



Report of the Auditor General of the Ville de Montréal to the City Council and to the Urban Agglomeration Council

For the Year Ended December 31, 2013

Comments and Recommendations from the Auditor General

1



1. Comments and Recommendations from the Auditor General

As in past years, my introduction includes a few comments and recommendations for the municipal administration. This year, I feel it is appropriate to address the following topics of interest:

- Process for following up on recommendations issued by the Bureau du vérificateur général;
- Compliance with laws and regulations;
- Quality of infrastructure work;
- Corruption and collusion awareness program;
- Audit of the financial statements of the Ville de Montréal and the Société de transport de Montréal (STM).

Process for Following Up on Recommendations Issued by the Bureau du vérificateur général

In May 2014, Bureau du vérificateur général (BVG) officials followed up, as they do every year, on the recommendations from previous audit reports and the extent to which they have been implemented. I would like to draw your attention to three points that we observed during this process.

First, after the BVG issues audit reports, the concerned business units are asked to prepare a plan of action, including a target completion date for putting the recommendations into practice. The proposed timeframes often run longer than a year. During our follow-up work, we came to the conclusion that some of these recommendations could have been implemented in a timelier manner. I feel that awareness within the business units must be raised so that most of the BVG's recommendations are executed in less than a year.

Second, in an effort to monitor the status of these recommendations, the BVG consults the information entered into the audit record management system (GDV) by the business units. In many cases, the BVG must obtain additional information and documentary evidence to substantiate the status as indicated by the corresponding business unit. In some instances, the requested information is slow to arrive and requires several follow-up calls or emails to those in charge. I believe that the business units should be apprised of the importance of providing the requested information promptly and recording it in the GDV application.

Third, a number of new people have been put in charge of implementing certain recommendations since our last follow-up (as a result of staff retirements or reassignments) without having been briefed by their respective business units on the nature of the recommendations made and the initial action plan. This can lead to protracted implementation times. Given that the recent changes made in the city's organizational structure will exacerbate this situation, I believe that the business units must ensure that designated individuals carry out the recommendations issued by the BVG in accordance with the action plan as submitted, regardless of any personnel changes that occur.

Recommendation

I recommend that the Direction générale take action to raise awareness among the business units about the importance of implementing the recommendations issued by the Bureau du vérificateur général within a year's time, in most cases, and that this condition be taken into account in the action plans submitted.

Recommendation

I recommend that the Direction générale impress upon the business units the importance of submitting the requested information to the auditor general in a timely manner and to upload it to the GDV application as proof of the status of the recommendations made in order to ensure their implementation can be monitored in an efficient manner.

Recommendation

I recommend that the Direction générale remind the business units to be prompt in reassigning these tasks following a staff departure or rotation in order to minimize implementation times for the BVG's recommendations.

Compliance with Laws and Regulations

The laws and regulations that the business units must apply are numerous and, in some cases, complex. This requires the people in charge of various activities to develop and maintain a body of knowledge and implement control mechanisms to ensure these activities comply with all applicable legislative and regulatory requirements.

Accordingly, an administrative framework was adopted in September 2011 by the Direction générale requiring all business units to issue a compliance certificate on an annual basis, attesting that they have taken all reasonable measures to ensure that they adhere to the laws and regulations that govern their areas of responsibility.

Despite this, the audits conducted by the BVG within select boroughs revealed several significant instances of non-compliance with regard to laws and regulations, including three related to the following: provisions of the *Act Respecting Land Use Planning and Development* concerning the contribution to parks, the *Regulation Respecting the Hours of Driving and Rest of Heavy Vehicle Drivers* and the *Private Security Act*. I have therefore concluded that, even though all the required compliance certificates were issued and submitted to the Direction générale, more still needs to be done to ensure legislative and regulatory adherence. I am of the opinion that the Direction générale should re-emphasize how important it is for the business units to comply with all applicable laws and regulations, since the risks associated with not doing so can lead to serious consequences in terms of financial loss, wrongdoing and accidents involving employees and the public, not to mention the city's credibility.

Recommendation

I recommend that the Direction générale remind the business units of the importance of adhering to laws and regulations that govern their operations, in accordance with the administrative framework adopted in this regard, in order to minimize the risks associated with non-compliance.

Quality of Infrastructure Work

One of the sections later in this report deals with activities undertaken to control the quality of materials used to replace and maintain infrastructure assets, including bridges, tunnels, roads, sewers and the water supply system. The observations included in this section suggest that the construction work associated with the city's infrastructure may have been done without obtaining the assurance that the quality of the materials used was adequate and consistent with the city's needs. This is particularly worrisome in the current context, with many of the city's infrastructure assets already in a state of disrepair.

In my report dated December 31, 2010, I highlighted the poor condition of many city-managed bridges and tunnels. I contended that years of serious underfunding were hastening the deterioration of these assets. The action plan drafted by the Direction des transports stated that the BVG's recommendations would be taken into account. Although we have not conducted a thorough follow-up evaluation on the investments made or planned in order to improve the condition of bridges and tunnels, I do expect that measures have been undertaken in this regard. In fact, recent reports confirm that significant investments have been made for this very purpose.

The report I filed last year also stressed the chronic underfunding of secondary water and sewer system infrastructure upkeep and upgrades. The same observation was made about the arterial road system. In both cases, this lack of adequate investment has hastened the deterioration of these infrastructure assets, just as it has done in the case of bridges and tunnels. I stipulated that if nothing is done to remedy the situation the city could find itself in a critical position, in which the ensuing backlog would be difficult and very costly to address. Once again, action plans were drafted by the city, this time outlining specific corrective measures.

