

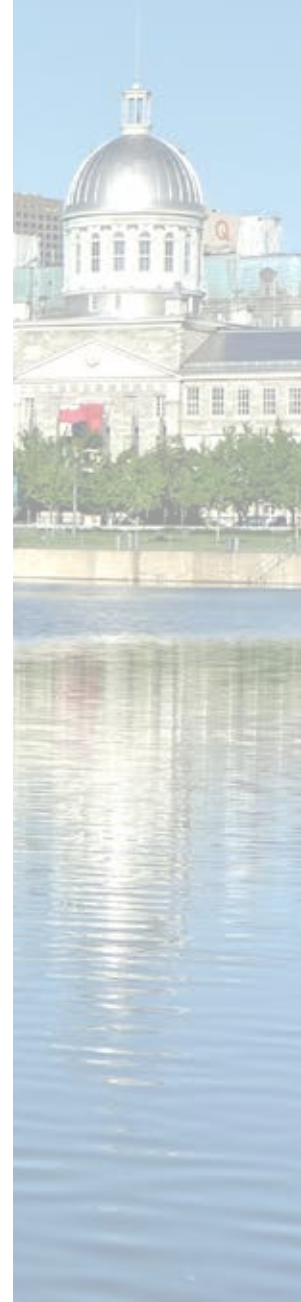


# **Report of the Auditor General of the Ville de Montréal to the City Council and to the Urban Agglomeration Council**

For the Year Ended December 31, 2013

# 5.8

## **Compliance with Laws and By-laws**





## Table of Contents

1. Introduction .....	235
2. Purpose and Scope of the Audit .....	236
3. Summary of Findings .....	237
4. Detailed Findings and Recommendations .....	239
4.1. <i>The Act Respecting Land Use Planning and Development</i> and Municipal By-laws Respecting the Contribution for Parks, Playgrounds and Natural Areas .....	240
4.2. <i>Regulation Respecting the Hours of Driving and Rest of Heavy Vehicle         Drivers</i> .....	313
4.3. <i>Private Security Act</i> .....	343
4.4. Accountability Mechanisms .....	350
5. General Conclusion .....	353
6. Appendices .....	357
6.1. Enforcement of By-laws Governing the Contribution for Parks .....	357
6.2. Certificate of Compliance with Laws and By-laws [TRANSLATION] .....	358

## List of Acronyms

ALUPD	<i>Act respecting land use planning and development</i>	PMP	preventive maintenance program
DAUSE	Direction de l'aménagement urbain et des services aux entreprises	SAAQ	Société de l'assurance automobile du Québec
GVWR	gross vehicle weight rating	SAJEF	Service des affaires juridiques et de l'évaluation foncière
MAMROT	Ministère des Affaires municipales, des Régions et de l'Occupation du territoire	SCARM	Service de concertation des arrondissements et des ressources matérielles

---

## 5.8. Compliance with Laws and By-laws

### 1. Introduction

Because of the powers conferred on boroughs, particularly by the *Charter of Ville de Montréal*<sup>1</sup> and by by-laws that delegate city council powers (delegation by-laws) to them, they carry out a wide variety of activities and provide a wide array of services to citizens on their respective territories. To carry out these activities and provide these services, the boroughs must both enforce and comply with a large number of laws and by-laws. As a result, they face a plethora of legal and regulatory requirements, each with its share of complexity and distinctive characteristics, which increases the risk of non-compliance.

Laws and by-laws may concern, for example, the issuing of permits, claims for special expenses in connection with certain permit applications, the use of vehicles and the environment.

When risks of non-compliance with laws and by-laws become reality, the consequences are serious, taking the form, for example, of financial losses for the Ville de Montréal (the city), poor management decisions, a dissatisfied citizenry, public criticism of government authorities and a negative image of the city or borough. To mitigate these non-compliance risks, it is now an integral part of good risk management practices to implement measures designed to ensure compliance with laws and by-laws.

Within the city, in 2004, the department known at that time as the Service des affaires corporatives<sup>2</sup> took measures to compile an inventory of the laws and by-laws applicable to the central departments and provide risk analysis tools. In the wake of these measures, the city manager approved an initial administrative framework entitled “Conformité aux lois et règlements” in 2007. In 2008 and 2009, the process was continued in order to integrate the boroughs. The process ended with the production of an initial inventory of the laws and by-laws that concern the boroughs, which was disseminated to them. In October 2010, the city manager approved a second administrative framework to replace the 2007 framework, urging the boroughs to abide by this new framework so that it could be implemented.

In September 2011, the city manager approved a third administrative framework on compliance with laws and by-laws, declaring this time that compliance with laws and by-laws

---

<sup>1</sup> RSQ, chapter C-11.4.

<sup>2</sup> This department no longer exists. Most of the directorates that were part of this department at the time of our audit are now under the jurisdiction of the Service des affaires juridiques.

was a strategic issue, which had the effect of making this framework applicable to the boroughs under Section 57.1 of the *Charter of Ville de Montréal*.

As is true for the central department directors and the president of the Commission des services électriques de Montréal, all borough directors must submit to the city manager a certificate of compliance every year attesting that, to the best of their knowledge, they have taken every reasonable measure to ensure compliance with the laws and by-laws associated with their areas of activity.

Moreover, the profusion of laws and by-laws that boroughs must enforce can prove to be quite complex; it means that officials in charge of activities must not only develop and maintain knowledge, they must also establish monitoring mechanisms to ensure compliance with the laws and by-laws.

## 2. Purpose and Scope of the Audit

The purpose of our audit was to examine all the measures implemented by boroughs to ensure compliance with certain laws and by-laws governing their activities and the services they must provide to citizens.

To ensure compliance, we focused more specifically on the monitoring mechanisms established, the presence of measures providing for corrective action in the event of non-compliance, the training of employees assigned to targeted activities, and lastly, the accountability mechanisms established.

We conducted our audit work in Le Sud-Ouest, Saint-Laurent and L'Île-Bizard–Sainte-Geneviève boroughs. Our examination covered the following laws and by-laws:

- The provisions of the *Act respecting land use planning and development*<sup>3</sup> (ALUPD) on the contribution for parks, playgrounds and natural areas as well as the municipal by-laws enforced by the boroughs:
  - For Le Sud-Ouest borough: the *By-law concerning cadastral operations*<sup>4</sup> (By-law O-1),
  - For Saint-Laurent borough: the *By-law concerning the transfer for the establishment, maintenance and improvement of parks and playgrounds, and the preservation of natural areas, on the territory of Saint-Laurent borough*<sup>5</sup> (By-law 08-005),

---

<sup>3</sup> RSQ, chapter A-19.1.

<sup>4</sup> City council, RRVM, chapter O-1, July 7, 2000.

<sup>5</sup> City council, By-law 08-005, April 28, 2008.

- For L'Île-Bizard–Sainte-Geneviève borough: the *By-law concerning the transfer for the establishment, maintenance and enhancement of parks and playgrounds, and the preservation of natural spaces, on the territory of L'Île-Bizard–Sainte-Geneviève Borough*<sup>6</sup> (By-law 09-002),
- For all the city's boroughs: the *By-law concerning the issue of certain building permits*<sup>7</sup> (By-law 02-065);
- The *Regulation respecting the hours of driving and rest of heavy vehicle drivers*,<sup>8</sup>
- The *Private Security Act*.<sup>9</sup>

For the three boroughs selected, our audit, which began in the spring of 2013, covered the following periods for the laws and by-laws examined:

- The ALUPD, including municipal by-laws respecting the contribution for parks: 2011, 2012 and the first seven months of 2013;
- The *Regulation respecting the hours of driving and rest of heavy vehicle drivers*: 2012 and 2013;
- The *Private Security Act* since it came into force in 2010.

Our audit also took into account information that was transmitted and communicated to us up until March 2014. For some elements, we also took into account information prior to those years. For the *By-law concerning the issue of certain building permits (02-065)* in particular, we carried out additional work, for comparison purposes, involving all the boroughs, essentially to determine the level of awareness of this by-law and whether it was enforced.

### 3. Summary of Findings

As a result of our audit, we were able to identify sectors where improvements should be made. The following sections of this audit report exposed deficiencies in the areas of compliance with the following laws, by-laws and accountability reporting:

- The ALUPD and municipal by-laws respecting the contribution for parks, playgrounds and natural areas (Section 4.1):
  - With the current monitoring mechanisms, it is not possible to ensure that all by-laws respecting the contribution for parks were reviewed in connection with permit applications;

<sup>6</sup> City council, By-law 09-002, May 25, 2009.

<sup>7</sup> City council, By-law 02-065, May 27, 2002 (applies to 17 boroughs, since Le Plateau-Mont-Royal and Rosemont–La Petite-Patrie boroughs integrated the provisions into their by-laws governing land transfers for contributions for parks).

<sup>8</sup> *Gazette officielle du Québec* (GO). Part 2, Vol. 139, No. 22, May 30, 2007, p. 2088-99.

<sup>9</sup> RSQ, chapter S-3.5.

- For the boroughs audited, By-law 02-065 either has not been enforced for more than 10 years, has started to be enforced only very recently, or is enforced but the borough is unable to provide proof that it is enforced;
  - Employees assigned to the processing of permit applications do not consult an up-to-date version of the by-law;
  - The permit files do not systematically provide information on reasons why the contribution for parks was or was not claimed;
  - Conditions for and exemptions from claiming the contribution for parks, provided for in by-laws, are not enforced accordingly;
  - Not all business units keep records of previous contributions that were already paid in cash or as land transfers, and the existing records do not provide all the essential information;
  - The contribution for parks is not assessed in all files in accordance with the by-laws;
  - The borough council does not exercise the choice of contribution collection methods that is provided for in the by-law;
  - Permits are issued before contributions for parks are paid;
  - No procedure for reviewing files has been established;
  - Subdivision and building permits are not signed by managers in charge;
  - Expenditures are made from the special fund for park purposes, even though they are of a type not authorized by the ALUPD;
  - Employees responsible for enforcing by-laws have not mastered them to a sufficient degree that they can ensure compliance;
  - By-law 02-065 and other by-laws respecting the contribution for parks in the boroughs do not appear in the inventory of laws and by-laws placed at the disposal of boroughs;
  - Guides outlining procedures for enforcing by-laws either do not exist or are out of date;
  - There is no awareness of By-law 02-065, and it is not enforced by several other boroughs.
- The *Regulation respecting the hours of driving and rest of heavy vehicle drivers* (Section 4.2):
    - Lists of vehicles used by employees do not include all heavy vehicles covered by the by-law and are out of date;
    - Major non-compliances with rules for hours of driving and rest were noted;
    - Boroughs do not comply with all the by-law requirements for record-keeping of drivers' activities;
    - No registers listing all the by-law requirements are kept, as required by the by-law;
    - No attestation is obtained from independent truckers regarding compliance with rules for hours of driving and rest, as per the form proposed by the Service des affaires



juridiques et de l'évaluation foncière (SAJEF),<sup>10</sup> together with the Service de concertation des arrondissements et des ressources matérielles (SCARM);<sup>11</sup>

- Managers and employees who drive heavy vehicles did not take in-depth training on enforcement of the by-law.
- The *Private Security Act* (Section 4.3):
    - No job analysis procedure was carried out to determine whether employees are required to hold an agent licence;
    - No annual review of job analysis results is conducted;
    - The Act does not appear in the inventory of laws and by-laws placed at the disposal of the boroughs by the SAJEF;
    - Training and information needs were not defined.
  - Accountability mechanisms (Section 4.4):
    - None of the boroughs' administrative units have accountability mechanisms in place for the purpose of declaring that they have taken every reasonable step to ensure compliance with the laws and by-laws applicable to their activities.

#### 4. Detailed Findings and Recommendations

In carrying out their activities, the city and its boroughs must comply with all the laws and by-laws that concern them. To accomplish this, there must be mechanisms enabling all the resources involved in these activities to have an adequate knowledge of these laws and by-laws and enforce them properly in order to ensure compliance.

Note that the administrative framework on compliance with laws and by-laws is aimed at providing the municipal organization with orientations and a procedure for evaluating its ability to meet the requirements of these laws and by-laws while taking into account the associated non-compliance risks.

The purpose of these orientations is to:

- make all business unit managers accountable for all the actions taken in their units;
- ensure that each manager assesses the overall risks associated with the decisions made and measures taken;
- ensure that each manager establishes effective controls to reduce risks.

<sup>10</sup> Name of the department at the time our audit. Effective May 1, 2014, the new designation is Service des affaires juridiques.

<sup>11</sup> Name of the department at the time our audit. Effective May 1, 2014, the new designation is Service de concertation des arrondissements.

Under the prescribed procedure, each business unit can assess the level of non-compliance risk and the degree to which the main elements of these laws and by-laws have been mastered. All business unit managers must have the necessary means at their disposal to inform the people who enforce these laws and by-laws as part of their activities. In addition, each manager must put effective controls in place to reduce non-compliance risks.

