

# V.10. Compliance with Laws and Regulations



**Vérificateur général**  
de la Ville de Montréal



## TABLE OF CONTENTS

1.	INTRODUCTION.....	329
2.	AUDIT SCOPE .....	331
3.	FINDINGS, RECOMMENDATIONS AND ACTION PLANS.....	332
3.1.	Application of the Administrative Framework .....	332
3.2.	Creation of the Directory of Laws and Regulations .....	336
3.3.	Evaluation of the Knowledge Level of Law and Regulation and Risks of Non-Compliance.....	348
3.4.	Tracking and Communication Mechanisms for Legislative and Regulatory Modifications.....	366
3.5.	Accountability with Regard to Regulatory Compliance Certification.....	374

## LIST OF ACRONYMS

CDN–NDG	Côte-des-Neiges–Notre-Dame-de-Grâce	DSTI	Direction des stratégies et des transactions immobilières
CSEM	Commission des services électriques de Montréal	SCARM	Service de la concertation des arrondissements et des ressources matérielles
DEDD	Direction de l'environnement et du développement durable		

## V.10.COMPLIANCE WITH LAWS AND REGULATIONS

### 1. INTRODUCTION

The implementation of measures to regulate compliance with laws and regulations is an integral part of sound risk management and good governance practices. Due to the diversity of their activities and the services offered to citizens, municipalities are confronted with a multitude of laws and regulations, thus increasing the risks of non-compliance, i.e., failing to meet their obligations under laws and regulations.

Whether it be managing roads, bridges and tunnels, developing parks, rolling stock and buildings, issuing permits or managing aspects of the environment and sustainable development, to name just a few areas of responsibility, there are a large number of laws and regulations governing the daily management of Ville de Montréal (the city) operations. The number of these laws and regulations and the significance of several of them require updated information and strict monitoring on the part of all municipal stakeholders involved to reduce the risks that may result from non-compliance (e.g., financial losses, public safety violations, lawsuits, citizen dissatisfaction, damages to the city's image).

During preparation of the 2003 financial statements in 2004, when the Bureau du vérificateur général raised concerns about the lack of a complete list of all the laws and regulations applicable to the city, or a list of procedures or persons designated to ensure compliance, the Service des affaires corporatives<sup>1</sup> was mandated to implement measures to address these concerns. Action was immediately taken to establish the bases of a process that would ultimately lead to a declaration of compliance with laws and regulations. To do so, the central departments were first asked to create a directory of laws and regulations governing their activities and evaluate the risk level from non-compliance according to their knowledge level of the application of these laws and regulations.

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<sup>1</sup> This department no longer exists. Most units of this department now fall under the Service des affaires juridiques et de l'évaluation foncière.

Following its approval by the city manager, the first administrative framework, entitled [TRANSLATION] “Compliance with laws and regulations,” came into effect on August 23, 2007. Under the responsibility of the Service des affaires corporatives, it includes a directive, procedure and guides.

The guides of this administrative framework, which covered only the central municipal departments at the time, suggest work tools to:

- establish and frequently update a directory of laws and regulations
- determine the knowledge level and assess the risks surrounding compliance with laws and regulations (fact sheet and risk analysis grid)

More specifically, it determines the mechanisms for the annual accountability process to the city manager in a prescribed form. Consequently, every year the directors of each of the central departments are required to produce and send to the city manager a certificate of compliance to attest that their business unit complies with the laws and regulations that govern its areas of responsibility.

Concurrently, work continued to include all city business units. In 2008, steps were taken to introduce a similar process in the boroughs. A working group made up of borough secretaries from four boroughs was created to prepare a directory of all the laws and regulations governing the activities carried out in the boroughs. The work was completed in March of 2009.

In the fall of 2009, representatives designated by the Service des affaires corporatives organized four information sessions for all boroughs. The directory created by the working group was submitted to the borough representatives at these sessions. They were asked to read it and, if necessary, add any laws and regulations applicable to their specific situation. Moreover, the work tools suggested in the 2007 administrative framework to determine the knowledge level and risk assessment surrounding compliance with laws and regulations were presented and explained to them so that they could begin work.

Subsequently, on October 10, 2010, the city manager approved a new administrative framework on the same subject, i.e., compliance with laws and regulations, which replaced the 2007 document. While its content is largely similar to the 2007 version, we found that it now applies to all city boroughs and some bodies, in addition to the central departments. The framework now designates the city's Direction générale as the body in charge of drafting, implementing and evaluating it.

## 2. AUDIT SCOPE

The purpose of our audit was to evaluate the extent to which the city's business units and certain bodies manage the various activities under their responsibility to ensure compliance with the laws and regulations that govern them and how they report on it.

More specifically, we wanted to find out about the existence of: a complete and updated directory of the laws and regulations governing the activities of the business units visited; measures taken to regularly evaluate the knowledge level of these laws and regulations, given the significant underlying risks associated with non-compliance; tracking, analysis and communication mechanisms implemented to inform the staff when legislative and regulatory modifications arise; and lastly, accountability mechanisms to indicate that the audited entities have taken the proper steps to ensure compliance with laws and regulations.

Our audit was focused on seven business units and one body:

- Service du développement et des opérations: Direction de l'environnement et du développement durable (DEDD)
- Service de l'eau: Direction de l'eau potable
- Service de la concertation des arrondissements et des ressources matérielles (SCARM): Direction des immeubles
- Lachine borough: Direction des travaux publics
- Montréal-Nord borough: Direction des travaux publics
- Côte-des-Neiges–Notre-Dame-de-Grâce borough (CDN–NDG): Direction des travaux publics

- Le Plateau-Mont-Royal borough: Direction des travaux publics
- Commission des services électriques de Montréal (CSEM)

The audit, which began in the spring of 2011, dealt primarily with 2010, but also took into account information sent and communicated to us up until August 2011. For certain aspects, data from previous years were also considered.

### 3. FINDINGS, RECOMMENDATIONS AND ACTION PLANS

#### 3.1. APPLICATION OF THE ADMINISTRATIVE FRAMEWORK

##### 3.1.A. Background and Findings

The city's Direction générale describes administrative frameworks as *[TRANSLATION]* "one of the main vehicles used by the city administration to communicate and promote its management philosophy . . . The administrative frameworks are intended to help the agency reach its objectives and manage its risks while informing employees of what is expected of them as well as the scope of their freedom of action."<sup>2</sup>

In this perspective, with the adoption of an administrative framework dealing specifically with compliance with laws and regulations, we found that the city took the necessary measures to provide the city administration with guidelines and steps to evaluate the extent to which compliance with laws and regulations is ensured in each business unit.

This administrative framework, *[TRANSLATION]* "Compliance with laws and regulations," establishes the process applicable to the city's business units and the bodies in question. Essentially, this process revolves around the following four main elements:

- preparing and frequently updating a directory of laws and regulations that govern activities
- evaluating knowledge level of the main elements of these laws and regulations (using a work tool entitled *[TRANSLATION]* "Fact Sheet")

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<sup>2</sup> Administrative framework (C-OG-SDG-D-05-001) entitled *[TRANSLATION]* "Guidelines and process description (directive)."



- awareness of the level of risks associated with non-compliance with these laws and regulations through the knowledge level (using a work tool included in the fact sheet entitled “Risk Analysis Grid”)
- reporting annually to the city manager on October 1 of each year with a certificate of compliance attesting that the manager in charge of a business unit has taken all the proper steps to ensure compliance with the laws and regulations that govern its areas of responsibility

Although the administrative framework that we audited had been in effect since October 2010, we were surprised to find that, at the time of our audit in spring 2011, several business units were unaware of it. Bear in mind that, in contrast to the previous administrative framework (October 2007), the new framework encompasses all city boroughs and certain bodies in addition to the central departments. Few boroughs we audited, not even the CSEM, seemed very familiar with the guidelines contained in the administrative framework, except for central department administrative units, which have been following the steps of the process chosen by the city administration since 2007. Yet, in 2008 and 2009, representatives of the Service des affaires corporatives had made efforts to make all boroughs aware that a process similar to the one applicable to the central departments meant to set guidelines for compliance with laws and regulations would soon take effect. In particular, information sessions were organized and a directory of all the laws and regulations governing the activities carried out in the boroughs was produced and submitted to each borough. However, the information gathered indicates that no particular action was taken to inform bodies such as the CSEM and explain the prescribed process.

Furthermore, at the time of our audit, we were informed that a SCARM manager had taken steps to challenge the basis for making the administrative framework applicable to the boroughs. According to the information gathered, this investigation was driven by comments received by certain boroughs to the effect that, due to their limited resources, the workload involved in carrying out some of the steps of the process prescribed in the administrative framework was too large. In April of 2011, the SCARM requested legal advice from the Service des affaires juridiques et de l'évaluation foncière. The opinion received was that an administrative framework adopted by the central authority only

affects the responsibilities of the boroughs if the city manager has made the subject of the framework a strategic operation as defined in section 57.1 of the *Charter of Ville de Montréal* (the Charter).

