

Bureau du
vérificateur
général

I. Comments and Recommendations of the General Auditor



I. COMMENTS AND RECOMMENDATIONS OF THE GENERAL AUDITOR

My predecessor, Mr. Michel Doyon, made it a point over the years to include recommendations to municipal authorities in the introduction of his annual report. In keeping with this tradition, here are some topics that will be addressed in this section:

- A. Incorrect baseline for the calculation of the general auditor's budget;
- B. Distribution of contracts awarded by municipal authorities to independent contractors;
- C. Follow-up on recommendations from the March and April 2009 ad hoc reports;
- D. Follow-up on recommendations from the September 2009 water meters report.

A. INCORRECT BASELINE FOR THE CALCULATION OF THE GENERAL AUDITOR'S BUDGET

Pursuant to section 107.7 of the *Cities and Towns Act (C.T.A.)*, "*The chief auditor shall audit the accounts and affairs:*

- (1) of the municipality;*
- (2) of every legal person in respect of which the municipality or a mandatary of the municipality holds more than 50% of the outstanding shares or voting shares or appoints more than 50% of the members of the board of directors."*

Consequently, the general auditor's responsibility extends to the following municipal organizations:

- the Société de transport de Montréal;
- the Société d'habitation et de développement de Montréal;
- Technoparc Montréal;
- the Société du parc Jean-Drapeau;
- the Conseil des arts de Montréal;
- the Conseil interculturel de Montréal;
- the Office de consultation publique de Montréal;
- the Société de gestion Nauberges de Lachine;
- Anjou 80.

With a few exceptions, my office is responsible for auditing the financial statements of these organizations. Whenever we lack the resources needed to conduct these audits, we assign them to accounting firms whose fees are paid from our current budget. We are also required to conduct value-for-money and compliance audits for these organizations.

For the years 2009 and 2010, my budget was determined by the City's operating budget as opposed to its consolidated budget (see Table 1). In actuality, this baseline is inadequate given that my office is responsible for auditing the City's consolidated financial statements. **Essentially, we are responsible for auditing the financial statements of these organizations without having the required funds to do so. Since a portion of our current budget is allocated to these financial audits, we are forced to cut down on the number of value-for-money audits performed for the City. In addition, the existing calculation baseline limits our funds to the extent that we can only conduct a limited number of value-for-money audits for these municipal organizations.** This is contrary to my obligation towards elected officials and the public to report on the efficiency and cost-effectiveness of the management of these organizations. Without sufficient funding, I cannot provide them with any in-depth assessment of their situation and address all of the risks involved.

Table 1—Current Baseline for the Calculation of the General Auditor's Budget

Baseline	2009 (in thousands of \$)	2010 (in thousands of \$)
City's operating budget	4,070,725.4	4,298,100.2
Budget allocated to the general auditor's office pursuant to section 107.5 of the C.T.A. (0.11%)	4,686.4	4,699.0
	0.115%	0.109%

In order for our area of intervention to attain its intended scope, I must advocate that the best solution for municipal authorities would be to calculate my budget as a percentage of the City's consolidated budget. This would encompass the budget allocated to all of the various organizations under its jurisdiction, as opposed to being limited to its operating budget. My own calculations using the City's consolidated budget suggest that the general auditor's budget would have been established as follows:

Table 2—Revised Baseline for the Calculation of the General Auditor’s Budget

Baseline	2009 (in thousands of \$)	2010 (in thousands of \$)
City’s consolidated budget	4,826,718.0	5,062,749.7
Budget that would be allocated to the general auditor’s office pursuant to section 107.5 of the C.T.A. (0.11%) under the revised baseline scenario	5,309.4	5,569.0
	0.11%	0.11%

Recommendations

I recommend that city council adopt a resolution requiring the calculation of the general auditor’s budget in relation to the City’s consolidated budget instead of its operating budget as a way to secure the funds needed by the general auditor to completely fulfil his mission.

My office is aware that resources are scarce and must be used wisely, especially in these times of budgetary constraints. In order for the City to fully benefit from our audits and truly serve all Montrealers in the process, it is vital that we be granted sufficient resources to accomplish our mission. In short, we need adequate funding to trigger effective changes that will yield substantial savings for the population of Montréal.

Without this additional funding, we will never be able to provide municipal authorities and Montrealers with all the audit benefits that they rightfully deserve.

Denying this irrefutable fact will significantly limit the general auditor’s scope of intervention and the positive impacts of his work.

B. DISTRIBUTION OF CONTRACTS AWARDED BY MUNICIPAL AUTHORITIES TO INDEPENDENT CONTRACTORS

Every year, the City must make major capital investments for the development, rehabilitation and replacement of facilities and infrastructure assets.