There is an undeniable link between the state of disrepair of the city's assets and level of quality and compliance of the materials used. Although this is not the only underlying cause of the precarious state of municipal infrastructure, it is reasonable to conclude that the lack of quality control with regard to the materials used could be one of the driving factors behind the poor condition of these assets. Furthermore, it is disturbing to realize that past infrastructure investments may have been made without a comprehensive quality control process in place to ensure the materials and installation adhered to strict standards.

In addition, considering that the city will need to make substantial investments in the coming years for infrastructure renewal purposes, sufficient controls will be required to ensure the

quality of the materials used and avoid squandering public funds on substandard work whose durability may be compromised as a result.

Recommendation

I recommend that the Direction générale include a control mechanism in the new organizational structure to provide fully independent confirmation that all frameworks governing the quality of infrastructure work have been adhered to in order to optimize the annual investments made.

Corruption and Collusion Awareness Program

In my report dated December 31, 2009, I referred to a situation that I found particularly puzzling. According to figures and studies compiled by the BVG between 2005 and 2009, 21 contracting firms had been awarded a substantial percentage of contracts for the development, rehabilitation and replacement of facilities and infrastructure assets (\$158 million for the boroughs and \$811 million for the central city). What's more, the proportion of the contracts granted to these firms varied from borough to borough. In some boroughs, contracts were awarded to several different contractors, while in others almost every contract was given to the same firm, which implied a deliberate distribution of contracts in Montréal to select contractors.

Recent testimony at the Commission of Inquiry on the Awarding and Management of Public Contractors in the Construction Industry (the Charbonneau Commission) shed light on the schemes allegedly used by various players active in the Montréal market. These alleged strategies can be broken down into three categories:

- Internal collusion involving several individuals in the city's chain of command;
- Corruption of municipal employees and elected officials by organizations with interests in the city;
- External collusion by various firms with the intent of creating cartels to share contracts and fix prices.

It is important to point out that this is a "highly organized" system in which all the stakeholders have interests and wish to keep their schemes from being disclosed.

Corruption and collusion schemes are extremely complex and difficult to detect because they involve secret agreements made behind closed doors. However, the testimony heard at the Charbonneau Commission, presuming it is true, corroborates the findings I outlined in my 2009 report.

This year, the BVG decided to examine the process for awarding contracts in two core sectors vital to Montréal residents, namely snow removal and the collection of household waste and recyclables. I sought to come up with an overall picture of the contracts awarded during the previous nine years (2005–2013). The results of our efforts lead me to conclude that bid rigging is possible in the case of snow removal operations and probable in the case of household waste and recyclable collection and transportation. Furthermore, it would seem that some companies are closely affiliated, which increases the risk of bid rigging while still creating an illusion of competitive bidding.

As I mentioned early, external collusion schemes are extremely difficult to uncover because they involve secret agreements between third parties. However, I find the results of our analysis of the construction industry in 2009 as well as this year's findings to be extremely telling.

The data used in the BVG's studies, both in the 2009 analysis of the construction industry and the 2013 audit of snow removal and household waste and recyclable collection and transportation, were accessible through the boroughs' administrations and the city's Direction générale. Nevertheless, I firmly believe that if the data had been easier to obtain and compiled and analyzed for all business units, it would have undoubtedly made it easier to draw decisive conclusions and take the appropriate measures to put an end to any "cartel-like" agreements.

I applaud the municipal administration's initiative in creating the Bureau de l'inspecteur général. This additional measure will no doubt help expose possible collusion and corruption, although it should not be seen as a cure-all for detecting every incident of contract-related wrongdoing. The city's employees and senior managers remain the first line of defence.

In addition to the three recommendations made to the Direction générale in Sections 5.11 and 5.12 of this report concerning contracts for snow removal and for the collection and transportation of household waste and recyclables, I also recommend the following.

Recommendation

I recommend that the Direction générale establish a corruption and collusion awareness program for employees in the various business units who are more likely to be exposed to incidents of this nature. This program should provide information on possible schemes, available means of detection and escalation practices to be employed if a potential scheme is unearthed. The program should also make use of specific analytical tools and methods.

Audit of the Financial Statements of the Ville de Montréal and the Société de transport de Montréal (STM)

An audit of the consolidated financial statements of the Ville de Montréal for the fiscal year ended December 31, 2013, was conducted jointly with the firm Deloitte. Subsequently, an unqualified audit report was issued by the auditor general and a qualified audit report was issued by Deloitte. The reason for the qualified opinion is the approach used in the accounting of government transfers. A revised version of the government transfers accounting standard is now in effect for all fiscal years beginning on or after April 1, 2012. The basis for my unqualified opinion stems from my interpretation of this new standard. This new standard asserts that a government transfer must be recorded as revenue when it is authorized and the corresponding eligibility criteria are met. However, it also specifies the recipient's authorization criterion, linking it with the authorization from the assigner. This explains the divergent interpretations. I believe that government representatives are qualified to negotiate and conclude valid agreements and that, consequently, a government transfer is considered to be authorized when a duly designated representative signs an agreement and informs the recipient in writing of the decision to proceed with the transfer. In my opinion, these facts establish that there is an expectation that these government transfers will indeed be authorized and obtained.

It should be noted that this interpretation is shared by the auditors general of the nine other largest municipalities in Québec, the provincial auditor general and various accounting firms.

As concerns the audit of the financial statements of the Société de transport de Montréal (STM), the opposite occurred: a qualified audit report was issued by the auditor general, while Deloitte, once again the joint auditor, issued an unqualified audit report. Here too, the basis of my qualified opinion lies in my interpretation of this new standard vis-à-vis the manner in which the accounting figures are presented by the STM.