However, it appears that the 2010 administrative framework came into force and was communicated to all involved without first being declared a strategic operation by the city manager. According to the information received from the person in charge of the file in the Direction générale, the department was counting on the cooperation of the boroughs in this matter. In these circumstances, while the boroughs did not disagree with the need to put in place measures to ensure regulatory compliance, they were not obliged, at the time of our audit, to apply the administrative framework.

As for the CSEM, it is also subject to this framework pursuant to section 26 of schedule C of the Charter, which states that, for administrative purposes, this body is considered a department of the city.

Compliance with laws and regulations is paramount for an institution such as the city. Upon closer examination of the content of the 2010 administrative framework, however, it becomes apparent that the three other elements of the process, apart from the certificate of compliance, which is clearly established in the administrative framework, are presented in the form of suggested guides, which the management of the relevant business units can choose to use or not (e.g., directory list template, fact sheets to document the knowledge level and the risk analysis of law and regulation). We believe it is important for the city administration to be able to rely on the application of an administrative framework that ensures that all business units have taken the proper steps to evaluate and report on their ability to meet the applicable legal and regulatory requirements. It seems likely that a lack of standardized methodology will result in major differences between the business units' practices to prepare the directory and evaluate the knowledge level and underlying risks associated with non-compliance. Not to mention the fact that this lack of standardization will make tracking its application more difficult.

We believe that it would be appropriate to determine the measures that could facilitate application of the various steps of the mechanism by the units involved to reduce and eliminate duplication and overlapping of responsibilities regarding one of the orientations in the guidelines of the administrative framework on compliance with laws and regulations. Several business units, particularly the 19 boroughs, manage similar activities that are largely subject to the same laws and regulations. We therefore feel that the 2008 initiative to provide all boroughs with a directory of laws and regulations governing the activities under their responsibility is relevant.

### **3.1.B. Recommendations**

**To ensure that all city business units have taken reasonable steps to sufficiently understand the requirements of the applicable laws and regulations and to report on them, we recommend that the Direction générale:**

- A) take the necessary measures to declare compliance with laws and regulations a strategic operation in accordance with the *Charter of Ville de Montréal***
- B) modify the current administrative framework so that it prescribes a standardized methodology to be used by all business units involved**
- C) assess the need to hold new information sessions to explain the extent of the work required as well as their responsibilities to the relevant business units**
- D) determine the measures needed to facilitate application of the various steps of the process for each of the units involved while reducing and eliminating duplication and overlapping of responsibilities**

### **3.1.C. Action Plan of the Relevant Business Unit**

*[TRANSLATION] “Implementation of the action plan refers to the following administrative frameworks on compliance with laws and regulations:*

- Directive: C-OG-DG-D-11-003 dated September 2, 2011*
- Guide: C-OG-DG-P-11-003 dated September 2, 2011*
- Procedure: C-OG-DG-P-002 dated September 2, 2011”*

- A) [TRANSLATION] “The administrative framework addresses the recommendation and reads as follows: ‘given that compliance with the laws and regulations that govern our activities represents a strategic operation, this directive as well as its*

related frameworks will be applied by all city departments, boroughs and the Commission des services électriques de Montréal.” **(Completed)**

B) [TRANSLATION] “The modified framework came into effect on September 2, 2011.” **(Completed)**

C) [TRANSLATION] “A meeting was held with borough directors on August 30, 2011, during which the new directive was presented to them. The implications of this directive and their responsibilities were explained in detail.” **(Completed)**

D) [TRANSLATION] “Hiring of a lawyer in the Service des affaires juridiques et de l’évaluation foncière to implement the directive for the boroughs.” **(Planned completion: January 2012)**

### 3.2. CREATION OF THE DIRECTORY OF LAWS AND REGULATIONS

The purpose of creating a directory is to compile all the laws and regulations that govern the activities of a business unit. This directory, which should contain both the regulations adopted by various city authorities as well as the laws and regulations of the provincial and federal governments, serves as a control tool to facilitate compliance with laws and regulations. Because it allows for quick access to the laws and regulations that apply to the activities of the business unit, it is an essential reference tool for staff in the performance of their duties.

As the saying goes, “ignorance of the law is no excuse.” Consequently, although the applicable administrative frameworks serve as guides to achieve city administration objectives, the fact remains that even if these guidelines did not exist, all city business units have the duty not only to identify and understand the laws and regulations that affect the activities under their responsibility, but also to develop reference tools to ensure compliance with them.

The results of our audit regarding this initial step of the mechanism for compliance with laws and regulations are presented below. They include an assessment of the current

situation in the central departments and the body visited, specifically the CSEM, as well as an assessment of the current situation in the selected boroughs.

### **3.2.1. CURRENT SITUATION IN THE CENTRAL DEPARTMENTS AND THE COMMISSION DES SERVICES ÉLECTRIQUES DE MONTRÉAL**

#### **3.2.1.A. Background and Findings**

##### **SERVICE DU DÉVELOPPEMENT ET DES OPÉRATIONS: DIRECTION DE L'ENVIRONNEMENT ET DU DÉVELOPPEMENT DURABLE**

Our audit revealed that the DEDD applies the administrative framework on compliance with laws and regulations to which it is subject and uses the tools suggested in the guidelines.

We also observed the existence of a formal directory and received a copy of the latest version dated June 2009, as no updates were made to the directory in 2010 or in the period from January 1 to August 12, 2011. Each division first put together a directory, and these were then consolidated by a designated employee into one directory for the entire department.

However, upon closer examination of the directory, we found it to be incomplete. In fact, certain laws and regulations were missing, despite being related to the activities of the various divisions of the DEDD. We also noticed that certain laws that had been replaced a few years ago appeared in the directory.

According to the information gathered from the people we met with, each division has an electronic directory listing the documents related to the laws and regulations specific to its activities. In addition, each division has a paper copy of the directory of laws and regulations available to employees involved. This filing method seems adequate to us.

## SERVICE DE L'EAU: DIRECTION DE L'EAU POTABLE

The Direction de l'eau potable is also subject to application of the administrative framework on compliance with laws and regulations and uses the tools suggested in the guidelines.

While a directory prepared according to undated administrative framework guidelines was found in a Direction de l'eau electronic file, some of the managers and employees we met with during our audit did not seem to be aware of it. In fact, according to the information gathered from the people we met with, the directory in question is not accessible to all department employees. To promote compliance with laws and regulations, we feel that it is essential that the directory be filed so that it is accessible to all staff members that need it to perform their duties.

An examination of the content of the above-mentioned electronic directory revealed the following information:

- This directory, prepared in accordance with the administrative framework, contains laws and regulations affecting Direction de l'eau potable activities.
- Various files contain the full text of some laws and regulations (e.g., the Charter, the *Regulation respecting the awarding of contracts for certain professional services*).

However, neither the directory of laws and regulations prepared under the administrative framework nor the list of the various electronic files containing the full text of laws and regulations are complete or up to date with regard to the activities of the Direction de l'eau potable. Some laws and regulations can be found in one list but not the other. Some of the laws and regulations are outdated in some respects. Other laws and regulations appear in neither the directory nor the various electronic files.

In short, two means are used to compile the laws and regulations, but neither contains all of the laws and regulations affecting the activities of the Direction de l'eau potable. We feel that such a practice is likely to lead to confusion in applying the laws and regulations and does not provide reasonable assurance of compliance.

**SERVICE DE LA CONCERTATION DES ARRONDISSEMENTS  
ET DES RESSOURCES MATÉRIELLES: DIRECTION DES IMMEUBLES**

The Direction des immeubles applies the administrative framework on compliance with laws and regulations to which it is subject to and uses the tools suggested in the guidelines.

Our audit revealed that an employee in the Direction des stratégies et transactions immobilières (DSTI) was put in charge of preparing and updating the directory of laws and regulations governing the activities of his division as well as that of the Direction des immeubles.

Consequently, the information gathered from the people we met with revealed the existence of various directories and records of laws and regulations in electronic format:

- Directory prepared in accordance with the guide provided in the administrative framework on compliance with laws and regulations. This directory, whose most recent version is dated August 2009, is organized by division and contains, among other things, a list of laws and regulations related to the activities of the Direction des immeubles. This directory is kept in the DSTI; however, according to information received, employees of the Direction des immeubles do not have access to this electronic directory.
- List of electronic files containing the full text of laws and regulations related to the activities of the DSTI and certain activities of the Direction des immeubles. These files contain Québec and federal legislation as well as municipal by-laws, including borough by-laws. All employees of this division have access to these files, but not employees of the Direction des immeubles.
- List of electronic files, prepared by an employee of the Direction des immeubles, containing laws and regulations related to a portion of the activities of the Division gestion des travaux d'entretien, specifically the electrical maintenance sector.