These projects are planned as part of the three-year capital program for the City’s boroughs and other business units. Their execution is generally entrusted to specialized outside contractors by either the borough councils, the executive committee, city council or the agglomeration council. Given the magnitude of these contracts, they are usually awarded following calls for public tenders.

An examination of the City's databases has enabled me to identify 21 contracting firms that were awarded a substantial portion of these contracts.

In order to look into the distribution of the contracts awarded to these independent contractors, we initially totalled their dollar value for the years 2006 to 2009.

Table 3—Contracts Awarded by Municipal Authorities from 2006 to 2009 (21 Selected Firms)

No.	Contractors	Number of contracts	Value of contracts awarded by borough councils	Value of contracts awarded by municipal authorities (EC, CC, AGC) ¹	Total
1	Const. Frank Catania	–	–	\$104,645,072.76	\$104,645,072.76
2	Construction Louisbourg	8	\$6,950,352.00	\$93,684,002.00	\$100,634,354.00
3	Entreprises Catcan	29	\$22,999,064.00	\$67,893,393.54	\$90,892,457.54
4	Const. DJL	24	\$10,110,621.00	\$60,982,498.15	\$71,093,119.15
5	Const. Garnier	19	\$16,808,806.00	\$51,405,569.36	\$68,214,375.36
6	Const. Soter	25	\$14,111,808.47	\$53,144,658.12	\$67,256,466.59
7	Const. Mivela	9	\$3,774,261.05	\$53,694,726.32	\$57,468,987.37
8	Const. Infrabec	1	\$180,450.00	\$54,952,858.96	\$55,133,308.96
9	Simard-Beaudry Const.	9	\$7,771,127.00	\$43,619,893.18	\$51,391,020.18
10	Const. Pavage CSF	19	\$11,701,836.79	\$33,581,299.77	\$45,283,136.56
11	Const. Routière Conex	1	\$375,478.68	\$38,911,032.20	\$39,286,510.88
12	B P Asphalte	16	\$10,559,276.85	\$25,264,082.53	\$35,823,359.38
13	Excavation Super	9	\$7,855,225.74	\$25,533,129.25	\$33,388,354.99
14	Const. & Pavage Jeskar	44	\$14,154,669.37	\$11,978,770.53	\$26,133,439.90
15	Sintra	10	\$6,607,900.24	\$18,720,639.08	\$25,328,539.32
16	Roxboro Excavation	5	\$4,338,792.38	\$20,778,160.53	\$25,116,952.91
17	Pavages A.T.G.	21	\$5,707,965.46	\$16,843,953.54	\$22,551,919.00
18	Aqua-Rehab.	–	–	\$21,700,654.96	\$21,700,654.96
19	Gastier M.P.	1	\$107,893.00	\$14,181,396.00	\$14,289,289.00
20	Entreprise const. T.E.Q.	3	\$9,610,757.97	–	\$9,610,757.97
21	Ciment Lavallée	13	\$5,145,152.00	\$481,129.00	\$5,626,281.00
	Total		\$158,871,438.00	\$811,996,919.78	\$970,868,357.78

¹ EC: executive committee; CC: city council; AGC: agglomeration council.

For the same period, I further examined the number and value of contracts awarded to these 21 firms by borough councils.

Table 4—Contracts Awarded by Borough Councils to the 21 Selected Firms

Boroughs	Area (km ²)	Population	Value of contracts awarded to these 21 firms from 2006 to 2009	Total no. of contracts awarded to these 21 firms	Award of these contracts to the same contractors				
					No.	% (in no.)	% (in value)	Contractors	
1	Ahuntsic-Cartierville	23.0	125,160	\$4,334,112	10	*			*
2	Côte-des-Neige-Notre-Dame-de-Grâce	20.0	164,246	\$5,089,969	7	*			*
3	Lachine	17.8	42,246	\$3,053,403	16	8	50	44	Pavage A.T.G.
						7	44	55	Sintra
4	Mercier-Hochelaga-Maisonneuve	25.2	129,110	\$5,938,805	11	4	36	65	B P Asphalte
5	Outremont	3.8	23,239	\$1,358,809	3	*			*
6	Le Plateau-Mont-Royal	8.1	101,054	\$7,202,750	18	7	39	38	Const. & Pavage Jeskar
7	Rosemont-La Petite-Patrie	14.4	13,368	\$9,763,979	10	4	40	54	Const. Pavage CSF
8	Saint-Léonard	13.5	71,730	\$8,610,874	19	3	16	51	Simard-Beaudry Const.
9	Verdun	9.8	16,781	\$22,647,666	26	26	100	100	Entreprises Catcan
10	Villeray-Saint-Michel-Parc-Extension	16.1	145,000	\$6,147,572	9	*			*
11	Anjou	13.6	40,981	\$6,235,549	5	5	100	100	Construction Louisbourg
12	L'Île-Bizard-Sainte-Geneviève	23.6	17,500	\$216,391	3	*			*
13	LaSalle	16.4	74,763	\$7,622,745	13	2	15	62	Sintra
14	Montréal-Nord	11.1	83,600	\$7,201,053	17	5	29	60	Const. Soter
15	Pierrefonds-Roxboro	27.0	65,156	\$2,766,575	10	3	30	54	Const. Soter
						4	40	39	Roxboro Excavation
16	Rivière-des-Prairies-Pointe-aux-Trembles	42.3	107,556	\$14,950,113	30	19	63	46	Const. & Pavage Jeskar
						6	20	34	Const. Soter
17	Saint-Laurent	43.0	84,833	\$24,722,450	31	16	52	65	Const. Garnier
						10	32	20	Ciment Lavallée
18	Le Sud-Ouest	15.7	69,604	\$7,156,418	12	*			*
19	Ville-Marie	16.5	78,876	\$13,852,205	16	*			*
Total value of contracts awarded to the 21 selected contracting firms from 2006 to 2009.				\$158,871,438					

