new transaction types will be reviewed for the June SPCPDHDD meeting and will inform how to address transactions not considered in the RETMF
IMPLEMENTATION DATE | September 30, 2019

Section 4 - Process improvements noted as in process still to be addressed

RECOMMENDATION 4.1
In future instances where PP&D attributes non-compliance to in-process improvements related to the RETMF, Management should provide a clear implementation timeline with respect to the deficient item(s) in their unaudited responses. This implementation timeline should be formalized and progress against it monitored by City Audit.
MANAGEMENT RESPONSE
Management agrees
IMPLEMENTATION DATE | August 31, 2019

RECOMMENDATION 4.2
A review of the current status of the Tracking Database and requirements to complete and implement the database should be undertaken. This implementation process should be formalized and progress against it monitored by City Audit.
MANAGEMENT RESPONSE
Management agrees
IMPLEMENTATION DATE | August 31, 2019

Section 5 - Certain aspects of the RETMF require further clarification

RECOMMENDATION 5.1
A standard market analysis template should be created that clearly outlines and describes the full scope of inputs, analyses and disclosures required for a complete market analysis. These include, but are not limited to: • All criteria presented in the RETMF related to various occupancy costs on a total basis or cost per square foot; • Total estimated leasehold costs per year; • Total expected cost to the City for each specific location; • The Client Requirements Questionnaire in Appendix I of the RETMF should be required to be submitted with all client department requests for a property from PMB and RED; and • Amendments to the RETMF for the deficiencies observed should be considered by Management. • We also recommend that certain procedural elements associated with the completion of a market analysis, such as the process for undertaking a market scan, are clearly formalized within the template.
MANAGEMENT RESPONSE
Management agrees and will begin developing a Market Analysis template for use in the future.

IMPLEMENTATION DATE	In Progress.

RECOMMENDATION 5.2
• Appraisal requirements with respect to non-monetary or non-market transactions should be formalized in order to clarify the conditions that would warrant an appraisal to be performed (e.g. driven by nature of transaction or order-of-magnitude estimate of value). • Appraisal requirements and complete reporting requirements related to opportunity costs and non-monetary Transactions should be reviewed by PP&D to ensure the objectives of the RETMF are fully met, and the RETMF amended accordingly.
MANAGEMENT RESPONSE
Management agrees

IMPLEMENTATION DATE	September 30, 2019

RECOMMENDATION 5.3
The RETMF competitive procurement guidelines in Appendix D and F should be reviewed by PP&D, and revised to ensure that these elements of compensation are appropriately analyzed and disclosed to decision makers.
MANAGEMENT RESPONSE
Management can provide clarity within the administrative report to confirm whether the costs have been reviewed and supported by the appropriate individual. Having said that, in some instances, certain costs may become a point of negotiation.

IMPLEMENTATION DATE	In Progress

RECOMMENDATION 5.4
The criteria and guidance of the risk and complexity tool should be reviewed and amended as appropriate by Management to ensure that the guidance included in the tool is sufficiently clear, and documentation as to the specific ratings of each section are required to a level such that an individual with a reasonable and comparable understanding of the Transaction could come to the same conclusion for each individual criteria.
MANAGEMENT RESPONSE
Management agrees but the risk and complexity tool currently functions as intended.

IMPLEMENTATION DATE	September 30, 2019

RECOMMENDATION 5.5
The Complete Reporting requirements within the RETMF (Appendix B) should be amended to require disclosure of the rationale for not completing an appraisal to be reported to SPCPDHDD/Council.
MANAGEMENT RESPONSE
Management agrees

IMPLEMENTATION DATE	September 30, 2019