While the first directory is fairly detailed for the Direction des immeubles, we found it to be incomplete and not up to date. Some of the laws and regulations pertaining to the activities of the Direction des immeubles are missing and some of the laws and regulations have been obsolete for many years.

The other directories do not include all of the laws and regulations pertaining to the activities of the Direction des immeubles either. In short, we found that the directory and other lists do not include all laws and regulations governing the activities of the Direction des immeubles.

Filing of the directory of laws and regulations does not appear adequate to us. We feel it would be preferable for all information related to the directory to be centralized in the same location to avoid confusion and filed so all employees involved have access, which is not currently the case.

### **COMMISSION DES SERVICES ÉLECTRIQUES DE MONTRÉAL**

While the CSEM has been subject to the administrative framework on compliance with laws and regulations since October 2010, we found that, at the time of our audit, it did not use the tools suggested in the guidelines. Nevertheless, in the interest of furthering our analysis, we asked the managers that we met with to give us all information that could demonstrate the existence of a directory of laws and regulations.

The information received revealed that the CSEM uses two main tools to document the laws and regulations pertaining to its activities. First, there is a binder containing a hard copy of the laws and regulations governing its activities. Only one copy of this binder is available, however. Second, it also uses an electronic directory called [TRANSLATION] “Legal framework,” which is available to all employees with a computer.

Upon closer examination of the content of the binder of laws and regulations as well as the electronic directory, we found that they do not contain all of the laws and regulations relating to the activities of the CSEM. We also found that some of the laws and regulations in the binder do not appear in the electronic directory and vice versa. Moreover, these two tools contain laws and regulations that are not current or that have been obsolete for many years.



### 3.2.2. CURRENT SITUATION IN THE BOROUGHS

#### 3.2.2.A. Background and Findings

##### **LACHINE BOROUGH: DIRECTION DES TRAVAUX PUBLICS**

Our audit revealed that a list of laws and regulations (the one sent in 2009 by the Service des affaires corporatives) has been integrated into the Direction des travaux publics' electronic directory. According to the managers we met with, department staff has access to the list through this electronic directory.

The list in question is a version dated March 13, 2009, and no updates have been made since, despite amendments made to some laws and regulations. We noticed that some laws are listed even though they were replaced some years ago.

We also found another file, which essentially contains only borough and city by-laws, some of which are outdated.

In brief, the Direction des travaux publics uses two different means to document laws and regulations (the directory and a file containing the list of borough and city by-laws); however, neither of these includes all of the laws and regulations affecting its activities.

##### **MONTRÉAL-NORD BOROUGH: DIRECTION DES TRAVAUX PUBLICS**

According to the information gathered from the people we met with, the Direction des travaux publics of the Montréal-Nord borough does not use the method proposed in the administrative framework on compliance with laws and regulations with respect to the directory.

While the Direction des services administratifs, des relations avec les citoyens et du greffe for this borough has created a list of the by-laws adopted by its borough council, the audit we performed within the Direction des travaux publics revealed that it does not have a documented directory of the laws and regulations governing its activities. During our visit, we did observe, however, that several of the borough's by-laws (including the

main ones related to its activities), as well as laws and regulations related to other authorities (city council, provincial government, etc.) and legislative bills were kept in the Travaux publics director's office. We believe that the formal constitution of a complete directory that is accessible to all staff members is indispensable in ensuring compliance with all the laws and regulations governing the activities of this department.

**CÔTE-DES-NEIGES–NOTRE-DAME-DE-GRÂCE BOROUGH:  
DIRECTION DES TRAVAUX PUBLICS**

Our audit revealed that the Direction des travaux publics of the CDN–NDG borough has a directory of the by-laws adopted by its borough council, and this directory is located in an electronic file that includes the full text of each of these by-laws. All borough employees have access to this file.

Apart from this directory of borough by-laws, the Direction des travaux publics does not have a directory also for the laws and regulations of other authorities. We did find, however, that another department, the Direction des services administratifs et du greffe, has the directory of laws and regulations that the Service des affaires corporatives prepared and sent to the boroughs in 2009. This directory contains a list of laws and regulations organized by department, including the Direction des travaux publics. We noticed that this directory had been reproduced in its entirety and no modifications have been made to it. Some laws do not appear in it and it is therefore not current. Furthermore, we found that some laws appear in the directory even though they were replaced many years ago.

We realize that the creation and updating of the directory may be centralized in another department; however, we feel it is essential that the directory be filed so that it is available to all staff members that need it to perform their duties.

It should be mentioned that a manager in the Division du greffe, which falls under the above-mentioned Direction des services administratifs et du greffe, took the initiative to put together a CD-ROM containing the texts of the laws and regulations appearing in the 2009 directory that pertain to the activities of the Direction des travaux publics. This

tool was sent to the Direction des travaux publics following the interviews that we conducted with borough staff.

### **LE PLATEAU-MONT-ROYAL BOROUGH: DIRECTION DES TRAVAUX PUBLICS**

According to the information received from the people we met with, the Direction des travaux publics of Le Plateau-Mont-Royal borough does not use the method proposed in the administrative framework on compliance with laws and regulations with respect to the directory.

To further our analysis, we asked the people that we met with to provide us with any document or information that could demonstrate the constitution of a directory of laws and regulations.

The information received during our audit revealed that a complete and updated directory of the laws and regulations governing the activities of the Direction des travaux publics had not been created, apart from a copy of a few laws and regulations kept by the head of the Division de la voirie in his office. Only a list of the by-laws adopted by the borough council was drawn up by the Direction des services administratifs, des relations avec les citoyens et du greffe. This list was found in a shared electronic directory. However, not all employees of the Direction des travaux publics have access to this directory.

### **CONCLUSIONS FOR ALL BUSINESS UNITS VISITED**

In our opinion, the creation of a complete and current directory is indispensable for a business unit, because it allows it to inventory all of the laws and regulations that govern its areas of responsibility. Given the considerable number of laws and regulations that exist and the frequent amendments that are made to them, an updated directory is an important reference tool, since it:

- Facilitates locating the laws and regulations related to the business unit's activities.

- Reduces the risks of error and confusion if an obsolete law or regulation is applied inappropriately, or conversely, if a current law or regulation is not applied when it should be.
- Serves as a relevant reference tool that provides information to employees about the laws and regulations that govern the activities under their responsibility and facilitates onboarding and training of new employees, who benefit from a practical and handy tool.
- Serves as a basis for conducting effective legal monitoring, as we will see in this report.

In addition, lack of a complete and updated directory leads to doubts as to the effectiveness of the measures taken to ensure compliance with laws and regulations and makes the business unit more vulnerable to the consequences of non-compliance.

Our audit revealed that the directories contained deficiencies. We also doubt that they are complete with regards to the laws and regulations they should contain.

For these reasons, we feel that effort should be invested to ensure that every business unit has a complete directory, which will subsequently be kept up to date and be made available to all staff members that need it for the performance of their duties.

### **3.2.B. Recommendations**

**We recommend that the Direction de l'environnement et du développement durable, the Direction de l'eau potable, the Direction des immeubles, the Commission des services électriques de Montréal as well as the Travaux publics departments of the Lachine, Montréal-Nord, Côte-des-Neiges–Notre-Dame-de-Grâce and Le Plateau-Mont-Royal boroughs take the necessary measures to ensure that they have a complete and regularly updated directory of laws and regulations as a reference tool for compliance with the laws and regulations governing their areas of responsibility.**

**We also recommend that the Direction de l'eau potable, the Direction des immeubles, the Commission des services électriques de Montréal, and the**

Travaux publics departments of the Montréal-Nord, Côte-des-Neiges–Notre-Dame-de-Grâce and Le Plateau-Mont-Royal boroughs ensure that their directory is available to all staff members that need to use it in the performance of their duties.

### 3.2.C. Action Plan of the Relevant Business Unit

- **DIRECTION DE L'ENVIRONNEMENT ET DU DÉVELOPPEMENT DURABLE**  
[TRANSLATION] “Ensure that the existing directory of laws and regulations is a complete and updated reference tool accessible to all relevant staff members.
  - Appoint one person per unit to be in charge of updating the directory of the laws and regulations governing their areas of responsibility.
  - Verify regularly with those in charge of each unit that the directories of laws and regulations are updated.
  - Give the directory of laws and regulations a specific title as part of the classification scheme for DEDD documents.
  - Adjust computer security to make the directory files accessible to authorized personnel.” **(Planned completion: May 2012)**
  
- **DIRECTION DE L'EAU POTABLE**  
[TRANSLATION] “Systematic inventory of relevant environmental laws and regulations. **(Planned completion: April 2012)**
  - Questionnaire for managers to specify certain requirements **(Planned completion: January 2012)**
  - Finalization of the directory **(Planned completion: April 2012)**

Review of existing lists with managers. **(Planned completion: June 2012)**

  - Consultation with the Service des affaires juridiques et de l'évaluation foncière **(Planned completion: February 2012)**
  - Consultation with the managers of the Direction de l'eau potable **(Planned completion: May 2012)**

Creation of a consolidated directory. **(Planned completion: September 2012)**

Upload the directory to a server that is accessible to all Direction de l'eau potable managers." **(Planned completion: October 2012)**

- **DIRECTION DES IMMEUBLES**

[TRANSLATION] "Put together a joint DSTI/Direction des immeubles working committee of resource people for main real estate activities (e.g., maintenance, environment, project management) to create the directory of laws and regulations.