* The awarded contracts were distributed among several local contractors without any significant concentration.

These findings indicate that the proportion of contracts awarded to the same contractors during the past four years varies from one borough to another. In some boroughs, the awarding of contracts is shared among several contractors whereas in others, practically all contracts are awarded to the same contractor.

Notwithstanding the fact that these contracts were awarded to the lowest compliant bidder, I nevertheless remain puzzled by the fact that some boroughs award a large proportion of their contracts to the same contractors.

In 2009, my office produced two contract management audit reports:

- the report on the installation of water meters in industries, businesses and institutions (IBIs), as well as the optimization of the entire water network;
- the report on the management of professional service contracts.

We intend to follow up on these reports. Moreover, municipal authorities have indicated that they have already implemented, or are planning to implement, a series of measures to better manage and control the awarding of contracts by the City's administrative units. These measures include:

- the publication of the *Guide de conduite* that incorporate provisions for preventing collusion and fraud in call-for-tenders and instructions-to-bidders documentation for all departments and boroughs;
- the publication of guidelines that protect the name and information of potential bidders for the entire period from the planning of the call for tenders until the bids are opened;
- a complete review and update of all the master documents for calls for qualifications, calls for tenders and calls for proposals as well as their selection criteria;
- the publication of ethics guidelines for city employees that promote compliance with core organizational values;
- the adoption of a code of ethics and conduct for members of city council and borough councils in September 2009;
- the implementation, in December 2009, of an ethics hotline administered by the office of the general auditor to prevent fraud and waste;
- the creation, in December 2009, of the new Service des affaires juridiques that reports directly to the Direction générale to ensure its independence from other city departments;
- the recent adoption, in April 2010, of a governance framework for projects and programs pertaining to the management of municipal assets that provides municipal and para-municipal stakeholders with a first-class tool based on best management practices in this area.

Moreover, the City intends to adopt a new procurement policy and to create a controller's office to strengthen its internal audit structures.

Finally, the changes proposed under Bill 76 regarding contract allocation in the municipal sector will also support and strengthen those measures announced by the municipal administration.

In conclusion, the introduction of such measures should help reduce the concentration of contracts awarded to the same contractors. Although a sufficient amount of time must be allowed for these measures to take full effect, I intend to reassess the distribution of awarded contracts at the beginning of 2011. According to my findings at that time, I will then evaluate the relevance of carrying out the appropriate audits.

Recommendations

I encourage municipal authorities to pursue the measures undertaken and, in light of the results obtained, to introduce additional measures to counter any undesirable effects.

C. FOLLOW-UP ON RECOMMENDATIONS FROM THE MARCH AND APRIL 2009 AD HOC REPORTS

At the beginning of 2009, the Société d'habitation et de développement de Montréal (SHDM) was the subject of several business management studies assessing the integrity of its property sales process, the transparency of its project management method as well as compliance with administrative rules set forth by the Société and the City of Montréal.

These studies and reports included:

- the KPMG study on the actions of the Société's senior management;
- the Contrecoeur land sale and project management study conducted by Samson Bélair/Deloitte & Touche;
- the general auditor's report on the Contrecoeur land sale;
- the general auditor's project management report;
- the general auditor's report on property sales to third parties.

Some of the findings from these public reports raised questions that lead to an ongoing police investigation by the Sûreté du Québec's Marteau squad.

In the meantime, the boards of directors of the SHDM and the City initiated measures to tighten the Société's business management. Among others:

- the City elected a new board of directors to the SHDM;
- a new director general was appointed;
- the SHDM audit committee adopted a three-year audit plan whose implementation was entrusted to an independent firm in April 2010 following a call for tenders;
- the Société's delegation policy was amended;
- the board of directors created committees to be kept abreast of the Société's operations, sales and investments.