The audit we conducted focused on the enforcement of these laws and by-laws in three boroughs (Le Sud-Ouest, Saint-Laurent and L'Île-Bizard–Sainte-Geneviève):

- The ALUPD provisions on the contribution for parks, playgrounds and natural areas as well as the municipal by-laws applicable to the boroughs;
- The *Regulation respecting the hours of driving and rest of heavy vehicle drivers*;
- The *Private Security Act*.

Finally, for the three boroughs selected, we examined the accountability mechanisms adopted to ensure compliance with laws and by-laws.

#### **4.1. The Act Respecting Land Use Planning and Development and Municipal By-laws Respecting the Contribution for Parks, Playgrounds and Natural Areas**

The legal provisions governing the contribution for parks, playgrounds and natural areas are found in the ALUPD.<sup>12</sup> Note that in this audit report, the expression “contribution for parks” will be used. Under this Act, municipalities can claim a contribution for parks when an applicant applies for a subdivision permit (cadastral operation) or building permit.

Cadastral operations primarily involve the subdivision of a lot so that it can accommodate construction. Building permits are required for the construction of a residential, industrial or other building.

The contribution for parks can take the form of a land transfer or it can be paid as compensation—in this case cash—or both at once, if specified by the applicable by-law. Claiming a contribution for parks is a practice that has been in existence for several decades. The city, for example, has claimed such a contribution for close to 50 years.

The intended purpose of this mandatory contribution set out in the ALUPD is to establish, maintain and improve parks and playgrounds and to preserve natural areas. According to a document issued by the Ministère des Affaires municipales, des Régions et de l'Occupation

---

<sup>12</sup> Sections 117.1 to 117.16.

du territoire (MAMROT), the contribution for parks is a useful funding tool because it helps promote public access to parks, playgrounds and natural areas.<sup>13</sup>

At the municipal level, city council has jurisdiction over the contribution for parks under the *Charter of Ville de Montréal*.<sup>14</sup> City council is therefore authorized to enact by-laws respecting the contribution for parks. However, in a delegation by-law, city council delegated the power of enforcing such by-laws to the borough councils.<sup>15</sup>

To illustrate the complexity of the by-laws, note that 14 by-laws related to the contribution for parks were in force at the time of our audit; many of these existed before the new Ville de Montréal was created. Of these by-laws, 12 applied to a single borough, one applied to seven boroughs and one applied to 17 boroughs.

First, the applicable by-laws for the boroughs audited, based on the type of permit application, are reviewed.

---

<sup>13</sup> *La contribution aux fins de parcs, terrains de jeux et espaces naturels: où en sommes-nous?*, MAMROT, March 2011, p. 6.

<sup>14</sup> Section 131.

<sup>15</sup> *By-law concerning the delegation of city council powers to borough councils (02-002)*, adopted December 18, 2001.

**Table 1 – Enforcement of By-laws Establishing the Contribution for Parks, Based on the Type of Permit Application**

Boroughs audited and applicable by-laws	Building permit application	Subdivision permit application
<b>Le Sud-Ouest borough:</b> <ul style="list-style-type: none"> <li>By-law concerning cadastral operations (RRVM, chapter O-1)</li> <li>By-law concerning the issue of certain building permits (02-065)</li> </ul>	X	X
<b>Saint-Laurent borough:</b> <ul style="list-style-type: none"> <li>By-law concerning the transfer for the establishment, maintenance and improvement of parks and playgrounds, and the preservation of natural areas, on the territory of Saint-Laurent borough (08-005)</li> <li>By-law concerning the issue of certain building permits (02-065)</li> </ul>	X X	X
<b>L'Île-Bizard–Sainte-Geneviève borough:</b> <ul style="list-style-type: none"> <li>By-law concerning the transfer for the establishment, maintenance and enhancement of parks and playgrounds, and the preservation of natural spaces, on the territory of L'Île-Bizard–Sainte-Geneviève borough (09-002)</li> <li>By-law concerning the issue of certain building permits (02-065)</li> </ul>	X X	X

We will first describe the scope of the applicable by-laws in the three boroughs audited.

- By-law Concerning Cadastral Operations (RRVM, Chapter O-1)**

This by-law was adopted in 1977, when the former Ville de Montréal still existed, and it is still in force in the boroughs that were created from the former city and for which no other by-law was enacted to replace the provisions on the contribution for parks. Even though this by-law was amended several times, it concerns only cadastral operations, i.e., subdivision permits. It therefore contains provisions dealing specifically with subdivision permits (e.g., consolidation of lots) and the contribution for parks.<sup>16</sup> The ALUPD has applied to boroughs since 2002, and this by-law had to comply with the Act, even though by-laws adopted under the *Charter of Ville de Montréal* prior to 2002 remain in force. However, in the event that a by-law is incompatible with the ALUPD, the latter prevails; the by-law must then be enforced by making the necessary adjustments.

<sup>16</sup> Articles 6 to 8.

- ***By-law Concerning the Transfer for the Establishment, Maintenance and Improvement of Parks and Playgrounds, and the Preservation of Natural Areas, on the Territory of Saint-Laurent Borough (08-005)***

In 2008, city council adopted this by-law, applicable to the territory of Saint-Laurent borough. The by-law provides that a contribution for parks must be claimed in the case of a cadastral operation involving a subdivision permit application as well as in the case of a building permit application involving a redevelopment project. The by-law also sets out conditions for and exemptions from the claim for the contribution for parks in both of these situations. In the case of a subdivision permit application, a contribution for parks must be claimed when a cadastral operation results in the fragmentation of a parcel of land, thereby increasing the number of lots or altering the land area through the addition or withdrawal of a parcel of land. In the case of a building permit application, a contribution for parks is claimed when the construction project is defined as a redevelopment project that replaces a previous land use.

Before this by-law was adopted, the *Subdivision by-law*<sup>17</sup> contained provisions governing the contribution for parks in the case of a cadastral operation when an application was made for a subdivision permit. This by-law was replaced in 2008.<sup>18</sup> Furthermore, the *Zoning by-law*<sup>19</sup> contained provisions governing the contribution for parks in connection with a building permit application involving a redevelopment project. This by-law was also replaced in 2008 following the adoption of a new *Zoning by-law*<sup>20</sup> which, however, does not contain provisions on the contribution for parks. In fact, these two by-laws, which replaced the old zoning and subdivision by-laws, do not contain provisions on the contribution for parks, as the old by-laws did. The by-law that now contains these provisions is By-law 08-005.

- ***By-law Concerning the Transfer for the Establishment, Maintenance and Enhancement of Parks and Playgrounds, and the Preservation of Natural Spaces, on the Territory of L'Île-Bizard–Sainte-Geneviève borough (09-002)***

In 2009, city council adopted this by-law, applicable to the territory of L'Île-Bizard–Sainte-Geneviève borough. The by-law stipulates that a contribution must be claimed in the case of a cadastral operation involving a subdivision permit application as well as in the case

<sup>17</sup> Borough council, By-law 1052, June 28, 1990.

<sup>18</sup> Borough council, By-law RCA08-08-0002, March 4, 2008.

<sup>19</sup> Borough council, By-law 1051, June 28, 1990.

<sup>20</sup> Borough council, By-law RCA08-08-0001, March 4, 2008.

of a building permit application involving a redevelopment project. By-law 09-002 also sets out conditions for and exemptions from claiming the contribution for parks in both of these situations. In the case of a subdivision permit application, when a cadastral operation results in the fragmentation of a parcel of land, thereby increasing the number of lots or altering the land area through the addition or withdrawal of a parcel of land, a contribution for parks is claimed. In the case of a building permit application, a contribution for parks is claimed when the construction project is defined as a redevelopment project, i.e., a construction project aimed at building a new structure, whether on a vacant lot or not, or replacing an existing structure with another structure, except in the case of replacing a single-family dwelling with another single-family dwelling.

Before this by-law was adopted, the borough enforced the *Subdivision by-law*<sup>21</sup> which contained provisions governing the contribution for parks in the case of a cadastral operation involving a subdivision permit application. These provisions are now found only in By-law 09-002.

- ***By-law Concerning the Issue of Certain Building Permits (02-065)***

City council adopted this by-law in 2002 in order to mitigate the adverse financial impacts of the cadastral renewal undertaken in the early 1990s and to allow the contribution for parks to be claimed in connection with building permit applications, when conditions are satisfied. Since the new Ville de Montréal was already in existence when the by-law was adopted, it concerned all of the city's boroughs. Accordingly, the boroughs are responsible for enforcing this by-law.

To provide a better understanding of the impacts of this by-law, which in our estimation are quite substantial, we must describe its origin. After the *Act to promote the reform of the cadastre in Québec*<sup>22</sup> was adopted in 1985, the Québec government embarked on an extensive cadastral renewal operation. This cadastral reform was aimed primarily at updating the cadastre so as to modernize it using computers and technology. At the same time, this reform brought about the creation of a new terminology. People now speak in terms of "renewed territory" and "non-renewed territory." Renewed territory corresponds to the new cadastre, while non-renewed territory corresponds to the old one.

However, for Québec municipalities that had by-laws governing the contribution for parks and the requirement of a separate lot in the case of a building permit application, this cadastral renewal had certain impacts, particularly regarding the contribution for parks.

---

<sup>21</sup> Borough council, By-law 320, November 29, 1990.

<sup>22</sup> RSQ, chapter R-3.1.

One of the municipalities' requirements for granting a building permit was that construction had to take place on a plot of land with a separate lot number. In the former cadastre, parcels of land located in parts of lots were frequently encountered; in other words, these plots of land did not have separate lot numbers. When a piece of land was located in part of a lot, a separate lot number had to be assigned to it when the subdivision permit application was submitted. This meant that the municipality could therefore also require the applicant to pay a contribution for parks.

Under the cadastral reform, a separate number was assigned to each part of a lot, so that it was no longer possible for municipalities to require both a subdivision permit and claim a contribution for parks at the same time. As a result, cadastral renewal led to the elimination of all previously existing parts of lots by assigning a separate seven-digit lot number to each one, in accordance with the new cadastre.

As a result, cadastral renewal had financial impacts on municipalities that had by-laws on the contribution for parks in connection with the requirements of a subdivision permit.

Since these financial impacts were felt by all Québec municipalities, and in order to help avoid financial losses associated with the contribution for parks, an amendment was made to the ALUPD in 2001.<sup>23</sup> Since then, the ALUPD has allowed municipalities that wish to collect the contribution for parks under a building permit application to do so, but only under very specific conditions. According to Section 117.1 of the ALUPD, these conditions involve a building permit application that *“relates to the establishment of a new principal building on an immovable in respect of which no subdivision permit has been issued under registration as a separate lot by reason of the fact that the registration resulted from cadastral renewal.”* It was in this context that city council adopted a by-law in 2002.

To assess compliance with the ALUPD and the applicable by-laws governing the contribution for parks, we wanted first to ensure that these by-laws were enforced. We subsequently examined whether the boroughs were complying with important aspects of the by-laws, including:

- enforcement of by-laws associated with the contribution for parks;
- conditions for and exemptions from claiming a contribution for parks;
- recognition of previous contributions;
- assessment of the value of the contribution;
- the choice of claiming the contribution in the form of a land transfer or a compensation;

---

<sup>23</sup> *Act to amend various legislative provisions concerning municipal affairs* (LQ 2001, chapter 25).

- payment of the contribution;
- a special fund for park purposes, and allowable expenditures for this fund.

We took these important elements into consideration when we examined whether monitoring mechanisms had been established to ensure compliance with the ALUPD and the by-laws. Lastly, we examined whether measures were taken to detect non-compliances with the ALUPD and the by-laws and to apply corrective actions to ensure compliance. Finally, we evaluated whether business units' staff were given adequate information and training on the ALUPD and the by-laws governing the activities that concern them.

#### **4.1.1. Establishment of Monitoring Mechanisms Aimed at Ensuring Compliance with Laws and By-laws and Measures for the Detection of Non-compliances**

In order for managers to be able to ensure compliance with the laws and by-laws that concern them, it is important that monitoring mechanisms be established. These monitoring mechanisms help ensure that the requirements prescribed by the regulations are identified and verified before definitive action is taken. Ultimately, these mechanisms will help reduce risks associated with non-compliance with laws and by-laws. Monitoring mechanisms can take the form, for example, of internal checks, computer applications, adequate separation of duties, employee training and authorization to carry out key steps in a process.

We will briefly describe each of the major aspects that must be taken into account, failing which boroughs are exposed to non-compliance risks that can have major consequences for themselves and the whole city. Referring to surveys, we assessed the extent to which the boroughs selected complied with the legal requirements applicable to these major aspects. We also made sure that monitoring mechanisms were in place to help detect non-compliance situations.

To conduct our audit, we therefore selected files from subdivision and building permits issued in the years 2011 to 2013. For each borough audited, we selected a total of six files, three for subdivision permits and three for building permits. We made sure that our selection consisted of files for which a contribution for parks had been paid in cash and files for which such a contribution was not payable. However, our sample did not include files for which a contribution for parks took the form of a land transfer, because such files are not very representative and present lower risks.