The DSTI/Direction des immeubles working committee will determine the measures and means necessary to ensure that the directory is regularly updated. **(Planned completion: October 2012)**

The DSTI/Direction des immeubles working committee will determine the tools and measures to put in place to ensure that the directory of laws and regulations pertaining to real estate activities is always accessible to the relevant people in the central departments of the agglomeration and boroughs." **(Planned completion: October 2012)**

- **COMMISSION DES SERVICES ÉLECTRIQUES DE MONTRÉAL**

[TRANSLATION] "Create a directory of the laws and regulations governing the activities of the CSEM. **(Planned completion: December 2011)**

Distribution of the directory of laws and regulations to the relevant personnel." **(Planned completion: December 2011)**

- **LACHINE BOROUGH**

[TRANSLATION] "Creation of a virtual documentation centre accessible from any computer station in the Direction des travaux publics and all other stations in the borough. This centre will include a master file with the updated directory of laws and regulations as well as a hot link to the latest available version. This file will also indicate the resource person for each law and regulation and which employees are specifically targeted by them for the Direction des travaux publics and all other departments." **(Planned completion: March 2012)**

- **MONTRÉAL-NORD BOROUGH**

[TRANSLATION] *“The directory of the laws and regulations applicable to all the departments of the borough has been created by the borough secretary.*

*Validation will be performed with the Service des affaires juridiques et de l'évaluation foncière with regard to legal monitoring.*

*This directory will be submitted to each director for verification.*

*Approval of the directory will be obtained from the directors.*

*Comments on the directory will be submitted to the borough secretary.*

*Directors will submit their lists of people in charge in each division to the borough director with copy to the borough secretary.*

*Once approved by the various departments, the directory will be placed on a shared network in read-only mode so that all the relevant people may access it. The borough secretary will be responsible for keeping the directory on the shared network up to date.” (Planned completion: December 2011)*

- **CÔTE-DES-NEIGES–NOTRE-DAME-DE-GRÂCE BOROUGH**

[TRANSLATION] *“A lawyer has been hired by the boroughs to guide them in creating a directory of laws and regulations. A complete directory will be created in collaboration with this individual. (Planned completion: April 2012)*

*Once it is completed, the borough's Division du greffe will post the list of laws and regulations on the borough's file sharing site so that the Direction des travaux publics and all the borough's departments have access to it. This division will have to verify that the list is complete. (Planned completion: May 2012)*

*A CD-ROM containing each of the laws and regulations affecting the Direction des travaux publics will be created and submitted by the Division du greffe to the*

*Direction des travaux publics to facilitate risk assessment.” (Planned completion: June 2012)*

- **LE PLATEAU-MONT-ROYAL BOROUGH**

*[TRANSLATION] “Pursuant to an inter-borough agreement with the Service des affaires juridiques et de l’évaluation foncière, a lawyer will be hired to guide the boroughs in creating a directory of laws and regulations. A complete directory will be created with the cooperation of our teams and this lawyer. (Planned completion: April 2012)*

*Once the directory is completed, the Division des relations avec les citoyens et du greffe will post the list of laws and regulations on the borough’s file sharing site so that all the employees of the Direction des travaux publics as well as those of all the other departments have access to the documents.*

*Links to the Internet or to the internal server will be included to facilitate risk assessment.” (Planned completion: May 2012)*

### **3.3. EVALUATION OF THE KNOWLEDGE LEVEL OF LAW AND REGULATION AND RISKS OF NON-COMPLIANCE**

Assessing the degree of understanding laws and regulations consists mainly in regularly analyzing the measures put in place by the business unit in charge (e.g., training program, employee certification, physical inspection mechanisms), to have reasonable assurance that the requested controls are in place and that employees possess the tools and expertise necessary to carry out their duties in compliance with these laws and regulations.

This exercise to assess the law and regulation knowledge level is closely linked to the need to evaluate the risks that may result from non-compliance with laws and regulations. Ultimately, this risk evaluation should make it possible to prioritize them by their importance (e.g., low-risk to high), then focus measures on specific activities to



reduce the occurrence of situations causing the body to fail to meet its obligations under these laws and regulations.

The administrative framework that we audited suggests work tools in its guidelines to evaluate and document measures taken to ensure that the risks of non-compliance for all of the laws and regulations governing the activities of a business unit are known. Documentation of these evaluations should ultimately serve as support for delegated managers in confirming that their business units have taken the proper measures to ensure compliance with applicable laws and regulations.

Accordingly, in order to evaluate the knowledge level of a particular law or regulation, the administrative framework suggests business units use a fact sheet to document their analyses of the following aspects, among others:

- title of the law or regulation
- description of the area of activity related to this law or regulation (e.g., production of drinking water)
- list of related laws and regulations
- description of the current mechanisms used to develop, maintain and increase staff expertise in this legal or regulatory area (e.g., creation of a training plan, establishment of mechanisms to communicate modifications)
- description of current support mechanisms surrounding the application of this law or regulation (e.g., physical inspection mechanisms, the preparation of guides)
- description of current accountability mechanisms surrounding the application of this law or regulation

Taking into account the results of this evaluation, the fact sheet incorporates evaluation of the residual risk related to non-compliance with this law or regulation. The proposed fact sheet includes an analysis grid made up of the main business risks generally recognized in the area:

- loss of income
- high costs
- destruction of assets
- business interruption

- citizen dissatisfaction
- negative corporate image for the city or business unit
- bad management decisions
- insufficient management information or data
- government criticism
- lawsuits
- non-compliance with recognized accounting principles
- fraud
- conflicts of interest

Viewed in this manner, the evaluation makes it possible to determine the activities for which the business unit is most vulnerable, and then the fact sheet documentation is completed by determining the mechanisms to implement to reduce the risks of error in the application of a law or regulation.

Remember that the evaluation of law and regulation knowledge level and degree of risk must be carried out together with a properly assembled and updated directory of laws and regulations.

For these steps of the process, the results of our audit are presented below. As with the previous section of this report (section 3.2), they outline the current situation in central departments, the CSEM as well as the boroughs included in our sample.

### **3.3.1. CURRENT SITUATION IN THE CENTRAL DEPARTMENTS AND THE COMMISSION DES SERVICES ÉLECTRIQUES DE MONTRÉAL**

#### **3.3.1.A. Background and Findings**

##### **SERVICE DU DÉVELOPPEMENT ET DES OPÉRATIONS: DIRECTION DE L'ENVIRONNEMENT ET DU DÉVELOPPEMENT DURABLE**

Our audit revealed that the DEDD uses the method suggested through the guides that accompany the framework on compliance with laws and regulations. We therefore received a copy of the most recent fact sheets available, dated June 2009 as no

updates have been made since. In reviewing these documents, we found that all of the laws and regulations found in the directory produced by this department in 2009 had been evaluated for risks related to knowledge level. A more concise version of these same evaluations were carried out for all of the laws and regulations affecting the activities of the Complexe environnemental de Saint-Michel using a single fact sheet and risk analysis grid. First, we believe that such a practice is questionable. Evaluating knowledge level and risks related to non-compliance for more than forty laws and regulations involving various areas of activity on a single fact sheet certainly does not allow for all the major risks to be determined and reduces the usefulness of the process. We believe that this procedure could lead to overlooking complex situations and failure to introduce measures to reduce the risks of non-compliance at the appropriate time. Since the directory of the laws and regulations has not been updated since 2009 (see section 3.2.1 of this report), some laws and regulations involving the activities of the Direction have not been evaluated for knowledge level or degree of underlying risk.

Apart from the situation observed for the Complexe environnemental de Saint-Michel, the other existing fact sheets, including the risk assessment grid, appeared to have been properly completed. Moreover, they were filed in electronic directories, accompanied by the related laws and regulations. This filing method seems adequate to us.

To further our analysis, we asked the people we met with to provide us with any document or information that could demonstrate that measures were taken to ensure proper law and regulation knowledge. We were then informed of the implementation of the following measures, which are, in our opinion, relevant tools for achieving such a goal:

- Periodic or planned information sessions for employees. We found that training records listing which employees had attended the sessions were kept.
- Training program as part of orientation and onboarding of new employees.
- Guide to application of the *By-law concerning pesticide use*.
- List of frequently asked questions regarding the application of certain laws and regulations. This is a tool produced by the Direction to answer questions that

employees may have about (e.g., the *By-law concerning discharges at purification works on the territory of the urban agglomeration of Montréal*).