In our opinion, these actions reflect the management's determination to better protect the public property entrusted to the SHDM from this point forward. In 2010, the general auditor will continue to follow up on the recommendations of the above-mentioned reports to ascertain compliance with the legislation and administrative regulations that ensure management integrity and transparency in order to avoid any repetition of the unacceptable situations that came to light in early 2009.

In some cases, I decided to move ahead with the follow-up of certain recommendations that should have been addressed in my 2010 audit report. Here is the status of the general auditor's recommendations on the Faubourg Contrecoeur project, the SHDM project management approach and property sales.

The Faubourg Contrecoeur Project

For this report, we followed up on the 12 recommendations that were finally made. All but two of them have been or are being implemented. The first recommendation that was ignored focused on obtaining documentation supporting the \$16.8 M cost deduction from the sale price for soil remediation work, the construction of noise control earth berms, the acoustical design of buildings and the fees incurred by the SHDM. The other recommendation addressed compliance with certain conditions pertaining to the deed of sale of land to the SHDM. To date, there is no evidence of any action undertaken by the administrative unit to remedy the situation for these two overlooked recommendations.

The SHDM Project Management Approach

In this case, we noticed that the Société expended significant efforts to implement our recommendations. Out of the 31 recommendations from our audit report, 24 are "completed" and 4 others are "under way". Furthermore, the three recommendations pertaining to the Affordable Housing Québec program are no longer valid because this program has been cancelled.

The recommendations currently being implemented should be completed by December 31st 2010. They are specifically concerned with the review of the memorandum of understanding (MOU) between the Société and the City, the annual strategic plan review and the setting of new deadlines for action items identified through an initiative to improve the effectiveness of the workload (Kaisen).

Property Sales

Over the past few months, the SHDM has made changes to its practices. For instance, it improved the quality of information being communicated to its board of directors and created an investment decision committee that reports directly to the board. However, there is still an ongoing police investigation in this matter.

D. FOLLOW-UP ON RECOMMENDATIONS FROM THE SEPTEMBER 2009 WATER METERS REPORT

Since 2008, many scandals have emerged in the construction industry and the management of public affairs. The City of Montréal has not been spared with cases and investigations such as the renovation of city hall and the Contrecoeur project.

There is also the project pertaining to the installation of water meters in IBIs and the optimization of the entire water network that is subject to an ongoing police investigation. In the spring of 2009, the general auditor was tasked by the agglomeration council to review the process that resulted in the awarding of a \$355 M contract to the GÉNleau consortium for the completion of this work. The main findings of the general auditor's report that was tabled in the fall of 2009 indicated that:

- some legislation and administrative rules had been ignored;
- city council and agglomeration council members had been ill-informed;
- the City's administrative structure no longer had the human resources needed to compete with the private sector;
- the City lacked real measures to protect itself against corruption and collusion;
- the City had no control over the costs of its projects;
- the tightness of the contract awarding process was never audited as intended;
- the project costs appeared to be excessive;
- nearly half of the water meters in IBIs would never be used for billing purposes.

In light of these findings, several recommendations were made to help improve city governance and project management. Upon publication of this report, municipal authorities brought about significant changes to the City's administrative structure, created committees to assess the merits or feasibility of my recommendations and implemented corrective measures for procurement and other areas. In addition, the Direction générale of the City presented the executive committee with a new governance framework for projects and programs pertaining to the management of municipal assets on April 19th 2010. It is too early to assess the effectiveness of these measures, but I will perform an in-depth assessment later in 2010.

As a reminder, here are some key recommendations from my report:

- *“We recommend that the City strengthen its internal expertise with respect to the development and management of complex projects to counterbalance the approaches and solutions offered by external firms*
- *We recommend reviewing governance practices in relation to project management. The following avenues of reflection could be pursued:*
 1. *Implementing and fine-tuning governance and project management structures before launching major projects.*
 2. *Ensuring there are capable in-house resources for project management and review mechanisms to facilitate their integration, support, training and mobility.*
 3. *Appointing a controller who will report directly to the executive committee and whose principal mission will be to advise City departments and organizations, mainly about major projects. This person's mandate will be to conduct risk analyses and effectiveness and efficiency studies, as well as to evaluate internal control mechanisms.*
 4. *Creating a team specializing in flat costs within the Direction de l'approvisionnement, and having this team participate in the development of benchmark proposals and the evaluation of bids during major calls for tenders.*
 5. *Changing the procedure for issuing tenders in order to specify the prices that the City intends to pay for the materials needed for the planned work.”*

I will review the status of these recommendations in further detail later in 2010. At that time, I will also examine the action plan established by the municipal authorities and the measures that were implemented to act upon my report.