### 4.1.1.1. Enforcement of By-laws Associated with the Contribution for Parks

#### 4.1.1.1.A. Background and Findings

When an applicant applies for a subdivision or building permit, several regulatory aspects must be examined by permit-issuing officers before a permit is issued. For example, building permit applications involve by-laws on zoning, urban planning and the contribution for parks. From the time a permit application is received to the time the permit is issued, one of the first major aspects that staff in charge of the contribution for parks must consider is whether or not to enforce the applicable regulations in the borough.

The officers responsible for issuing permits must have tools at their disposal that they can use to ensure that by-laws on the contribution for parks are enforced when necessary; otherwise they run the risk of not billing for a contribution for parks when it is required under by-laws. This is the greatest risk, because if a by-law is not enforced, the risk of financial losses can be considerable. In other cases, when a by-law does not apply (because of an exemption or previous payment of the contribution for parks, for example), a contribution is clearly not required. Claiming a contribution when it is not required also entails a financial risk for the city, because the applicant could potentially claim overpaid amounts. Both of the situations just described are likely to have major consequences for boroughs and the city alike. Errors in enforcement that are brought to the public's attention could furthermore result in citizens dissatisfied with how the city is managed, a negative image of the borough or the city or public criticism of the government. For this reason, the tools adopted must make it possible for staff to be vigilant about enforcing the applicable regulations.

During our audit, we wanted to find out whether the applicable by-laws were known to managers of the business units in question and whether they were enforced systematically. In the files selected for each borough, we therefore looked for evidence of the provisions used to determine whether the applicable by-laws should be enforced or not. Finally, we examined the monitoring tools used (e.g., forms, computer applications) with a view to reviewing files and detecting non-compliances, if any.

#### 4.1.1.1.1. Le Sud-Ouest Borough

##### 4.1.1.1.1.A. Background and Findings

In Le Sud-Ouest borough, responsibility for enforcing the two applicable by-laws (O-1 and O2-065) for the establishment de the contribution for parks falls to the Division des permis et

inspections, which reports to the Direction de l'aménagement urbain et des services aux entreprises (DAUSE).

According to information obtained, the two by-laws in force in this borough have been known and enforced for several years.

In the case of building permit applications, evidence that permit issuing officers examined the need to enforce the applicable regulations comes from a regulatory analysis sheet. This is a monitoring tool that serves as a reminder, on which a list of applicable regulatory provisions appears for the purpose of issuing these permits (e.g., *Urban planning by-law, Zoning by-law, By-law 02-065*). While reviewing a permit file, the officer must check "yes" or "no" for each provision listed, and has the option of entering comments, if applicable. For the contribution for parks, in particular, the question is worded as follows: *[TRANSLATION] "In the case of a new building, was the site divided into parts of a lot prior to the cadastral renewal?"* At this stage, the officer determines whether or not By-law 02-065 is applicable. If the answer is yes, the officer must continue the review and check whether or not to bill for a contribution for parks (e.g., whether it has already been paid). Otherwise, the regulatory analysis is continued for the purpose of issuing the permit.

For two of the three building permit files selected, we did not find evidence that staff had examined the need to enforce By-law 02-065. Indeed, although our audit showed that a regulatory analysis sheet had in fact been used for these cases (see Appendix 6.1 – Nos. 5 and 6), for the purpose of deciding whether or not to enforce By-law 02-065, the "no" box had been checked, with no explanation provided. It was impossible to determine whether this was justified or not by consulting the file. The outcome was that a contribution for parks was not claimed, and the files did not specify the reason. The lack of explanations and evidence leads us to believe that enforcement of By-law 02-065 simply had not been reviewed. In the case of the third building permit examined (No. 1), since there was an invoice for a contribution for parks, we assumed that By-law 02-065 had been enforced. However, we did not locate any regulatory analysis sheet or note in the file indicating the provisions under which By-law 02-065 had been enforced. We believe that the regulatory analysis sheets, including a reference to the applicable by-law (02-065), should be completed for all building permit files. Whether By-law 02-065 applies or not, we also believe that the sheet must include a reference to reasons justifying the preliminary analysis, which would also facilitate the file review.

In the case of subdivision permits, By-law O-1 is the only one to be enforced. For this reason, a regulatory analysis sheet is less appropriate because it is practically the only by-law that applies to cadastral operations. A checklist will be required when the particular provisions of

this by-law (exemptions, conditions or calculation of payment) are examined. The purpose of this checklist is to help employees enforce the by-law and provide evidence that each provision was examined during a file review. We will explore this topic in the next sections.

In the course of our audit, we observed that another monitoring tool was being used to find evidence of the enforcement of the applicable by-laws governing the contribution for parks: the computer application “Gestion du territoire – Permis.” This is a corporate application that displays information on the completion date and the name of the person in charge for the different steps in the permit issuing process. Each step is distinguished by a separate code consisting of fields in which information can be entered, a note can be created or a document can be attached. For each code, a result must also be entered when the step is completed. A code in the application, then, serves as a reminder for officers since all the fields must be completed in order for a permit to be issued. Boroughs have the option of creating codes based on their needs. For the contribution for parks specifically, the borough created a specific code “FS PARC,” which, however, would have been used only for subdivision permit files since July 2013.

Our examination of the six files selected showed that a code, “FS PARC,” was in fact used, but in only one file, which was for a subdivision permit application submitted in 2013. Information on the enforcement of By-law O-1 as it pertains to subdivision permits was attached in the computer file. For the other two subdivision permit files in our selection, we could not expect them to be in the computer application since this is a new system that has been in use only since July 2013. In our opinion, this specific code should be used systematically for all subdivision and building permit files to annotate or attach documents that give reasons supporting the enforcement or non-enforcement of the applicable by-laws before permits are issued in order to facilitate the file review process.

#### 4.1.1.1.B. Recommendation

**We recommend that the Direction de l'aménagement urbain et des services aux entreprises of Le Sud-Ouest borough ensure, for all building permit files, the production of regulatory analysis sheets that specify reasons for the enforcement or non-enforcement of the *By-law concerning the issue of certain building permits (02-065)* in order to facilitate the file review process.**

#### **Business unit's response:**

*[TRANSLATION] A complete, detailed regulatory analysis sheet on park costs (By-law 02-065) will be produced and attached to the existing regulatory analysis sheet. (Planned completion: September 2014)*

#### 4.1.1.1.1.C. Recommendation

We recommend that the Direction de l'aménagement urbain et des services aux entreprises of Le Sud-Ouest borough equip itself with dedicated monitoring tools for the contribution for parks (e.g., a checklist, a specific code in the computer application) to be used for subdivision and building permit files, in order to facilitate enforcement of the regulations and the file review process.

#### Business unit's response:

*[TRANSLATION] A line for special follow-up on parts of lots, SS-PTIE, will be added to the Gestion du territoire – Permis (Oracle) computer system for building permit applications.*

*A line for park costs, FS-PARC, already exists for subdivision permit applications. (Planned completion: June 2014)*

### 4.1.1.1.2. Saint-Laurent Borough

#### 4.1.1.1.2.A. Background and Findings

In Saint-Laurent borough, the responsibility for enforcing the two by-laws (08-005 and 02-065) to establish the contribution for parks falls to the Division des permis et des inspections, which reports to the DAUSE.

As part of our audit, we looked for evidence that employees of this division were familiar with the applicable by-laws. On the subject of By-law 08-005, people we met with mentioned to us that it had been enforced since its adoption. However, we observed that one of these people was using a copy of By-law 08-005 that did not correspond to the version originally adopted. We think a control mechanism should be introduced to ensure that employees have the right version of the applicable regulations at all times, considering the risk of error that this can cause in the area of enforcement.

For By-law 02-065, people responsible for processing building permit applications told us they were not familiar with By-law 02-065 or had not had time to peruse it. According to information obtained, it was only at the beginning of 2013 that tools for enforcing it were made available to staff of the DAUSE. These tools were added to the geomatic application called "GO-Saint-Laurent," in which administrative maps of renovated lots for the territory of the borough already appeared. It is now possible, then, to consult automated maps showing parts of lots that existed prior to the cadastral renewal. These parts of lots are in fact shown by a grid map.

We questioned the fact that these tools were deployed only in early 2013, since By-law 02-065, which was enacted in 2002, was immediately applicable, the cadastral renewal for the territory of Saint-Laurent borough having already been completed. However, according to information obtained, from 2008 to 2013, only regulations pertaining to By-law 08-005 were enforced for subdivision and building permits. In our opinion, By-law 08-005 covers redevelopment projects, but could not replace the enforcement of By-law 02-065 which covers another aspect of cadastral renewal. In any event, the fact that By-law 02-065 was not enforced for more than 10 years to determine contributions for parks has certainly had major consequences for the borough and the city alike because there is a chance that income was not invoiced. These amounts probably cannot be recovered because the building permits have already been issued. For this reason, we did not estimate the number of files that should have been invoiced under this by-law or the associated amounts. We think that from now on, it is imperative that the borough enforce By-law 02-065 in order to comply with the applicable regulations and ensure that applicants are treated equitably.

Since By-law 02-065 was not enforced, we only tried to find evidence that By-law 08-005 had been enforced. We therefore looked for documents specifying the provisions under which the applicable by-laws on the contribution for parks had been enforced or not enforced. It goes without saying that such evidence is necessary if files are to be reviewed and non-compliances, if any, detected prior to the issue of permits.

First, for the operating method that was described to us at the time of our audit, the evidence that we were seeking for this type of permit could have been located either in a file opened in the Gestion du territoire – Permis computer application or on the regulatory analysis sheet.

Note that the computer application can be used to monitor the different steps in the permit issuing process using separate codes, the completion date of the process and the name of the person in charge. For each code, information can be entered, a note can be created or an attachment can be inserted. In addition, a result must be entered when the step is completed. A code serves as a reminder as well as being part of the review process, since all the required fields must be completed in order for a permit to be issued. Boroughs have the option of creating specific codes for their own management purposes. One of the codes available in the application for Saint-Laurent borough, “TC PARCS,” concerns the contribution for parks.

However, for the three building permit files selected, a review of the information available in the computer application revealed that a specific code for the contribution for parks was not used specifically for documentation and monitoring purposes. In fact, even though a code for the contribution for parks had been used for two files, we did not find evidence concerning

the provisions under which the applicable by-laws had been enforced or not enforced. Finally, for the third permit file examined, even though a contribution for parks had been claimed from the applicant, we noted that no code for the contribution for parks (TC PARCS) had been used to justify the enforcement of the by-law. We think that a code for the contribution for parks (TC PARCS) should be used systematically for all building permit files, and that notes specifying the provisions under which by-laws were enforced or not enforced should be integrated into them. This would leave a trail in the files that a review was conducted.

Moreover, according to the procedure that was described to us, a regulatory analysis sheet was also to be used for building permit applications. However, the examination of the three building permit files selected did not supply us with this evidence. A regulatory analysis sheet should include a reference to the various by-laws applicable to a building permit application, including the two that apply to the borough in connection with the contribution for parks. Since staff should be able to use a sheet to determine whether or not to enforce applicable by-laws and provide reasons why, we believe that it should be used systematically during the processing of permit applications. It should be noted here that the regulatory sheet sample that was submitted to us makes no reference to the regulations governing the contribution for parks. We also think that the DAUSE should refer to the two applicable by-laws in the borough in its regulatory analysis sheet.

The unsystematic use of a regulatory analysis sheet for documenting and monitoring purposes and the lack of a specific code for the contribution for parks in the computer application make it difficult to review files in order to detect non-compliance with by-laws in a timely manner. Later in this audit report we discuss the file review process.

The procedure for processing subdivision permit applications is different. First, it does not involve opening a file in the Gestion du territoire – Permis application. When an applicant submits an application, a paper version of a file is opened. A review of the application is conducted by an employee assigned specifically to this activity. Another division of the DAUSE also participates in this review to contribute its expertise in the area of subdividing, but this is not for monitoring purposes. We therefore think that subdivision permit application files, like building permit application files, should also be processed in the computer application in order to standardize methods and facilitate the file review process.

Unlike the processing of building permit applications, which requires the use of a regulatory analysis sheet because of the numerous by-laws that must be enforced, including those used to establish the contribution for parks, no such sheet is required for the review of subdivision permit applications, because of the smaller number of by-laws to be enforced. However, while examining the files, we found a document entitled “Projet de subdivision” (subdivision project),

used to review permit applications. This is in fact a sheet on which employees of the two divisions can enter comments on the processing of the file. In our opinion, this document is not systematized and did not provide us with evidence of the provisions under which the applicable by-laws on the contribution for parks had been enforced or not. We believe that this operating method does not indicate that a review was conducted and does not facilitate the detection of possible errors in the enforcement of by-laws. Regarding the determination of the contribution for parks in particular, there must still be a system that staff can use to systematically examine each provision of By-law 08-005 to determine whether it applies or not to a subdivision. This could take the form, for example, of a checklist itemizing the various important provisions of By-law 08-005 that must be examined with respect to claiming a contribution for parks when a subdivision permit application is submitted (e.g., exemptions, existence of a previous payment or calculation of payment). It is self-evident that this checklist would be very useful for both subdivision permits and building permits. Its purpose would be to help staff enforce By-law 08-005 and provide evidence that each provision had been examined during a file review.