- Audits of some DEDD activities to ensure compliance with laws and regulations related to the environment. This initiative is a relevant way to evaluate the level of law and regulation knowledge and the risks of non-compliance associated with it.

#### **SERVICE DE L'EAU: DIRECTION DE L'EAU POTABLE**

Based on the information received and examination of the documents provided, our audit revealed that under the first administrative framework published in August 2007, which was subsequently replaced in October 2010, the Direction de l'eau potable carried out an evaluation of law and regulation knowledge level and a risk analysis in the event of non-compliance. It used the method suggested in the administrative framework on compliance with laws and regulations as well as the guides provided.

We collected the fact sheets containing the risk analysis grids for the most recent completed version, dated August 2008 according to the information received. The document is in fact labelled [TRANSLATION] "August 2008 version" and no update has been made since. We found that certain laws and regulations pertaining to the activities of the Direction de l'eau potable did not undergo any evaluation of the knowledge level and risks. Conversely, we also found completed fact sheets on laws and regulations that had become obsolete before measures for compliance with laws and regulations were taken by the city around 2004. The fact sheets collected are not up to date and do not include all of the laws and regulations relating to the activities of the Direction.

We also found that certain fact sheets were incomplete and inaccurate. In particular, some of the information in these sheets did not match that provided by the people we interviewed. For example, the fact sheet on the *Regulation respecting the quality of drinking water* indicates [TRANSLATION] "None" in the section [TRANSLATION] "Description of current mechanisms used to develop, maintain and increase staff expertise in this legal or regulatory area." However, according to the information we received and documents that we reviewed, training is provided to employees who have to perform work on the city's water supply system and training records are kept.

We also found that certain fact sheets make reference to laws and regulations that have been obsolete for many years in the section [TRANSLATION] “List and description of related laws and regulations.” We feel it is important that the fact sheets intended to document the evaluation of the law and regulation knowledge level contain complete, relevant and accurate information as well as up-to-date references in order to be useful in evaluating risks and subsequently determining corrective measures to put in place to ensure compliance with laws and regulations.

We also found that all of the fact sheets, regardless of the area of activity they were related to, were under the name of the same resource person in the Direction de l'eau potable. We feel that this practice should be re-examined and that a resource person capable of providing precise answers for a given area of activity should be determined.

Furthermore, the managers we met with stated that they did not know whether the fact sheets were accessible by all of the relevant employees. We received a hard copy of the fact sheets labelled [TRANSLATION] “August 2008 version” from the director of Eau potable. These only pertain to the Direction de l'eau potable. Upon examination, we were not able to find this version in the electronic directory. We did, however, receive from an employee another electronic version containing the fact sheets for all the departments of the former service, i.e., the Service des infrastructures, transport et environnement, which used to come under the Direction de l'eau potable. No date is indicated on this version; however, a comparative examination of the fact sheets of the Direction de l'eau potable revealed that these two differ very little. The second version can be found in the previously mentioned electronic directory. In our opinion, fact sheets should be filed in a more reliable manner to ensure that the information is available to all employees who need it and, more importantly, to avoid potential confusion between several versions.

To further our analysis, we asked the people we met with to provide us with any document or information that could demonstrate that measures were taken to ensure understanding of laws and regulations.

First, examination of the information gathered revealed that certain laws and regulations not found in the directory had undergone an evaluation to determine the degree of knowledge and level of risk associated with them, but this was done using a different method from the one suggested in the administrative framework on compliance with laws and regulations.

Second, the Direction de l'eau potable has implemented several other means to ensure law and regulation knowledge, given the risks involved. These include tools created for employees, such as a briefing document for new-employee orientation sessions and one on contract management (awarding contracts).

Ultimately, despite the efforts made within this department, improvements will have to be made to ensure that each law and regulation undergoes a documented evaluation of the knowledge level and related risks and that the information it contains is accurate, relevant and regularly updated.

**SERVICE DE LA CONCERTATION DES ARRONDISSEMENTS ET  
DES RESSOURCES MATÉRIELLES: DIRECTION DES IMMEUBLES**

Based on the information obtained from the people we met with and examination of the documents provided, we found that the Direction des immeubles uses the methodology proposed in the administrative framework to evaluate the degree of knowledge and risks related to non-compliance with applicable laws and regulations.

We obtained a copy of the fact sheets containing the risk assessment grid, the latest version of which is dated August 2008. The documents are labelled [TRANSLATION] "Updated: August 2008" and make reference to the former service, i.e., the Service de la mise en valeur du territoire et du patrimoine, under which the Direction des immeubles fell at the time.

When we examined these fact sheets (including the risk assessment grids) we found that, in addition to being outdated, they do not contain all the laws and regulations affecting the activities of the Direction. In fact, our examination only revealed four fact sheets.

Moreover, these sheets are filed in an electronic directory of the DSTI, in different files. The information in this directory is not accessible to employees of the Direction des immeubles. This filing method does not seem adequate to us. We feel it is essential that the fact sheets containing the risk assessment grids be filed so they are accessible to relevant staff members to facilitate selection of appropriate risk reduction measures.

To further our analysis, we asked the people we met with to provide us with any document or information that could demonstrate that measures were taken to ensure employees' knowledge of laws and regulations. We found that the following measures have been put in place:

- delivery of a variety of training sessions
- development of action plans on specific subjects (e.g., the plan related to padlocking)
- participation in various committees, including those of the Régie du bâtiment and the Ministère des Affaires municipales, des Régions et de l'Occupation du territoire

### **COMMISSION DES SERVICES ÉLECTRIQUES DE MONTRÉAL**

The CSEM has been subject to the administrative framework on compliance with laws and regulations since October 2010; however, at the time of our audit, it did not use the suggested guides accompanying this framework. In particular, the fact sheets intended for documenting the evaluation of knowledge of the laws and regulations that affect the activities of the CSEM, including the risk assessment grid, had not been filled out. According to the information gathered from the people we met with, no other document of this nature existed at the time of our audit.

To further our analysis, we asked the managers that we met with to provide us with any document or information that could demonstrate that a knowledge level evaluation of law and regulation and non-compliance risk analysis had been carried out.

The information obtained indicates that the CSEM ensures knowledge of the laws and regulations under its responsibility mainly through various training sessions offered to

employees. At the beginning of every year, an individual training plan is designed and training records are kept to keep track of which employees have received the training.

While the CSEM has taken measures to ensure employees know the laws and regulations, it is not in a position to establish the level of risk to which it would be exposed in the event of non-compliance with laws and regulations. Because risk analysis based on the degree of law and regulation knowledge is not carried out with a specific method and clearly documented, the CSEM is missing out on valuable information that could be very helpful in managing compliance with laws and regulations.

Going forward, we believe that it would be very useful for the documents (fact sheets) for evaluating knowledge level and risk assessment for laws and regulations governing the activities of the CSEM to be filed so as to be accessible to relevant personnel and used to determine the appropriate measures to take to reduce the risks of non-compliance.

### **3.3.1.B. Recommendations**

**To ensure compliance with all the laws and regulations governing the activities under their responsibility, we recommend that the Direction de l'environnement et du développement durable, the Direction de l'eau potable and the Direction des immeubles regularly update the fact sheets meant to document the evaluation of the knowledge level associated with them and the underlying risks of non-compliance.**

**For the same reasons, we also recommend that the Direction de l'eau potable ensure that the fact sheets are:**

- **filled out so they incorporate all relevant and correct information, facilitating risk assessment of non-compliance and selection of necessary mitigation measures**
- **registered under the name of a resource person who has the necessary expertise for a given area of activity**



- made available to all relevant employees and filed so as to prevent any potential confusion between several versions

We recommend that the Direction des immeubles ensure that the fact sheets are:

- registered under the name of a resource person who has the necessary expertise for a given area of activity
- made available to all relevant employees

We recommend that the Direction de l'environnement et du développement durable, particularly regarding the Complexe environnemental de Saint-Michel, avoid grouping knowledge and risk evaluation for laws and regulations affecting different activities in one fact sheet to make it easier to pinpoint problem situations and introduce proper measures to reduce the risks of non-compliance when appropriate.

In order to ensure compliance with all the laws and regulations governing the activities under its responsibility, we recommend that the Commission des services électriques de Montréal:

- take the necessary steps to ensure that all of laws and regulations governing its activities undergo a documented evaluation of the knowledge level and underlying risks associated with them
- regularly update these evaluations
- make this information available to all relevant employees so that they may use it to determine the appropriate measures to reduce the risks of non-compliance and follow up on them

#### **3.3.1.C. Action Plan of the Relevant Business Unit**

- 1) • **DIRECTION DE L'ENVIRONNEMENT ET DU DÉVELOPPEMENT DURABLE**  
[TRANSLATION] "Appoint one person per unit to be in charge of updating the fact sheets.