In our opinion, this checklist could itemize conditions for enforcing the two applicable by-laws in the borough. In the case of building permits, it could be appended to the regulatory analysis sheet.

According to information obtained from the manager of the Division des permis et des inspections, a review of all the division's processes, which were developed in 2012, was under way at the time of our audit. This review should provide employees with more accurate, more suitable tools.

#### 4.1.1.1.2.B. Recommendation

**We recommend that the Direction de l'aménagement urbain et des services aux entreprises of Saint-Laurent borough establish monitoring mechanisms to ensure that the people assigned to the processing of building and subdivision permit applications have at their disposal up-to-date versions of the applicable by-laws on the contribution for parks in order to reduce the risk that errors will occur in their enforcement.**

#### Business unit's response:

*[TRANSLATION] To ensure that all employees have access to the right versions of by-laws, unmodifiable (PDF) versions of the documents will be centralized in a single directory that will be maintained by the borough's secretariat after all draft by-laws, second draft by-laws and by-laws come into force. It was further agreed that following every step in the legal process, the borough's secretariat will enter in it all documents*

*attached to the decision-making summaries that concern by-laws. (Planned completion: June 2014)*

#### 4.1.1.1.2.C. Recommendation

**We recommend that the Direction de l'aménagement urbain et des services aux entreprises of Saint-Laurent borough take the necessary steps to ensure that employees assigned to the processing of building permit applications make sure that the *By-law concerning the issue of certain building permits (02-065)* is enforced systematically so that the borough is compliant with the applicable regulations, and bills for the amounts relating to the contribution for parks to which it is entitled.**

#### **Business unit's response:**

*[TRANSLATION] **Drafting a procedure.** A special procedure will be produced in writing for all employees who are likely to issue a building permit for the construction of a main building in order to remind them to consult the two geomatic layers provided in the GO-Saint-Laurent system: the one that concerns sites that were in parts of lots prior to the cadastral renewal and that one that concerns lots for which a contribution for parks has already been made in the form of a cash payment or land transfer or has not been settled. Follow-up to this procedure will be checked by the senior officer. (Planned completion: drafting and validation of the procedure – October 2014)*

*Permit issuing officers will be provided with **training** explaining the By-law concerning the issue of certain building permits (02-065). (Planned completion: preparation and dissemination of training – October 2014)*

***Invoicing and payment are conditions for the issue of the building permit.** A note will be added to the permit management system to specify whether park costs are to be paid or not, along with a reference to the invoice file number. A note will be added to give the reason why the payment is required or not required. If it is required, proof of payment will be attached to it. A function will be added to Oracle to prevent a building permit from being issued if these costs are not paid. (Planned completion: permit management system upgrade – December 2014)*



#### 4.1.1.1.2.D. Recommendation

We recommend that the Direction de l'aménagement urbain et des services aux entreprises of Saint-Laurent borough:

- amend the regulatory analysis sheet by adding references to by-laws applicable to the contribution for parks (the *By-law concerning the issue of certain building permits [02-065]* and the *By-law concerning the transfer for the establishment, maintenance and improvement of parks and playgrounds, and the preservation of natural areas, on the territory of Saint-Laurent borough [08-005]*);
- plan for the systematic use of the regulatory analysis sheet for each building permit file in permit application processing procedures;
- take steps to use the Gestion du territoire – Permis computer application for subdivision permit files;
- acquire monitoring tools to be used specifically for the contribution for parks (such as a checklist or a specific code in the computer application) applicable to subdivision and building permit files;

in order to facilitate the enforcement of regulations governing the contribution for parks as well as the file review process.

#### Business unit's response:

*[TRANSLATION] A procedure for processing subdivision or building permit applications will be produced and it will require that the elements of By-laws 02-065 and 08-005 be checked. (Planned completion: drafting of the procedure – October 2014)*

*The regulatory analysis sheet will be revised so that it refers to the by-laws and its content will be adjusted so that it reflects the elements of those by-laws. (Planned completion: revision of the sheet – October 2014)*

*A module on subdivision permit management will be integrated in the permit management system. (Planned completion: system upgrade – December 2014)*

*An electronic checklist on enforcement of by-laws showing all the elements that must be checked will be created; the monitoring step will be integrated into the procedure. (Planned completion: drafting of a checklist – October 2014)*

*Information sessions on new methods will be implemented and held on a recurring basis. (Planned completion: preparation of sessions – October 2014)*

### 4.1.1.1.3. L'Île-Bizard–Sainte-Geneviève Borough

#### 4.1.1.1.3.A. Background and Findings

In L'Île-Bizard–Sainte-Geneviève borough, responsibility for enforcing the two by-laws (09-002 and 02-065) to determine the applicable contribution for parks falls to the Division de l'aménagement urbain et de la sécurité publique, which reports to the Direction des travaux publics, de l'ingénierie et de l'aménagement urbain.

As part of our audit, we looked for evidence that staff were familiar with the applicable by-laws. For By-law 09-002, the people we met with mentioned that it has been enforced since its adoption. However, for By-law 02-065, the people we met with admitted they were not familiar with it and therefore did not enforce it. Although By-law 02-065 was adopted by city council in 2002, it was only at the time of the cadastral renewal for the territory of the borough that it actually became applicable. However, a search on the Ministère des Ressources naturelles du Québec website showed that the cadastre was renovated more than 10 years ago for the Sainte-Geneviève part and in 2011–2012 for the L'Île-Bizard part. By-law 02-065 has therefore been applicable for the Sainte-Geneviève part for more than 10 years, and for two or three years for the L'Île-Bizard part. However, it was not enforced in those years. As a result, there are risks that, for some building permit files, contributions for parks should have been claimed but were not. These amounts probably cannot be recovered because the building permits have already been issued. For this reason, we did not estimate the number of files for which invoicing should have been done under this by-law or the amounts associated with those files. We believe that it is imperative that from now on, the borough ensure enforcement of By-law 02-065 in order to comply with the applicable regulations and take advantage of the opportunity of accessing a source of considerable revenue.

Moreover, since one of the building permit files examined (see Appendix 6.1 – No. 16) had been subject to a contribution for parks, it should have been examined in terms of whether or not to enforce By-law 02-065. In this case, we think that By-law 09-002 did not apply, and that enforcement of By-law 02-065 should have been verified. On a handwritten sheet that was submitted to us as well as in the decision-making summary that was submitted to the borough council, we found that the reasons cited to justify the claim for the contribution referred to a redevelopment project within the meaning of By-law 09-002. However, examination of the documents obtained revealed that the permit application concerned a vacant lot prior to the construction of the building, which led us to question the criterion of “redevelopment.” We believe that there is good reason to be careful in applying this criterion when claiming a contribution for parks, because we think this means that there must have been a previous development. The construction of a building on a vacant lot could not be interpreted as a “redevelopment.” Furthermore, since the site covered by a permit application

was in the new cadastre, i.e., in the renovated cadastre, we believe that there should have been an examination as to whether or not to enforce By-law 02-065.

Since By-law 02-065 was not enforced, we looked only for evidence of the enforcement of By-law 09-002 for building and subdivision permits. We therefore looked for documents showing the provisions under which the applicable by-laws on the contribution for parks had been enforced or not enforced. Clearly, such evidence is necessary for file reviews and to detect non-compliances, if any, before permits are issued.

According to information obtained from people we met with within the Division de l'aménagement urbain et de la sécurité publique, the procedure for processing subdivision permit applications is more or less the same as for building permit applications. In both cases, a permit file is opened in the Gestion du territoire – Permis computer application. An analysis of subdivision and building permit applications is carried out by the person in charge.

In addition, still according to information obtained from the division manager, a regulatory analysis sheet for the processing of building permit applications was developed, but had yet to be used at the time of our audit. Examination of this sheet showed that it contained a reference to the contribution for parks, as well as outlining the main elements required for a building permit application. We think that the regulatory analysis sheet that was developed is a very appropriate tool, which can be used as a reminder for the staff concerned, when they review permit applications, to examine the claim for a contribution for parks.

For the building permit files sampled, not only did we find no regulatory analysis sheet, we found no evidence in the file of any other documentation referring to the provisions under which the applicable by-laws on the contribution for parks had been enforced or not enforced.

Unlike the processing of building permit applications, which requires the use of a regulatory analysis sheet because of the numerous by-laws that must be enforced, including those used to establish the contribution for parks, no sheet is required for reviewing subdivision permit applications because of the more limited number of by-laws to be enforced. However, to determine the contribution for parks, in particular, there must still be a system staff can use to systematically examine each provision of By-law 09-002 to determine whether it is applicable or not. This could take the form, for example, of a checklist specifically for claiming a contribution for parks that must be examined when a permit application is submitted (e.g., exemptions, existence of a previous payment or payment calculation). The purpose of this checklist would be to indicate that staff had examined each provision during a file review.

In our opinion, this checklist could enumerate the conditions for enforcing the two applicable by-laws in the borough. In the case of building permits, it could be attached to the regulatory analysis sheet.

With respect to the use of the Gestion du territoire – Permis application, we did not find any code for the contribution for parks. According to the manager of the Division de l'aménagement urbain et de la sécurité publique, such a code could be useful and serve to remind employees to make sure that they enforce the regulations. As previously mentioned, an explanatory note can be attached to the code outlining the reasons for claiming or not claiming the contribution for parks. The regulatory analysis sheet and the checklist can also be attached.

In conclusion, since no tools were used specifically to monitor the contribution for parks (such as a checklist or a specific code in the computer application) we had no evidence of which provisions of By-law 09-002 had been enforced, which made it more difficult to review files to detect non-compliances.

#### 4.1.1.1.3.B. Recommendation

We recommend that the Direction des travaux publics, de l'ingénierie et de l'aménagement urbain of L'Île-Bizard–Sainte-Geneviève borough make the necessary arrangements to ensure that employees assigned to the processing of building permit applications ensure systematically that the *By-law concerning the issue of certain building permits (02-065)* is enforced, so that the borough is compliant with the applicable regulations and bills for the amounts for the contribution for parks to which it is entitled.

#### Business unit's response:

*[TRANSLATION] A general permit review chart that includes a section on the contribution for parks, playgrounds and natural areas will be created. This section must include conditions for exemption from a contribution. The chart shall be completed and signed by the employee who issues the permit. It will be attached to and archived in the file. (Planned completion: February 2015)*

*The automatic creation of a line on the contribution for parks, playgrounds and natural areas will be added to the permit application system (Gestion du territoire – Permis [Oracle]). This line must be completed in order to unlock the software before a building or subdivision permit can be issued. (Planned completion: February 2015)*

*A guideline will be created on entering the required information (calculation and relevant data) in the "note" section of the new line that will be created in the permit*

application system (*Gestion du territoire – Permis [Oracle]*). **(Planned completion: February 2015)**

#### 4.1.1.1.3.C. Recommendation

We recommend that the Direction des travaux publics, de l'ingénierie et de l'aménagement urbain of L'Île-Bizard–Sainte-Geneviève borough use the regulatory analysis sheet for all building permit files in order to facilitate both the enforcement of regulations governing the contribution for parks and the file review process.

#### Business unit's response:

*[TRANSLATION] A general permit review chart that includes a section on the contribution for parks, playgrounds and natural areas will be created. This section must include conditions for exemption from a contribution. The chart shall be completed and signed by the employee who issues the permit. It will be attached to and archived in the file. (Planned completion: February 2015)*

#### 4.1.1.1.3.D. Recommendation

We recommend that the Direction des travaux publics, de l'ingénierie et de l'aménagement urbain of L'Île-Bizard–Sainte-Geneviève borough equip itself with dedicated monitoring tools for claiming the contribution for parks (a checklist or a specific code in the computer application, for example) that can be used for the subdivision and building permit files in order to facilitate enforcement of the regulations and the file review process.

#### Business unit's response:

*[TRANSLATION] A general permit review chart that includes a section on the contribution for parks, playgrounds and natural areas will be created. This section must include conditions for exemption from a contribution. The chart shall be completed and signed by the employee who issues the permit. It will be attached to and archived in the file. (Planned completion: February 2015)*

*The automatic creation of a line on the contribution for parks, playgrounds and natural areas will be added to the permit application system (*Gestion du territoire – Permis [Oracle]*). This line must be completed in order to unlock the software before a building or subdivision permit can be issued. (Planned completion: February 2015)*

*A guideline will be created on entering the required information (calculation and relevant data) in the "note" section of the new line that will be created in the permit application system (*Gestion du territoire – Permis [Oracle]*). (Planned completion: February 2015)*

## 4.1.1.2. Exemptions from and Conditions for Claiming a Contribution for Parks

### 4.1.1.2.A. Background and Findings

During the review of a subdivision or building permit application, one of the other important elements to be considered concerns the exemptions and conditions provided for in the applicable by-laws that result in no contribution being claimed for parks.

The applicable by-laws in the three boroughs selected generally provide for the same exemptions and conditions. For example, no contribution for parks is claimed when the cadastral operation applied for does not lead to an alteration of the land area through the addition or withdrawal of a parcel of land. Another example is By-law 02-065, which applies only to building permit applications for the construction of a new main building. If a main building is not involved, the conditions of the by-law are not met and a contribution cannot be claimed.

The conditions for claiming a contribution that are set out in regulations can differ from one borough to another. For example, the concept of redevelopment set out in the by-laws of Saint-Laurent and L'Île-Bizard–Sainte-Geneviève boroughs refers to different conditions. By-law 08-005 of Saint-Laurent borough defines a redevelopment project as follows:

*A construction project relating to a building on a site that requires a building permit designed to replace a previous land use. The previous land use may exist at the time the redevelopment project is proposed, or have previously existed continuously or discontinuously, or have been replaced one or several times by identical or different land uses.*

In By-law 09-002 of L'Île-Bizard–Sainte-Geneviève borough, the concept of redevelopment is defined as follows:

*A construction project relating to a main building on a site that requires a building permit in order to erect a new construction on a lot that is vacant or not, or to replace an existing construction by another construction, except the replacement of a single-family dwelling by another single-family dwelling.*

When a construction project for which a permit application is submitted does not meet the definition set out in the applicable by-law, conditions are therefore not met and a contribution for parks must not be claimed.

The application of exemptions and the fact that conditions are not met are important, because there is a risk of granting an exemption when it was not applicable, or of claiming that the

conditions for claiming a contribution for parks have not been met. In both cases, a misinterpretation would deprive the borough of a contribution for parks that could constitute a substantial amount. Accordingly, to reduce this risk, we think that when no contribution for parks is claimed, the permit file should clearly state why exemptions are granted or why conditions are not met. This documentation makes it easier for a person in charge to review files and detect non-compliance situations, if any.

At this stage of our audit, we wanted to ensure that the permit application files for which no contribution for parks was claimed contained evidence showing why exemptions were granted or conditions for claiming the contribution for parks were not met.

### 4.1.1.2.1. Le Sud-Ouest Borough

#### 4.1.1.2.1.A. Background and Findings

For three of the six files examined, there was no contribution for parks because of an exemption or because conditions for claiming a contribution for parks did not apply.

One of the files (see Appendix 6.1 – No. 4) concerns a subdivision permit application for which no contribution for parks was claimed because of an exemption applied under By-law O-1. In fact, this by-law stipulates that when an application does not result in an increase in the number of buildable lots, no contribution for parks can be claimed. Examination of the file in the Gestion du territoire – Permis computer application revealed that a code, “FS PARC,” was used to enter the reason why the contribution was not claimed, which was the exemption in question. Our audit revealed that this exemption was applied in a compliant manner at the time the subdivision permit application was reviewed and that it was appropriate not to claim a contribution for parks. However, while consulting this file, we discovered a troubling situation concerning the enforcement of By-law 02-065 during the processing of the building permit application. At this step of the building permit application, the regulatory analysis sheet showed that the site was in parts of lots, and the information entered in the Gestion du territoire – Permis computer application mentioned an exemption under By-law O-1 for subdivision permits. We wondered whether this exemption was compliant, since it was applied to the building permit. For this type of permit, the applicable by-law is 02-065, not O-1. As mentioned earlier, By-law 02-065 provides for certain conditions regarding claiming the contribution for parks, in particular the erection of a new main building. However, in this file, we found that a demolition permit had been issued for an industrial building so that another building could be erected, but of a residential category. We believe that the provisions of By-law 02-065 apply, especially since the site was in parts of lots. Because of this, we believe that a contribution for parks should have been claimed. According to our calculations, when

the amount for the site entered in the property assessment roll is multiplied by 10%, the value of the contribution that was not invoiced is nearly \$150,000, a substantial amount. Finally, the building permit file in the Gestion du territoire – Permis application should have mentioned the reasons why the contribution for parks was claimed or not claimed according to the conditions and exemptions set forth in By-law 02-065.

The other two files (Nos. 5 and 6) for building permits for which no contribution was claimed, concern the enforcement of By-law 02-065. In both cases, we noted the existence of a regulatory analysis sheet showing that the conditions of this by-law do not apply because the sites covered were not in parts of lots prior to the cadastral renewal. However, permit files in the Gestion du territoire – Permis computer application provide no explanation for the fact that the contribution for parks was not claimed, and no code was used for this purpose. We were also unable to find, in the computer file, a reference to an attachment clearly showing that the site was not in parts of lots. We think that the permit file should provide reasons to explain why the contribution for parks was not claimed. It would therefore be a good idea if explanations were found under a code used in a consistent fashion, as with the code “FS PARC” described above. This practice would make it easier to review permit files that concern claiming the contribution for parks.

In conclusion, for the subdivision permit file, we found explanations concerning the application of the exemption in the file. However, for the building permit files in our sample, we did not find any specific explanations for the fact that a contribution was not claimed. Therefore, for building permits, we were not assured that there was justification for not claiming a contribution for parks. In our opinion, the resources assigned to the permit application review should provide, on the checklist referred to in recommendation 4.1.1.1.1.C, a list of all aspects to be considered in order for a permit application to be exempted from a contribution for parks (e.g., increase in the number of buildable lots, erection of a main building). Clearly, this list could also be attached in the computer application (Gestion du territoire – Permis) for documentation and review purposes.

#### **4.1.1.2.1.B. Recommendation**

**We recommend that the Direction de l'aménagement urbain et des services aux entreprises of Le Sud-Ouest borough include, on the regulation enforcement checklist, a list of the regulatory provisions to be considered for a permit application to be exempted from a contribution for parks, in order to document the review conducted and facilitate the file review process.**



**Business unit's response:**

*[TRANSLATION] As recommended, a list will be added to the new analysis sheet for park costs, which will be attached to the existing regulatory analysis sheet. (Planned completion: September 2014)*

**4.1.1.2.1.C. Recommendation**

We recommend that the Direction de l'aménagement urbain et des services aux entreprises of Le Sud-Ouest borough systematically document the explanations provided to justify exemptions or the conditions to be met with respect to building and subdivision permit files, in order to facilitate the file review process and allow non-compliances to be detected.

**Business unit's response:**

*[TRANSLATION] A guideline will be produced on the requirement to attach a copy of the old cadastre in the Gestion du territoire – Permis (Oracle) computer system, along with proof that no park costs are due, if applicable (e.g., expropriation, property transaction). (Planned completion: October 2014)*

**4.1.1.2.2. Saint-Laurent Borough****4.1.1.2.2.A. Background and Findings**

For two of the six files examined (see Appendix 6.1 – Nos. 7 and 10), no contribution for parks was claimed because of an exemption. Our audit showed that an exemption was justified for one of the files but not for the other. In the first case (No. 7), which concerned a building permit, examination of the documents provided confirmed that the project for which the permit application was submitted was intended to replace one single-family building with another. This was therefore not a redevelopment project under By-law 08-005. However, a self-adhesive note accompanying the documents submitted showed that the permit application targeted the same land use and that the site was not in parts of a lot. For the exemption that made a reference to parts of a lot, a copy of the plan, produced using the GO-Saint-Laurent computer application, showed that the site was not in parts of lots. Accordingly, application of the two exemptions appears to us to be compliant.

However, while examining the file that appears in the Gestion du territoire – Permis computer application, we noted that no mention was made of the type of exemption or the reasons why a contribution was not claimed. A separate code was used for the contribution for parks (TC PARCS), along with the information “not claimed” and a reference to an attached note, but we found no such note. According to information obtained, the person responsible for the

file should have entered the reasons why the contribution for parks was not claimed. In our opinion, it is good practice to use a code, as it is to add a note to include explanations for the exemption. However, it is important that this information appear in the file because it shows how regulations were enforced and, accordingly, which exemption was considered. This information also facilitates the file review process to ensure compliance with regulations.

For the second case (No. 10), which concerned a subdivision permit, a review of the documents submitted to us provided explanations regarding the building permit but not the subdivision permit. Indeed, a document entitled “Projet de subdivision” (subdivision project) showed that the contribution for parks was not claimed because the land’s use as a storage site remained the same. Handwritten comments on a self-adhesive note also mentioned that the file was exempted from a contribution for parks, because this was an expansion project. However, it was when the subdivision permit, not the building permit, was processed that exemptions for the subdivision permit should have been applied. We must stress that the methods used to review regulations are unclear to us and present risks of an exemption not being applied correctly. The consequence of such a situation is that a contribution for parks is not claimed even when it should be or the reverse. To reduce the risk of error, we think that the checklist referred to in recommendation 4.1.1.1.2.D should include a list of all aspects to be considered in order for subdivision and building permit applications to be exempted from a contribution for parks.

In addition, for this type of file, we found that without the information provided on the self-adhesive note submitted to us, it would have been difficult to understand the process followed for this file for the enforcement of regulations, and more specifically the application of exemptions. Note that the Gestion du territoire – Permis computer application is not used and therefore neither is there a specific code for the contribution for parks for this type of permit. On this subject, in Section 4.1.1.1.2, we recommended the use of the Gestion du territoire – Permis computer application to process subdivision permit applications.

#### **4.1.1.2.2.B. Recommendation**

**We recommend that the Direction de l’aménagement urbain et des services aux entreprises of Saint-Laurent borough include, on the regulation enforcement checklist, a list of the regulatory provisions to be considered for a permit application to be exempted from a contribution for parks, in order to document the review conducted and facilitate the file review process.**

**Business unit's response:**

*[TRANSLATION] The regulatory provisions to be considered for a permit application to be exempted from a contribution for parks will be listed in order to document the review conducted and facilitate the file review process. The reason for the exemption will be included on the analysis sheet. (Planned completion: drafting of a checklist – October 2014)*

**4.1.1.2.2.C. Recommendation**

**We recommend that the Direction de l'aménagement urbain et des services aux entreprises of Saint-Laurent borough systematically include in the application Gestion du territoire – Permis application explanations to justify exemptions or conditions to be met for building and subdivision permit files in order to facilitate the file review process and help detect non-compliances.**

**Business unit's response:**

*[TRANSLATION] Explanations for the exemptions or conditions to be met regarding building and subdivision permit files will be included systematically in the Gestion du territoire – Permis application in order to facilitate the file review process and help detect non-compliances. (Planned completion: December 2014)*

**4.1.1.2.3. L'Île-Bizard–Sainte-Geneviève Borough****4.1.1.2.3.A. Background and Findings**

Two of the six files examined were covered by exemptions. Our audit revealed that the exemption applied was compliant in only one of the two cases. The exemption was for a subdivision permit (see Appendix 6.1 – No. 13) that involved three lots. Two lots were subject to a contribution for parks, while an exemption was granted for the third lot since it was already built up. A review of the file showed that the exemption was applied in accordance with regulations. With respect to documentation, we noted that the permit file in the Gestion du territoire – Permis application contained information on the contribution for parks claimed for both lots and on the exemption granted for the third lot in the "Remarks" section. However, as mentioned in Section 4.1.1.1.3, we think that this information should instead be added in the form of a note associated with a code for the contribution for parks to facilitate the file review process.

For the other file (No. 14), the permit application concerned the replacement of an existing house, so it was a building permit. However, according to handwritten notes that were provided to us concerning this file, no contribution for parks was payable because of an

exemption applicable to the subdivision permit. In our opinion, in this file, it is the exemptions for building permits, not exemptions for subdivision permits, that must be applied. Indeed, under a building permit, the exemptions applicable to a redevelopment project should have been applied or those provided for in By-law 02-065. We think it is important that exemptions for the contribution for parks be applied properly, especially because a considerable risk of financial losses is involved. The methodology used to review the regulations in this file appears unclear to us, and runs the risk of applying an exemption incorrectly. In such a situation, a contribution for parks may not be claimed even if it should be, or the reverse.

To reduce the risk of error, we think that the checklist referred to in recommendation 4.1.1.1.3.D should include a list of all aspects to be considered in order for subdivision and building permit applications to be exempted from a contribution for parks. For these aspects, the checklist could also contain suggestions for support documents that should be included in files. Clearly, this list could also be attached to the Gestion du territoire – Permis computer application.

In addition, for file documentation, although building permits are opened in the Gestion du territoire – Permis application, we noted that file No. 13 contains no information on the exemption that resulted in no contribution being claimed for a lot. We believe that the reasons for the application of an exemption should be mentioned in the permit file to make it easier for a person in charge to review files and help reduce risks associated with improper enforcement of regulations.