*Regularly verify the fact sheet updates with those in charge of each unit.*

*Include a specific heading for the fact sheets as part of the plan to create a classification scheme for all Direction documents.*

*Adjust computer security to make the fact sheets accessible to authorized personnel.” (Planned completion: May 2012)*

- **DIRECTION DE L’EAU POTABLE**  
[TRANSLATION] “Systematic risk assessment to be carried out by all managers involved.” (Planned completion: February 2013)
  
- **DIRECTION DES IMMEUBLES**  
[TRANSLATION] “The DSTI/Direction des immeubles working committee will determine the procedures for and the frequency of updates for fact sheets pertaining to real estate activities.” (Planned completion: October 2012)
  
- 2) • **DIRECTION DE L’EAU POTABLE**  
[TRANSLATION] “Systematic risk assessment to be carried out by all managers involved.” (Planned completion: February 2013)
  
- 3) • **DIRECTION DES IMMEUBLES**  
[TRANSLATION] “A resource person with the appropriate expertise will be associated with each fact sheet. The DSTI/Direction des immeubles working committee will determine the measures to take to ensure that the relevant people have access to the fact sheets at all times.” (Planned completion: October 2012)
  
- 4) • **DIRECTION DE L’ENVIRONNEMENT ET DU DÉVELOPPEMENT DURABLE**  
[TRANSLATION] “Review the Complexe environnemental de Saint-Michel fact sheet to produce one fact sheet per area of activity.” (Planned completion: September 2012)
  
- 5) • **COMMISSION DES SERVICES ÉLECTRIQUES DE MONTRÉAL**  
[TRANSLATION] “Evaluate relevant staff’s knowledge level with regard to the laws and regulations that govern the activities of the CSEM.

*Evaluation updating program.*

*Dissemination of information to relevant personnel.” (Planned completion: December 2011)*

### **3.3.2. CURRENT SITUATION IN THE BOROUGHS**

#### **3.3.2.A. Background and Findings**

As mentioned, the October 2010 administrative framework on compliance with laws and regulations applied to all boroughs. However, because the city’s Direction générale had not made the topic of this framework a strategic operation pursuant to section 57.1 of the Charter at the time of our audit, the boroughs had no obligation to abide by it. Our audit therefore consisted in examining the compensatory measures put forth in the selected boroughs.

Our audit revealed that none of the Direction des travaux publics of the four selected boroughs applied the methodology suggested in the administrative framework and that no other standardized method had been introduced to regularly document the assessment of the risk of non-compliance given the current knowledge level evaluation of the laws and regulations under their responsibility.

To further our analysis, we asked the people we met with to provide us with any document or information that could demonstrate the knowledge level evaluation of law and regulation as well as a non-compliance risk analysis.

#### **LACHINE BOROUGH: DIRECTION DES TRAVAUX PUBLICS**

At our first visit to this department, the people we met with explained to us that a rather informal and undocumented method based on legislative and regulatory developments and modifications that occur was preferred. They stated that, among other things, an analysis of the effect of these legislative and regulatory modifications on borough activities was performed and that the necessary measures were taken when required.

As part of this process, training sessions are offered to employees and records are kept on who has taken this training.

At our second visit, two laws and one regulation were analyzed to illustrate the actions taken and submitted to us. The documents in question sum up the steps taken by the unit involved to ensure knowledge of these laws and this regulation (e.g., validation of the information with the Service des affaires juridiques et de l'évaluation foncière, details on the training offered). This documentation is useful in supporting the line of thought regarding the knowledge-level evaluation of these laws and this regulation, but we believe it should be accompanied by an assessment of the risks of non-compliance given the current degree of knowledge to determine the level of risks (low, moderate or high) to which the business unit is exposed, taking into account the risk reduction measures that could have been implemented. Moreover, the information obtained from the managers we met with indicates that such documentation is not systematically produced, and monitoring compliance with laws and regulations is performed in a rather unstandardized fashion.

Overall, our examination led us to conclude that no structured and standardized method exists for law and regulation knowledge evaluation or risk level assessment. In fact, according to the information submitted, summary documentation was only produced for two laws and one regulation.

#### **MONTRÉAL-NORD BOROUGH: DIRECTION DES TRAVAUX PUBLICS**

The information collected during our audit indicates that the Direction des travaux publics uses an informal, case-by-case approach to evaluate the knowledge level of law and regulation and associated risks of non-compliance.

The people we met with stated that the effect of legislative and regulatory modifications is evaluated and that measures to comply with them are taken at the appropriate time. Moreover, analyzing the risks of non-compliance is generally performed during the analysis of a file.

In addition, the people we met with stated that they ensure knowledge of laws and regulations through, among other things:

- various training programs offered to employees, for which records are kept
- information sessions organized to inform relevant employees about the effect of new legislative and regulatory provisions on the performance of their duties

Despite the means used, we found that no documented and standardized methodology has been established to regularly evaluate law and regulation knowledge level and risks associated with non-compliance.

**CÔTE-DES-NEIGES–NOTRE-DAME-DE-GRÂCE BOROUGH:  
DIRECTION DES TRAVAUX PUBLICS**

The information obtained during our audit indicates that the Direction des travaux publics uses an informal, case-by-case approach to evaluate the knowledge level of law and regulation and the risks associated with non-compliance.

Moreover, according to the information received from the people we met with, the Direction des travaux publics uses the following means to ensure law and regulation knowledge and manage the risks of non-compliance with regard to its activities:

- Training is offered to employees and records are kept to keep track of who has taken the training.
- Reference guides are created by the borough (e.g., the reference guide to contract management).

Despite the means used, we found that no documented and standardized methodology has been established to regularly evaluate the knowledge level of law and regulation and the risks associated with non-compliance.

**LE PLATEAU-MONT-ROYAL BOROUGH: DIRECTION DES TRAVAUX PUBLICS**

According to the information obtained from the people we met with, law and regulation knowledge level evaluation as well as the underlying risks is usually performed on an

informal, case-by-case approach, based on the nature of the files being handled (e.g., awarding a contract) or the legislative and regulatory developments that occur. We found that regulatory modifications in particular were discussed in the management committee.

Furthermore, the following methods are used by the Direction des travaux publics to acquire the necessary understanding of laws and regulations to reduce the risks of non-compliance:

- use of the administrative frameworks the borough has developed to facilitate application of various laws (e.g., the framework related to the awarding of contracts for professional services or the performance of work)
- staff training, for which records are kept

Despite the means used, we found that no documented and standardized methodology has been established to regularly evaluate the knowledge level and risks associated with non-compliance with the laws and regulations under its responsibility.

### **CONCLUSIONS FOR THE FOUR SELECTED BOROUGHS**

Ultimately, we found that an informal and undocumented approach is currently used to evaluate law and regulation knowledge. While it involves some positive actions, this approach nevertheless deals with non-compliance risk management through actions that are primarily case-specific rather than proactive.

Furthermore, all of the people we met with in the selected business units stated that, due to their experience and seniority, employees are very familiar with the laws and regulations that affect their activities, and they comply with them when performing these activities. Admittedly, having an experienced and competent staff provides some assurance with regard to law and regulation compliance; however, using only this approach presents certain limitations and disadvantages. In particular, staff movement may lead to a reduction to this experience over time if it is not transferred in a timely manner, thereby making the administrative unit involved more vulnerable in the event these employees leave the borough.

Therefore, we feel that the departments visited in the selected boroughs would benefit from adopting a documented and standardized methodology for greater assurance of law and regulation compliance. Without systematically documenting the knowledge level evaluation and risks associated with the laws and regulations governing its activities, the unit is deprived of a useful reference and decision-making tool in determining the corrective measures to be taken to ensure compliance with laws and regulations at all times. We also believe that it would be beneficial for these evaluations to be regularly reviewed against a directory of laws and regulations that has been properly constituted and updated. These evaluations should be filed in such a way as to be accessible to relevant managers and employees.

In our opinion, the approach currently used will make it difficult to attest that all reasonable means have been taken to ensure compliance with laws and regulations. It is therefore important to have tools to regularly document and update the knowledge level evaluation of law and regulation within the unit.

#### **3.3.2.B. Recommendations**

**To attest that all reasonable measures have been taken to ensure compliance with the laws and regulations applicable to it and to benefit from a reference and decision-making tool to determine the required corrective measures, we recommend that the Travaux publics departments of the Lachine, Montréal-Nord, Côte-des-Neiges–Notre-Dame-de-Grâce and Le Plateau-Mont-Royal boroughs:**

- **Document the evaluation of the knowledge and underlying risks associated with each of the laws and regulations pertaining to its activities.**
- **Update these evaluations regularly along with documentation of other evaluations of laws and regulations added to the directory of laws and regulations.**
- **Make these evaluations accessible to the relevant personnel.**

#### **3.3.2.C. Action Plan of the Relevant Business Unit**

- **LACHINE BOROUGH**

*[TRANSLATION] “In order to evaluate law and regulation knowledge and the risks of non-compliance, the Direction des travaux publics and the other departments will*

*perform, as needed, an initial 'rough' analysis of the risks for each of the laws and each of the regulations using the risk analysis grid. This step will enable us to give precedence to the laws and regulations that need a more thorough evaluation of the knowledge level and underlying risks associated with them.*

*Regular updates will be performed according to legislative and regulatory modification tracking and communication mechanisms.” (Planned completion: September 2012)*

- **MONTRÉAL-NORD BOROUGH**

*[TRANSLATION] “Meeting to be set up with the directors to explain the fact sheets and risk assessment worksheets as well as their individual responsibilities.*

*Each applicable law and regulation will be evaluated on the knowledge level and underlying risks associated with it. A fact sheet will be completed for each applicable law and regulation by the relevant department or division. Each sheet will describe the current mechanisms used to develop, maintain and increase staff expertise as well as the mechanisms that should be put in place to reduce the risks of errors in the application of these laws or regulations.*

*A risk analysis grid will be completed for each fact sheet.*

*Meeting to be organized with the designated authorities to explain the fact sheets and risk evaluation worksheets as well as their individual responsibilities. Submission of the directory of regulations, as well as an example of a fact sheet and risk assessment grid.*

*Fact sheets and risk analysis grids will be placed on a shared network in read-only mode, thereby making them accessible to all relevant persons. The borough secretary will be responsible for keeping the sheets and grids on the shared network up to date.*



The borough director will monitor production of the fact sheets and risk assessment grids.” **(Planned completion: June 2012)**

- **CÔTE-DES-NEIGES–NOTRE-DAME-DE-GRÂCE BOROUGH**

[TRANSLATION] “A meeting will be held between the Direction des travaux publics and the Division du greffe. Each of the four divisions of Travaux publics as well as the Section de la gestion des véhicules will be convened to discuss the pertinence of each law and its application. This exercise will also be carried out with each of the borough directors. **(Planned completion: June 2012)**

To evaluate law and regulation knowledge and risks of non-compliance, the Direction des travaux publics will fill out the table in the directory as well as the risk analysis grid for each law and regulation. Documents supporting risk control evaluation will be attached to the directory and the grid. **(Planned completion: August 2012)**

Specific updates will be made to reflect legislative modifications. **(Planned completion: March and September 2012)**

A formal meeting between the Direction des travaux publics and the Division du greffe will be set up to validate the information. **(Planned completion: September 2012)**

The Division du greffe will post the complete file on the borough’s file sharing site to ensure that all managers have access to it.” **(Planned completion: September 2012)**

- **LE PLATEAU-MONT-ROYAL BOROUGH**

[TRANSLATION] “Meetings will be organized between the Direction des travaux publics and the Division des relations avec les citoyens et du greffe. Each administrative unit of the Direction des travaux publics will be convened to discuss the pertinence of each law and its application. **(Planned completion: May 2012)**

*In order to evaluate law and regulation knowledge and the risks of non-compliance, the Direction des travaux publics will fill out the risk analysis grid for every law and regulation. (Planned completion: June 2012)*

*The directory and risk analysis grids will be filled out once a year. Specific updates will be made to reflect legislative modifications. (Planned completion: September 2012)*

*The information will be validated through formal meetings between the relevant units. (Planned completion: September 2012)*

*The Division des relations avec les citoyens et du greffe will post the complete file on the borough's file sharing site to ensure that all employees have access to it." (Planned completion: September 2012)*

### **3.4. TRACKING AND COMMUNICATION MECHANISMS FOR LEGISLATIVE AND REGULATORY MODIFICATIONS**

Local government officers must ensure compliance with a considerable number of laws and regulations that are constantly changing. New laws and regulations appear, while others are replaced or become obsolete. The frequency of legislative and regulatory modifications makes the implementation of tracking and communication mechanisms essential to ensuring that staff is informed at the appropriate time and possess up-to-date information allowing them to perform their duties in an efficient and knowledgeable manner. Lack of knowledge with regard to legislative and regulatory changes can bias decision making with inaccurate information.

Given the circumstances, it is essential to ensure constant legal monitoring using various sources of information to recognize any new legal provisions or laws related to the activities of the business unit, address this information and convey it to relevant employees.

In sum, this legal monitoring is the starting point for ensuring law and regulation compliance and is an important element in reducing the risks of non-compliance. It also

serves as the basis for updating the directory of laws and regulations, reducing uncertainty and, despite its importance, reliance on experience alone.

Apart from tracking and communication mechanisms for modifications to laws and regulations that each city business unit must provide, information obtained showed that certain central departments in the municipal government also contribute to this legal monitoring through their roles and responsibilities. For example, the Service des affaires juridiques et de l'évaluation foncière provides support to the city's various business units. Among other things, it ensures tracking, analysis and dissemination of information related to major modifications to the laws and regulations affecting all city business units. It organizes information sessions upon request, provides legal advice when necessary and is occasionally part of special mandates related to the legal and regulatory fields. The Direction du greffe, which comes under the city's Direction générale, publishes the municipal by-laws adopted by city council and the urban agglomeration council.

The subsection that follows presents observations from reviewing tracking and communication mechanisms for legislative and regulatory modifications in central departments, the CSEM and selected boroughs performed as part of our audit.

### **3.4.1. CURRENT SITUATION IN CENTRAL DEPARTMENTS, THE COMMISSION DES SERVICES ÉLECTRIQUES DE MONTRÉAL AND THE BOROUGHS**

#### **3.4.1.A. Background and Findings**

Our audit led us to inquire about the existence of tracking and communication mechanisms in the selected business units for legislative and regulatory modifications or new entries.

According to the information received from the people we met with, the following are most commonly used to monitor these modifications or developments:

- subscriptions to laws and regulations
- subscriptions to software packages, newsletters, journals and specialty magazines (e.g., *Gazette officielle du Québec*)

- legal websites (e.g., Publications du Québec)
- provincial and federal government websites and the documentation distributed by government bodies (e.g., Société de l'assurance automobile du Québec [SAAQ])
- training sessions and seminars
- information from partners and city business units, including the Service du capital humain, the Direction de l'approvisionnement and the Direction du matériel roulant et des ateliers municipaux (the final two both come under the SCARM)

To inform their staff of legislative and regulatory modifications that come up, the people we met with stated that they use various means, including:

- sending information through e-mail or internal memos
- discussing during management or staff meetings
- posting modification notices on bulletin boards
- holding training sessions
- preparing and distributing guides related to the application of specific laws or regulations

In addition, the borough secretary is very often the borough resource person when it comes to handling and communicating legislative and regulatory modifications.

We found certain ambiguities with the sharing of roles and responsibilities, however, between the DSTI and the Direction des immeubles (under the SCARM) in tracking legislative and regulatory modifications of the laws and regulations governing all Direction des immeubles activities. In fact, based on the information obtained during the interviews we conducted, we found that the DSTI employee that creates the directory and fact sheets for the Direction des immeubles only tracks legislative and regulatory modifications related to his field of expertise, i.e., aspects related to the building industry. In other words, he does not monitor other laws and regulations affecting the activities of the Direction des immeubles (e.g., the *Private Security Act*, which specifically affects the activities of the Division sécurité, the *Regulation respecting the awarding of contracts for certain professional services*, the *Act respecting Occupational health and safety*, and the *Act respecting industrial accidents and occupational*

*diseases*). It appears that no other resource is formally designated to perform this task in the Direction des immeubles.

In addition, according to the information obtained from the people we met with in the Direction des immeubles, mechanisms to systematically communicate legislative and regulatory modifications to all relevant employees have not been introduced. According to these people, it is up to the DSTI, among others, to track modifications and inform Direction des immeubles employees in a timely manner. However, the DSTI employee that we met with stated that he does not communicate information related to legislative or regulatory modifications that he monitors. He claims to have a role of regulatory advisor and provides the necessary support to Direction des immeubles employees who request it.

We feel it would be advisable to review this sharing of roles and responsibilities so that legal monitoring is systematically applied to all laws and regulations pertaining to Direction des immeubles activities. Furthermore, it would be in the Direction des immeubles's best interest to take the necessary measures to ensure that its entire staff is kept up to date on legislative and regulatory modifications affecting the laws and regulations related to its activities.

## **CONCLUSIONS AND OBSERVATIONS FOR ALL BUSINESS UNITS VISITED**

While we observed that the measures taken to ensure follow-up and communication of legislative and regulatory modifications in most of the business units visited were largely relevant, we believe that certain improvements could be made to increase the effectiveness of legal monitoring.

In particular, our audit revealed that none of the units visited have adopted a reference tool (e.g., a guide, a manual or a quick reference tool) making it easy to learn about and find all the relevant sources of information, and even access them for legal monitoring.