#### **4.1.1.2.3.B. Recommendation**

**We recommend that the Direction des travaux publics, de l'ingénierie et de l'aménagement urbain of L'Île-Bizard–Sainte-Geneviève borough include, on a regulation enforcement checklist, a list of the regulatory provisions to be considered for a permit application to be exempted from a contribution for parks, in order to document the review conducted and facilitate the file review process.**

#### **Business unit's response:**

*[TRANSLATION] A general permit review chart that includes a section on the contribution for parks, playgrounds and natural areas will be created. This section must include conditions for exemption from a contribution. The chart shall be completed and signed by the employee who issues the permit. It will be attached to and archived in the file. (Planned completion: February 2015)*

#### 4.1.1.2.3.C. Recommendation

**We recommend that the Direction des travaux publics, de l'ingénierie et de l'aménagement urbain of L'Île-Bizard–Sainte-Geneviève borough systematically include in the Gestion du territoire – Permis application explanations for the exemptions or conditions to be met regarding building and subdivision permit files in order to facilitate the file review process and help detect non-compliances.**

#### Business unit's response:

*[TRANSLATION] A guideline will be created on entering the required information (calculation and relevant data) in the "note" section of the new line that will be created in the permit application system (Gestion du territoire – Permis [Oracle]). (Planned completion: February 2015)*

### 4.1.1.3. Consideration of Previous Contributions

#### 4.1.1.3.A. Background and Findings

When a review of the applicable regulations shows that a contribution for parks is payable, it is important to check whether this contribution has not already been made in the form of a cash payment or land transfer. The ALUPD provides that a municipality must take into account the contribution for parks previously made for the lot covered by the permit application. When a contribution has already been made in the form of a cash payment or land transfer, for example during a cadastral operation, it cannot be claimed from the applicant again.

According to many of the by-laws examined, it is the owner's responsibility to prove that a contribution for parks was already made for an area of land (in cash or in the form of a land transfer). Nonetheless, there must be tools that employees responsible for enforcing regulations can use to verify the truthfulness of the facts alleged. Otherwise, they would run the risk of considering a contribution for parks as having already been paid by the applicant when this is not the case. Such a situation could present a very serious risk of financial losses for the city, since contribution amounts can be very high.

Conversely, without tools, there would also be a risk that an amount or a land transfer could be claimed when a contribution for parks had already been made in the form of a cash payment or land transfer. In such a situation, the borough would be in possession of an amount to which it is not entitled and risk paying interest and compensation if a claim or lawsuit is filed. Since the amounts at stake can be substantial, there could be serious

consequences, such as citizens' dissatisfaction with how the city is managed, a negative image of the borough or city or public criticism of the government.

One way for boroughs to mitigate such risks is to keep records of previous contributions. This tool makes it possible to find a history of all the contributions for parks that were paid by applicants either in cash or in the form of land transfers. Keeping such records helps ensure that proofs of payment submitted by applicants when they apply for permits are valid, or that the contribution claimed has not already been made in the form of a cash payment or land transfer and that the invoicing is justified.

In order for officers to be able to perform the necessary checks, the register of previous contributions must be updated regularly. At a minimum, it must include the following information: the lot number that was already covered by the contribution for parks, the amount of the contribution (in cash), proof of payment, the information on the transferred land if the contribution concerns a land transfer, and a reference to the permit file number. For information on transferred lands, the register should help establish correlations among lots covered by permit applications, lots that were covered by previous subdivision permit applications and lots transferred for park contributions.

During our audit, we therefore wanted to examine whether the three boroughs selected had such a record and whether it was updated regularly. Finally, for the files selected, we also wanted to make sure that there was evidence to show that a search had been performed in the register of previous contributions. If a contribution had already been made in the form of a cash payment or land transfer, we wanted we make sure that a note or proof of this was entered in the permit application file.

#### 4.1.1.3.1. Le Sud-Ouest Borough

##### 4.1.1.3.1.A. Background and Findings

Our audit revealed that a register of previous contributions is used by the DAUSE of Le Sud-Ouest borough. This register, created in 2002, includes, for each year, numbered contributions for parks, either the amounts of cash contributions or the information that a land transfer was involved, the borough council resolution and the number of the decision-making record concerned, the lots covered by the 10% contribution and the reference number of the subdivision permit application.

According to information obtained, for the contributions for parks paid before 2002, the people responsible for enforcing by-laws must enquire at the Service des infrastructures, du

transport et de l'environnement, more specifically the Division de la géomatique reporting to the Direction des infrastructures. The Division de la géomatique has the necessary tools to perform searches on contributions paid before 2002, while DAUSE employees perform searches on those paid after 2002, using the register kept by the borough.

During our audit, we took a particular interest in the content of the register created by the borough. The examination of this register revealed that some important information is missing; this information would enable permit issuing officers to ensure that a contribution for parks has already been made in the form of a cash payment or land transfer. Although the number of the borough council resolution appears in the register, this information in itself does not constitute proof of the land transfer or official cash payment of the contribution for parks, because it shows only that it was accepted as the amount of the contribution or as the land transfer. Consequently, we believe that proof of payment (such as the payment receipt number) or of the land transfer (e.g., the number of the notarized deed) should appear in the register. This would confirm that the payment or transfer had been carried out formally and in full.

We also found that this record did not specify the building permit file numbers. Indeed, for one of the 2012 files we examined, the contribution but not the file number appears in the record. In our opinion, it is important that staff have this information, which could help them locate a permit file more quickly when they need to perform a more in-depth search in order to verify certain information.

Concerning the matter of whether this register was kept up to date, we made sure that the files in our selection that were subject to a contribution for parks were found in it. Our audit showed that the three permit files that were subject to contributions for parks for 2011 and 2012 (see Appendix 6.1 – Nos. 1, 2 and 3) were entered in this register.

With respect to file documentation, three of the six files examined showed that searches had been performed in records of previous contributions. The three files concern invoicing for the contribution for parks (Nos. 1, 2 and 3). Our audit revealed that these files contain information showing that such a search had been performed with the Service des infrastructures, du transport et de l'environnement. However, the permit files gave no information on whether a search had been performed in the register of previous contributions kept by the DAUSE since 2002, so that we have no evidence that a search was performed in all the records available. No search in the register of previous contributions was performed for the other three files because permit-issuing officers either considered them to be exempted (No. 4) or non-compliant with the conditions for enforcing By-law 02-065 (Nos. 5 and 6). None of the files

selected showed that a previous contribution for parks had been made. We were therefore unable to ensure that proof of previous payment was attached to a file.

We think that searches should be performed in all the tools and records available in order to obtain greater assurance that the contribution was not previously made in the form of a cash payment or land transfer, in view of the possible risks and consequences described earlier. If the searches performed reveal that payment of a previous contribution for a lot covered by the permit application has been made, we think that evidence of this proof of payment or land transfer must be attached to the file.

#### 4.1.1.3.1.B. Recommendation

**We recommend that the Direction de l'aménagement urbain et des services aux entreprises of Le Sud-Ouest borough add information on the following to its register of previous contributions for parks in the form of cash payments or land transfers:**

- **proof of payment in cash (payment number, for example) or land transfer (registration number of the land transfer deed);**
- **building permit numbers;**

**so that staff assigned to the processing of permit applications have complete, reliable information when they perform searches aimed at determining whether contributions have already been made in the form of cash payments or land transfers.**

#### **Business unit's response:**

*[TRANSLATION] As recommended, a column will be added to the register for entering proofs of payment or of land transfer, and a second column will be added for entering the number of the building permit involving the contribution for parks. **(Planned completion: July 2014)***



#### 4.1.1.3.1.C. Recommendation

We recommend that the Direction de l'aménagement urbain et des services aux entreprises of Le Sud-Ouest borough:

- systematically perform searches in the register of contributions for parks previously paid in cash or in the form of land transfers for all permit files for which regulatory analysis showed that a contribution for parks was payable;
  - enter in the Gestion du territoire – Permis computer application files proof that searches were performed in the register of previous contributions for parks in the form of cash payments or land transfers;
  - record in these files, if applicable, proof of the cash payment or land transfer;
- in order to facilitate the file review process and support or not support the decision to invoice for a contribution for parks.

#### Business unit's response:

*[TRANSLATION] In consultation offices, a reminder will be posted to remind permit issuing officers to check the old cadastre systematically, and a guideline will be produced on the requirement to attach a copy of the resolution to accept park costs in the Gestion du territoire – Permis (Oracle) computer system, along with information or proof showing that this park contribution has already been claimed and received in the form of a land transfer or cash payment.*

*This information must appear on a new line on subdivision rates, LO-TARIFS, in the Gestion du territoire – Permis (Oracle) computer system for all building and subdivision permit applications. (Planned completion: October 2014)*

### 4.1.1.3.2. Saint-Laurent Borough

#### 4.1.1.3.2.A. Background and Findings

As mentioned above, the DAUSE of Saint-Laurent borough uses a computer application called GO-Saint-Laurent, into which a register of previous contributions in the form of maps was integrated. These are actually administrative maps of renovated lots on which colours are superimposed to show whether the contribution for parks was paid or not. For example, if a lot is displayed in green, this means that the contribution has already been paid, while red means that the contribution has not been paid. According to information obtained from people we met with at the DAUSE, this is the tool used as a register to determine whether the contribution for parks has already been made in the form of a cash payment or land transfer.

Since 1999, the DAUSE of Saint-Laurent borough has also prepared a chart for compiling subdivision permits. It includes information such as the file number, the applicant's address, the type of cadastral operation carried out, the lots affected by the cadastral operation, the lots created as a result of the cadastral operation and, if applicable, the contribution for parks. While this chart is not used as a register of previous contributions for parks in the form of a cash payment or land transfer, it includes useful information for searching for this information.

During our audit, we were first interested in the register used with the aid of the GO-Saint-Laurent application and the subdivision permit chart to assess whether they contained the minimum amount of information necessary to determine whether contributions for parks had already been made in the form of a cash payment or land transfer.

First, the GO-Saint-Laurent application is in the form of a register of previous contributions and is relatively easy for employees who process permit applications to use, but we noted that it provides no information on proof of payment or of the land transfer.

Second, for the subdivision permit chart, a more in-depth examination revealed that it does not specify the lot for which the contribution was assessed, nor does it give information on proof of payment. Another finding is that a similar chart was not produced for building permits that were subject to a contribution for parks.

We think staff should be able to locate all the required information easily so that they can make sure that the contribution was in fact already received in cash or in the form of a land transfer. Further, the results of these searches must also appear in the permit application file to facilitate the file review process.

Next, we wanted to assess the extent to which the register in the GO-Saint-Laurent application and the subdivision permit chart were up to date to so that they could provide reliable information. To do this, we made sure that invoices for the contribution for parks were found in both files in our selection (see Appendix 6.1 – Nos. 11 and 12). Our audit showed that the register in the GO-Saint-Laurent application was kept up to date for these files for the contributions paid. We carried out the same exercise using the subdivision permit chart. Only one of these cases (No. 12), which corresponded to a subdivision permit, was likely to be found on the chart. This case appeared on the subdivision permit chart, but the amount entered did not match the amount billed, which raises doubts that it was updated.

Moreover, for the files for which regulatory analysis showed that a contribution for parks was payable, we wanted to make sure that a search had been performed in the register of previous contributions to determine whether a contribution for parks had already been made

in the form of a cash payment or land transfer. While examining the six files selected, we noted that four of them (Nos. 8, 9, 11 and 12) included evidence that a search was performed in the register used in the GO-Saint-Laurent application. However, we did not find evidence that a search of the subdivision permit files (Nos. 9 and 12) had been performed in the subdivision permit chart to find proof of a cash payment or land transfer to determine whether the contribution for parks had actually been made. For one of the files (No. 9), besides the search performed in the GO-Saint-Laurent application, we found a note entitled “Projet de lotissement” (Subdivision project) which mentioned that the contribution for parks had already been paid. However, this document made no reference to the assessment of the contribution, to the lots for which invoicing was done, the payment method, the transaction number providing formal proof of payment or the registration number of a land transfer deed, if this was the case. In our opinion, the document located in the file together with the copy of the map produced with the GO-Saint-Laurent application do not constitute formal proof of a land transfer or payment. Formal proof that the contribution for parks had already been made either in the form of a land transfer or as monetary compensation is important because it can be used to support the decision not to claim a contribution for parks for the site for which the permit application had been submitted.

We think that using a register in the form of maps involving colours (GO-Saint-Laurent) showing that the contribution has been paid is an easy-to-use reference tool for staff. However, we believe that it must be used in conjunction with a register that includes other information such as the contribution assessment, the lot numbers for which invoicing was done, the payment method, the transaction number providing formal proof of payment or the registration number of a land transfer deed if this was the case. We believe that the lack of this information can be a source of errors when a permit file is processed.

We also think that all searches performed and proofs obtained must be entered systematically in the file, for example, in the Gestion du territoire – Permis application, by using a code for the contribution for parks for searches performed in the register of previous contributions and integrating proofs of payment in the form of cash or a land transfer as attachments.

#### 4.1.1.3.2.B. Recommendation

We recommend that the Direction de l'aménagement urbain et des services aux entreprises of Saint-Laurent borough keep a register of previous contributions for parks for both subdivision permits and building permits that includes all the necessary information, in particular:

- the amount of the previous contribution;
- lots concerned by the contribution;
- proof of payment, either the receipt number providing formal proof of payment or the registration number of a land transfer deed if this was the case;

in order to provide staff with a reliable source of information they can use to ensure that a contribution for parks has already been made in the form of a cash payment or land transfer.

#### Business unit's response:

*[TRANSLATION] A search will be performed for all previous contributions for parks dating back to the municipal merger, that is, back to the application of By-law 02-065. (Planned completion: December 2014)*

*A register of previous contributions for parks will be created; it will include both subdivision permits and building permits and contain all the necessary information, including:*

- *The amount of the previous contribution;*
- *Lots to which the contribution applies;*
- *Proof of payment – either the receipt number providing formal proof of payment or the registration number of a land transfer deed if this was the case. (Planned completion: December 2014)*

#### 4.1.1.3.2.C. Recommendation

We recommend that the Direction de l'aménagement urbain et des services aux entreprises of Saint-Laurent borough record in the permit files in the Gestion du territoire – Permis computer application:

- evidence that searches have been performed in the register of previous contributions for parks made in the form of cash payments or land transfers when the regulatory analysis showed that a contribution for parks was claimed;
- proof of payment in cash or, if applicable, in the form of a land transfer;

in order to prove the validity of claiming or not claiming a contribution for parks.

**Business unit's response:**

*[TRANSLATION] The following information will be recorded in permit files in the Gestion du territoire – Permis computer application:*

- *Evidence of searches performed in the register of previous contributions for parks made in the form of cash payments or land transfers when the regulatory analysis shows that a contribution for parks is due;*
- *Proof that the contribution was made in the form of a cash payment or land transfer, if applicable. (Planned completion: December 2014)*

### 4.1.1.3.3. L'Île-Bizard–Sainte-Geneviève Borough

#### 4.1.1.3.3.A. Background and Findings

According to information obtained from people we met with at the Division de l'aménagement urbain et de la sécurité publique, which reports to the Direction des travaux publics, de l'ingénierie et de l'aménagement urbain, there is no register of previous contributions for parks. When a contribution is claimed, a search is performed in the borough's archives to determine whether the contribution had already been received in the form of a land transfer or paid in cash for the lot (or lots) covered by the permit application. As a result, for the files we sampled, contributions for parks that were paid were not entered in a record.

In our opinion, it is essential that records be kept of all the important information, including the number of the lot for which the contribution was made, the value of this lot, the land area if the contribution involves a land transfer, the numbers of the lots covered by the subdivision or building and proof of payment in cash or in the form of a land transfer. This provides complete information, which facilitates searches carried out in order to take into account previous contributions made as cash payments or in the form of land transfers.

However, our audit revealed that for three of the six permit files sampled (see Appendix 6.1 – Nos. 15, 17 and 18) a contribution for parks was previously made in the form of a land transfer. We examined these files in the Gestion du territoire – Permis computer application to make sure that they included documentation to this effect. However, this examination revealed that none of these three permit files refers to a previous contribution in the form of a land transfer. We would have expected to find information on proof of a land transfer showing the correlations among lots for which permit applications were submitted and lots that had previously been part of a land transfer.

For two of the three files (Nos. 17 and 18), the city council resolution passed by Paroisse de Saint-Raphaël-de-L'Île-Bizard or by the borough council, as the case may be, was aimed at accepting the contribution for parks in the form of a land transfer. While the city council

resolution adopted at the time is an important document, we believe that formal proof of the land transfer (notarized deed or registration number of the deed of transfer in the land register) should be entered in the file under review to prove that the city owns these sites.

In addition, handwritten notes that were given to us along with the two files did not provide us with clear, accurate information on whether the lots in the permit applications corresponded exactly to lots that were subdivided and for which a contribution for parks was claimed in the form of a land transfer at the time.

For the third permit file (No. 15), although the handwritten notes that were submitted to us mentioned that this lot had already been transferred in the 1990s as part of a subdivision involving roughly 2,000 lots, we did not find any formal evidence of this. We did not obtain either the city council resolution passed by the former city or the notarized deed of land transfer, which, in the past, provided formal proof that a contribution for parks had been made in the form a land transfer.

In our opinion, when it is found that a contribution for parks has already been made in the form of a land transfer in the past, a reference to this information or the documents used to establish formal proof of this should be included in the permit file under review. This information must establish the correlations among lots covered by permit applications, lots that were covered by previous subdivision permit applications and lots that were transferred during that period. It is essential that the permit file include this information to back up the decision made by staff not to claim a contribution for parks. When the officer is unable to prove in a clear, accurate manner that a contribution in the form of land transfer or cash payment had actually been made in the past, the applicable by-laws show that the burden of proof lies with the owner of this land, as previously mentioned. In our opinion, when no invoice exists for a contribution for parks, proof of it cannot be located by the borough and the file contains no evidence that proof was requested, there is a risk of enforcing regulations unequally from one applicant to another.

We therefore think that permit files should include explanations and proof that contributions were already paid in cash or in the form of a land transfer, since this would help show, in connection with the permit application file under review, that the contribution already made as a cash payment or land transfer corresponds to a lot (or lots) for which the permit application was submitted.

#### 4.1.1.3.3.B. Recommendation

We recommend that the Direction des travaux publics, de l'ingénierie et de l'aménagement urbain of L'Île-Bizard–Sainte-Geneviève borough acquire a register of previous contributions for parks that includes references to payments in the form of cash or land transfers, in order to facilitate searches when assurance is needed that a contribution for parks was already made in cash or in the form of a land transfer.

#### Business unit's response:

*[TRANSLATION] A register of previous contributions for parks will be created; it will include references to cash payments or land transfers. (Planned completion: December 2014)*

#### 4.1.1.3.3.C. Recommendation

We recommend that the Direction des travaux publics, de l'ingénierie et de l'aménagement urbain of L'Île-Bizard–Sainte-Geneviève borough systematically enter into the Gestion du territoire – Permis computer application files a note explaining that the contribution for parks was already received as a cash payment or land transfer along with proof of payment or proof of the corresponding land transfer in order to justify the enforcement of the applicable regulations and facilitate the file review process.

#### Business unit's response:

*[TRANSLATION] The automatic creation of a line on the contribution for parks, playgrounds and natural areas will be added to the permit application system (Gestion du territoire – Permis [Oracle]). This line must be completed in order to unlock the software before a building or subdivision permit can be issued. (Planned completion: February 2015)*

*A guideline will be created on entering the required information (calculation and relevant data) in the "note" section of the new line that will be created in the permit application system (Gestion du territoire – Permis [Oracle]). (Planned completion: February 2015)*

### 4.1.1.4. Assessment of the Value of the Contribution

#### 4.1.1.4.A. Background and Findings

During the review of a permit application, when the claim for a contribution for parks has been deemed applicable, the major regulatory aspect that ensues is the assessment of the value of the contribution itself, in compliance with the regulations.

As mentioned above, the contribution for parks can take the form of a land transfer or a compensatory amount. The files we selected essentially concern contributions paid in cash, since this is the most widespread form of payment for contributions for parks. When a contribution for parks is claimed, the by-laws examined provide for calculation methods for assessing its amount. The by-laws stipulate that the contribution claimed must be equivalent to 10% of the value of the site. When the land covered by the permit application appears in the property assessment roll, this is the value used. Since this value was established several years previously, the MAMROT plans to update it using a comparative factor published every year on its website. When the amount of the contribution for parks is calculated, the value shown in the property assessment roll must be multiplied by this comparative factor based on the year in which the permit application was filed. However, when the land covered by the permit application does not appear in the property assessment roll, then the value must be determined by means of an assessment done by a chartered appraiser, usually at the expense of the owner of the site.

Also, since the cadastral renewal, an important detail must be taken into account when the contribution for parks for a subdivision permit application is invoiced. Since that time, the concept of a lot that is used to establish the calculation of the contribution has changed. Prior to the cadastral renewal, when an owner wanted to subdivide a lot in order to sell only part of it, the contribution for parks applied only to the part sold, while the unsold part remained divided into parts of lots and no contribution for parks was claimed for it. If we transpose this situation to the period following the cadastral renewal, the concept of a site divided into parts of lots no longer exists. All lots that are subdivided become separate lots and the evidence of a contribution for parks must therefore apply to the entire lot that is subdivided, not just one of the lots resulting from this subdivision.

The value assessment that is used to establish the contribution, an important step in the process, involves several risks of non-compliance with regulations. One is that failure to use the right calculation does not yield a correct land assessment, with the result that the amount billed is not the right amount. Such a situation creates a financial loss for the borough.

Another risk involves failure to use the value of the lot in the property assessment roll, suggesting to applicants that they resort to an independent appraiser to do an assessment. This is a non-compliant enforcement that forces applicants to pay for an evaluation report when the property assessment roll should be used. If the borough was aware of this information, it would run the risk of a lawsuit. The materialization of such risks in turn leads to further risks, particularly citizen dissatisfaction with how the city is managed, a negative image of the borough or the city and public criticism of the government.



At this stage of our audit, we therefore examined the files for which a contribution for parks was claimed in order to determine whether the contribution had been calculated in accordance with the regulations. In addition, we wanted to know whether information on the assessment of the value of the contribution appeared in the permit file or in another, associated file.

#### 4.1.1.4.1. Le Sud-Ouest Borough

##### 4.1.1.4.1.A. Background and Findings

For three of the six files examined, a contribution for parks was claimed (see Appendix 6.1 – Nos. 1, 2 and 3). For one of the files (No. 1), the contribution was claimed under By-law 02-065, and for the other two files (Nos. 2 and 3), it was claimed under By-law O-1. For two of the three files, the assessment was compliant, and in one case it was not.

For the contribution claimed under By-law 02-065, the examination of file No. 1 showed that the value of this contribution was calculated in accordance with what this by-law prescribed. A single lot was involved and the value of the land was determined by using the value entered in the 2011 property assessment roll, to which the comparative factor for the year 2012 was applied, since the permit application had been filed in 2012. Details of the calculation of the value of the contribution appear in the decision-making summary that was submitted to the borough council and was the subject of a resolution. A thorough understanding of the entire process of assessing the value of the contribution for parks can be gained by examining the information provided in the summary. This includes information on the renovated lot, the old lots, the surface area of the lot, the 10% contribution claimed under the regulations, the value entered in the property assessment roll and the comparative factor. In our opinion, this is a good practice because it is helpful for properly understanding the process followed for assessing the value of the contribution for parks and it enables the manager in charge to verify the assessment.

In the case of the second file (No. 3), for which the contribution was claimed under By-law O-1, we noted that the value of the contribution was calculated in accordance with this by-law. The procedure for reviewing the value of the renovated territory, i.e., in the new cadastre, was followed properly and all the information on the calculation appears in the decision-making summary that was submitted to the borough council and was the subject of a resolution.

The other file (No. 2) concerns a subdivision permit application that involved a land sale by the city. Our audit revealed that the value of the contribution was not assessed on the basis

of the correct value of the site. The decision-making summary submitted to the borough council and the delegated summary, whose decision is signed by a manager, showed that the amount of the contribution for parks was based on the value of the land sale, whereas, according to information appearing in the Gestion du territoire – Permis computer application, it referred instead to the value entered in the property assessment roll. According to information and documents obtained from the person in charge at the Division des permis et inspections, the amount of the contribution, based on calculation of the land sale value, was outlined in a procedural guide developed by a permit-issuing officer who was working in another borough at the time. However, according to information obtained, this rule no longer applies, and accordingly, the value of the contribution for parks should have been calculated on the basis of the value of the land in the property assessment roll. For this file, then, the amount overbilled was \$25,000. First, we think that staff assigned to the processing of permit applications should have an up-to-date guide that provides a framework for the methods used. We will explore this further in Section 4.1.2. Secondly, we think that the information entered in the computer application for the permit file should match the information produced for authorities.

Finally, we believe that the checklist referred to in the previous sections should include a section dealing solely with the contribution value assessment. This would help guide staff in the enforcement of the various regulatory provisions.

#### **4.1.1.4.1.B. Recommendation**

**We recommend that the Direction de l'aménagement urbain et des services aux entreprises of Le Sud-Ouest borough include, on the regulation enforcement checklist, a list of the regulatory provisions to be considered for the assessment of the value of the contribution for parks (subdivision and building permits) in order to guide employees in the enforcement of the different regulatory provisions and make it easier for a person in charge to review files.**

#### **Business unit's response:**

*[TRANSLATION] As recommended, a list will be added to the new analysis sheet for park costs, which will be attached to the existing regulatory analysis sheet.*

*A guideline will be produced in writing requiring that the response from the Service de l'évaluation foncière concerning the value of the contribution for parks be attached or that the land transfer calculation be entered in the Gestion du territoire – Permis (Oracle) computer system. A copy of the property assessment roll must also be attached. **(Planned completion: June 2014)***

#### 4.1.1.4.1.C. Recommendation

We recommend that the Direction de l'aménagement urbain et des services aux entreprises of Le Sud-Ouest borough ensure that the information appearing in the Gestion du territoire – Permis computer application match the information provided in the decision-making summaries submitted to the authorities so that reliable information is available when files are consulted.

#### Business unit's response:

*[TRANSLATION] A guideline will be produced specifying that a copy of the resolution to accept park costs must be attached, in Oracle.*

*This information must appear on a new line for subdivision rates, LO-TARIFS, in the Gestion du territoire – Permis (Oracle) computer system for all building and subdivision permit applications. (Planned completion: October 2014)*

### 4.1.1.4.2. Saint-Laurent Borough

#### 4.1.1.4.2.A. Background and Findings

In the case of Saint-Laurent borough, three of the six files examined concerned the contribution for parks. Our audit revealed non-compliances in all three cases.