This reference tool could include the following information, among other things:

- detailed list of the activities under the responsibility of the various administrative units in the business unit

- location of certain background information (e.g., directory of laws and regulations, knowledge of laws and regulations evaluations and associated risks)
- list and contact information of resource persons in the business unit involved and other city business units
- list of the business unit's legal subscriptions and, if applicable, the name of the people to contact for access
- list of the various legal websites that could be checked
- list and details of newsletters and specialized journals produced by various government departments and other bodies associated with the areas of activity under the responsibility of a given administrative unit

In our opinion, the introduction of such a reference tool would help structure monitoring, making it more efficient. It would also be a useful support tool for designated personnel to track and communicate the legislative and regulatory modifications for the activities under its responsibility.

#### **3.4.1.B. Recommendations**

**To avoid ambiguity and facilitate the legal monitoring of activities under its responsibility, we recommend that the Direction des immeubles, in collaboration with the Direction des stratégies et transactions immobilières:**

- **clarify role- and responsibility-sharing for tracking legislative and regulatory modifications and take the necessary steps to ensure that legal monitoring is performed for all laws and regulations that apply to its activities**
- **introduce appropriate communication mechanisms to ensure that all relevant personnel is systematically informed of legislative and regulatory modifications that affect the activities under its responsibility**

**We recommend that the Direction de l'environnement et du développement durable, the Direction de l'eau potable, the Direction des immeubles, the Commission des services électriques de Montréal, the Travaux publics departments of the Lachine, Montréal-Nord, Côte-des-Neiges–Notre-Dame-de-Grâce and Le Plateau-Mont-Royal boroughs adopt a reference tool to help search for information on tracking legislative and regulatory modifications affecting the**

activities under their responsibility, for a more structured and functional legal monitoring process.

#### 3.4.1.C. Action Plan of the Relevant Business Unit

- **DIRECTION DES IMMEUBLES**

[TRANSLATION] “The DSTI/Direction des immeubles working committee will establish the general and specific responsibilities relating to tracking laws and regulations for each department.

*The DSTI/Direction des immeubles working committee will determine the measures to put in place to ensure that the personnel involved is informed of legislative and regulatory modifications.*

*The DSTI/Direction des immeubles working committee will identify reference tools to help search for information on tracking legislative and regulatory modifications affecting real estate activities.” (Planned completion: October 2012)*

- **DIRECTION DE L'ENVIRONNEMENT ET DU DÉVELOPPEMENT DURABLE**

[TRANSLATION] “Acquire a reference tool to help search for information on tracking legislative and regulatory modifications related to our activities:

- Develop a guide listing all relevant sources of information
- Keep the guide up to date
- Establish a specific section for the guide as part of the mandate to create a classification scheme for all DEDD documents
- Adjust computer security to make the guide files accessible to authorized personnel” (Planned completion: November 2012)

- **DIRECTION DE L'EAU POTABLE**

[TRANSLATION] “Discussions with the Service des affaires juridiques et de l'évaluation foncière on ways to ensure effective legal monitoring. (Planned completion: May 2012)

Implementation of the measures identified.” (**Planned completion: September 2012**)

- **COMMISSION DES SERVICES ÉLECTRIQUES DE MONTRÉAL**

[TRANSLATION] “Develop a mechanism to ensure the reception and appropriate handling of legislative and regulatory modifications as well as their communication to relevant personnel.” (**Planned completion: January 2012**)

- **LACHINE BOROUGH**

[TRANSLATION] “It was agreed in September 2011 that a lawyer would be hired in early 2012 and would be paid for by the boroughs to:

- monitor legislative modifications relating to the activities of the boroughs
- monitor jurisprudence in relation to the activities of the boroughs
- disseminate relevant information arising from legal opinions
- draft legal bulletins
- provide training when needed” (**Planned completion: December 2012**)

- **MONTRÉAL-NORD BOROUGH**

[TRANSLATION] “The borough secretary will communicate regulatory modifications to relevant directors through the Gazette officielle du Québec, Partie II.

For every regulatory modification, a decision will have to be made as to follow-up, that is:

- no impact on work performed, no additional risk factor
- only the relevant employees need to be informed
- training is needed to implement the regulatory modifications
- special or additional equipment must be acquired

Each director will follow up appropriately on the regulatory modification, updating the risk assessment grid and notifying the borough secretary.



*By September 1 every year, each director will have to produce and submit to the borough director a certificate of compliance with laws and regulations affecting his or her department.*

*In October of each year, the borough director will have to produce a certificate of compliance with laws and regulations for the borough.” (Planned completion: December 2012)*

- **CÔTE-DES-NEIGES–NOTRE-DAME-DE-GRÂCE BOROUGH**

*[TRANSLATION] “Yearly subscription to the Gazette officielle du Québec for access to legal advice and provincial laws and regulations.*

*Post all laws and regulations that have been compiled in the directory on the borough’s file sharing site.*

*Prepare and distribute a CD-ROM containing every law and regulation affecting their area of activity to all relevant personnel in each department.*

*Post all regulations adopted by the borough on its file sharing site.” (Planned completion: September 2012)*

- **LE PLATEAU-MONT-ROYAL BOROUGH**

*[TRANSLATION] “A message will be sent to all relevant managers by the Division des relations avec les citoyens et du greffe when a legislative or regulatory modification is made. Follow-up will be carried out with the central department lawyer.*

*The list of laws and regulations and all updates will be uploaded to the shared server.” (Planned completion: December 2012)*

### 3.5. ACCOUNTABILITY WITH REGARD TO REGULATORY COMPLIANCE CERTIFICATION

#### 3.5.A. Background and Findings

Given the range of laws and regulations governing city activities, it is important that managers in charge of all the business units it contains implement the necessary measures to ensure that compliance with these laws and regulations is incorporated into the day-to-day management of the activities under their responsibility. They are ultimately responsible for action in their unit, and must therefore take the necessary steps to ensure that employees in their unit apply the laws and regulations governing their area of activity, so that they can, in turn, regularly report on this compliance.

Accordingly, as per the administrative framework adopted on October 10, 2010 (the most recent at the time of our audit), directors of the central departments, presidents of bodies such as the CSEM, as well as borough directors should report annually to the city manager by submitting a certificate of compliance with laws and regulations. This certificate must be produced by October 1 of each year for the twelve previous months (October 1 to September 30). By this certificate, the authorized person attests that, to the best of his or her knowledge, he or she has:

- taken the necessary measures to track legislative and regulatory modifications affecting the areas of expertise of his or her business unit
- taken the proper steps to inform personnel who apply the laws and regulations related to their area of activity in the course of their activities
- updated the evaluation of risks associated with non-compliance with laws and regulations

Based on our understanding, the next expected certificates of compliance since the administrative framework of October 10, 2010, should be dated October 1, 2011. However, remember that at the time of our audit, the framework on compliance with laws and regulations did not formally apply to the boroughs because the city's Direction générale had not made the framework a strategic operation.

Given that a previous version of the administrative framework on compliance with laws and regulations already existed (published in August 2007) and also provided for the production of a certificate of compliance, we wanted to make sure that the business units that we audited had in fact produced their certificate of compliance and submitted it to the Direction générale on time. Keep in mind that the August 2007 administrative framework only applied to central departments (consequently, it did not apply to the boroughs and other bodies, specifically the CSEM) and that, pursuant to this framework, the certificate of compliance had to be produced by September 1 of each year rather than October 1, as is presently the case.

Our audit revealed that the DEDD and the Direction de l'eau, which then came under the former Service des infrastructures, transport et environnement, as well as the Direction des immeubles, which then came under the former Service de la mise en valeur du territoire et du patrimoine, had duly produced the required certificate of compliance in 2008 and 2009. However, for the period of September 1, 2009 to August 31, 2010, no certificate was produced.

In conclusion, because of the number and range of laws and regulations that govern the city's areas of activity, we feel it is essential that the managers responsible for the business units follow the established mechanism. Accountability creates pressure to motivate action while providing the city administration with reasonable assurance that the proper non-compliance risk reduction measures have been taken in the city. We believe that all the necessary steps must be taken by the Direction générale to ensure that each business unit that falls within the scope of the current administrative framework regularly produce their certificate of compliance.

### **3.5.B. Recommendations**

**To provide reasonable assurance that the risks of non-compliance with laws and regulations are managed effectively, we recommend that the Direction générale take all necessary steps to ensure that business units that fall within the scope of the current administrative framework produce their certificate of compliance within the required timeframes in accordance with the directive.**

**3.5.C. Action Plan of the Relevant Business Unit**

*[TRANSLATION] “A request was sent by the city manager to the central departments on August 10, 2011, and to the boroughs and CSEM on September 8, 2011, to remind them that they are required to provide us with the said certificate within the prescribed timeframes.” (Completed)*