First, for one file (see Appendix 6.1 – No. 8) involving a building permit, the contribution had not yet been made in the form of a cash payment or land transfer. However, following our audit, we found no evidence that the contribution for parks had been assessed and invoiced. One of the file documents was a note stating that this file was still under review to determine whether the contribution should take the form of a land transfer rather than a cash payment. However, this file will be examined in greater detail in Section 4.1.1.6.2.

For the second file (No. 11), which also concerned a building permit, the site was a unit of assessment entered in the roll, which means that the value found in the roll must be used to calculate the value of the contribution. As mentioned in the introduction to this section, a comparative factor must be applied, since this value was established for a year earlier than the year the permit was issued. When the value of the contribution was assessed in 2012, it was the value of the land shown in the property assessment roll that had to be considered. However, our audit revealed that the value of 2011 was used without application of the comparative factor, which resulted in a shortfall of \$15,000. Accordingly, the value of the contribution that was invoiced was not compliant with regulations, and led to a financial loss for the borough. According to information obtained, employees assigned to the processing of

building permit applications were not aware of this rule. It is important that the correct calculations be used, especially because of the risk of financial losses.

For the third file (No. 12) which involved a financial contribution, our audit revealed several irregularities arising from the procedure used as well as the assessment method used. This file concerned a subdivision permit application in order to subdivide a lot into two lots, which are in the renovated territory. As we mentioned above, when a lot is located in the new cadastre and is subdivided into two lots, the value of the lot that is subdivided must be taken into account to calculate the contribution. However, we noted that only one lot was taken into account to establish the value of the contribution for parks. In fact, since the value of the lot that had just been subdivided was not found in the property assessment roll, an assessment application was sent to a private chartered appraiser at the site owner's expense.

We believe that the procedure followed for this file is not compliant and left in its wake several irregularities that had major repercussions, including financial losses. Indeed, since this subdivision permit file concerned a lot located in the new cadastre, the entire lot that was subdivided into two lots should have been taken into account to establish the value of the site, and subsequently, the value of the contribution. According to our calculations, close to \$600,000 should have been claimed as a contribution for parks, whereas the applicant was billed for an amount of nearly \$150,000—a shortfall of close to \$450,000. Moreover, since the entire lot prior to the subdivision had to be taken into account, the value found in the property assessment roll should have been used, since it showed that this lot constituted a unit of assessment. Furthermore, since the subdivision permit application was filed in 2012 and the excerpt from the property assessment roll gives the value of the site for 2011, the comparative factor provided by the MAMROT should have been used to obtain the actual value of the site in 2012. Therefore, the borough should not have commissioned an independent appraiser to do the property assessment, and the applicant should not have had to pay for an evaluation report. Finally, we think that a large amount should have been invoiced when the subdivision permit application was processed in 2012. But it was not, and this deprived the borough of revenue that could have been used for parks.

With respect to documents that provide information on the assessment of the value of the contribution in permit files, for two files showing that a contribution was claimed, we found only the invoices. In our opinion, details of how the contribution value assessment was calculated should appear in permit files in the Gestion du territoire – Permis computer application or in another electronic document so that the manager in charge can review it easily.

It must be pointed out that the procedure for assessing the value of the contribution is particularly important because if it is not applied in accordance with legislation and regulations, this could result in a series of irregularities. We think that the checklist referred to in recommendation 4.1.1.1.2.D should include a section devoted exclusively to the contribution value assessment. This would help staff ensure that the different regulatory provisions are enforced.

#### 4.1.1.4.2.B. Recommendation

**We recommend that the Direction de l'aménagement urbain et des services aux entreprises of Saint-Laurent borough include, on the regulation enforcement checklist, a list of the regulatory provisions to be considered for the assessment of the value of the contribution for parks (subdivision and building permits) in order to guide staff in the enforcement of the different regulatory provisions as well as make it easier for a person in charge to review files.**

#### Business unit's response:

*[TRANSLATION] The by-law enforcement checklist will contain a list of the regulatory provisions that must be considered in the assessment of the value of the contribution for parks (subdivision and building permits). (Planned completion: drafting of a checklist – October 2014)*

#### 4.1.1.4.2.C. Recommendation

**We recommend that the Direction de l'aménagement urbain et des services aux entreprises of Saint-Laurent borough make sure they document in the Gestion du territoire – Permis computer application details of the calculation of the contribution for parks to make it easier for a person in charge to review files and detect non-compliance situations before permits are issued.**

#### Business unit's response:

*[TRANSLATION] Details of the calculation of the contribution for parks will be documented in the Gestion du territoire – Permis computer application to make it easier for a person in charge to review files and detect non-compliance situations before permits are issued. The calculation of the contribution will appear on the analysis sheet. (Planned completion: December 2014)*

### 4.1.1.4.3. L'Île-Bizard–Sainte-Geneviève Borough

#### 4.1.1.4.3.A. Background and Findings

Two of the six files sampled involved a contribution for parks. In both cases (see Appendix 6.1 – Nos. 13 and 16), the assessment of the value of the contribution was compliant. For the first file (No. 13), three lots were created from a single lot, but an exemption was granted for one of the lots created. The result was that since the value of the other two lots was not entered in the property assessment roll, it was determined by a chartered appraiser, at the owner's expense, as prescribed by the regulations. The contribution for parks was therefore determined by calculating 10% of the value of each of these lots. The value of the contribution was assessed in a compliant manner.

In the other file (No. 16), although we already examined the enforcement of By-law 09-002 in Section 4.1.1.1.3. to establish the contribution for parks, we nevertheless examined the assessment of this value. Our audit revealed that for this building permit, the value of the lot was determined from the property assessment roll. Furthermore, since the permit application was filed in 2013 and a value was entered in the property assessment for 2011, the comparative factor described above was also applied. Finally, once the actual value of the site was obtained, it was multiplied by 10% to obtain the amount of the contribution for parks. Consequently, it appears that all the elements used to determine the value of the contribution for parks were considered in a compliant manner.

Moreover, details of the calculations and the procedure followed for assessing the value of the sites and the contribution for parks appear for both of these files in the decision-making summary dealt with in a borough council resolution.

We noted, however, that the contribution value assessment was not attached to the Gestion du territoire – Permis computer application. We think that information entered in computer applications for the permit file should match the information produced for authorities.

#### 4.1.1.4.3.B. Recommendation

**We recommend that the Direction des travaux publics, de l'ingénierie et de l'aménagement urbain of L'Île-Bizard–Sainte-Geneviève borough make sure it documents in the Gestion du territoire – Permis computer application details on how the contribution for parks was calculated to make it easier for a person in charge to review files and detect non-compliance situations before permits are issued.**

**Business unit's response:**

*[TRANSLATION] The automatic creation of a line on the contribution for parks, playgrounds and natural areas will be added to the permit application system (Gestion du territoire – Permis [Oracle]). This line must be completed in order to unlock the software before a building or subdivision permit can be issued. (Planned completion: February 2015)*

*A guideline will be created on entering the required information (calculation and relevant data) in the “note” section of the new line that will be created in the permit application system (Gestion du territoire – Permis [Oracle]). (Planned completion: February 2015)*

#### 4.1.1.5. Choosing to Claim the Contribution in the Form of a Land Transfer or Compensation

##### 4.1.1.5.A. Background and Findings

According to most of the by-laws reviewed, in the three boroughs selected, the contribution for parks may be paid in the form of either a land transfer, as a compensation, or both at once, as the borough council chooses. Accordingly, under these provisions, acceptance of the contribution by the borough council is an important regulatory process incorporated into the permit application process. Under the by-laws examined, this choice is exercised by the borough council and concerns the acceptance, through the adoption of a resolution, of a contribution in the form of a cash payment or land transfer equivalent to 10% of the value of the site. For the three boroughs audited, we did not find evidence that the borough council had delegated powers to public officials to exercise this choice.

With this in mind, we conducted our audit to examine whether a borough council resolution had been adopted for files involving a contribution for parks.

In Le Sud-Ouest borough, three of the six files six selected involved a contribution for parks in the form of compensation. In all three cases, we found that a decision-making summary had been produced by the DAUSE and that the borough council had adopted a resolution to accept this contribution for parks before the permit was issued. This practice is compliant with the applicable regulations.

In Saint-Laurent borough, the practice is different. According to information obtained from the officer responsible for registry records, no decision-making summary was issued on the subject of files involving the contribution for parks, and such files are not submitted to the borough council for adoption. Still according to the information obtained, the borough

systematically requests compensation, and the former city of Saint-Laurent had adopted this practice well before the municipal merger in 2002.

Two of the six permit files sampled involved a contribution for parks in the form of compensation. However, neither of these two files was covered by a borough council resolution adopted for the purpose of exercising the choice provided by regulations. As a result, permits were issued without the borough council adopting a resolution that the choice of a contribution for parks be exercised for the files.

We therefore think this practice is not compliant with regulations. When a contribution for parks is required, the regulations must be consistently enforced, and, accordingly, the borough council must exercise the choice provided for. Files involving a contribution for parks must therefore be submitted to the borough council in order to comply with the by-laws, whether a compensation payment or land transfer is involved.

Finally, in L'Île-Bizard–Sainte-Geneviève borough, two of the six permit files that we examined involved the acceptance of cash compensation as a contribution for parks. These two files were submitted to the borough council. For each file, the council passed a resolution to accept compensation as a contribution for parks. This practice is compliant with the regulations examined, since the council exercised its choice in accordance with By-law 09-002 prior to the issue of permits.

#### 4.1.1.5.B. Recommendation

**We recommend that the Direction de l'aménagement urbain et des services aux entreprises of Saint-Laurent borough systematically submit to the borough council subdivision and building permit files involving a contribution for parks so that it can exercise its choice to receive this contribution in the form of a land transfer or compensation, or both at once, in order to comply with the applicable regulations.**

#### **Business unit's response:**

*[TRANSLATION] Subdivision and building permit files for which a contribution for parks is claimed will be sent systematically, by means of decision-making summaries, to the borough council so that it can exercise its choice of receiving this contribution in the form of a land transfer, a compensatory sum, or both at once, in order to comply with the applicable regulations. (Planned completion: one file submitted to elected officials for every permit application – effective as of May 2014)*

***Drafting a procedure.** A special procedure will be produced in writing for all employees who are likely to issue a building permit for the construction of a main building in order to remind them to consult the two geomatic layers provided in the*



*GO-Saint-Laurent system: the one that concerns sites that were in parts of lots prior to the cadastral renewal and the one that concerns lots for which a contribution for parks has already been made in the form of a cash payment or land transfer or has not been not settled. Follow-up to this procedure will be checked by the senior officer. (Planned completion: drafting and validation of the procedure – October 2014)*

#### 4.1.1.6. Payment of the Contribution

##### 4.1.1.6.A. Background and Findings

When a contribution for parks is claimed as part of the process of issuing subdivision and building permits, the by-laws of the three boroughs selected stipulate that the contribution must be made through a cash payment or land transfer prior to the issue of the permit. When the applicant pays the contribution in cash, a receipt should be produced, which should include the payment date, the amount paid, the transaction number, the purpose of the transaction and the name of the applicant who paid the contribution. This receipt should be attached to the file to provide proof of compliance with the regulations.

The issue of a permit before the contribution for parks is made through a cash payment or land transfer constitutes non-compliance with regulations, and this poses several risks for the borough. Indeed, it can mean financial losses if there are major difficulties in obtaining payment of the contribution, or interest lost because money was not collected, or legal costs that might be incurred to recover this amount. There are also the risks that this could create a negative image of the borough or the city and lead to public criticism of the government.

At this stage, our audit consisted in examining the files in our sample that involved a contribution for parks in order to assess whether the contribution was paid before the permit in question was issued, in accordance with regulations. Our audit also consisted in comparing the date on which the applicant paid the contribution with the permit issue date, and in assessing the extent to which control mechanisms were established to ensure that no permit was issued before the contribution for parks was paid.

It should be noted that our sample did not include any file involving a contribution for parks that was made in the form of a land transfer. Therefore, for this type of contribution, we were unable to verify whether the land transfer took place prior to the issue of permits.

### 4.1.1.6.1. Le Sud-Ouest Borough

#### 4.1.1.6.1.A. Background and Findings

In Le Sud-Ouest borough, three files (see Appendix 6.1 – Nos. 1, 2 and 3) involved a contribution for parks. A comparison of the dates reveals that, in each case, the contribution for parks was paid before the permit in question was issued. This practice is therefore compliant with regulations.

On the subject of file documentation, our audit revealed that for two files (Nos. 2 and 3) proof of payment, in this case the payment transaction number, was entered in the permit application file in the Gestion du territoire – Permis application. For the third file (No. 1), although we tracked down this proof of payment during our audit, it did not appear in the computer application under a separate code. With this method, there is a risk that the building permit will be issued before the contribution for parks is paid.

We believe that proof of payment, including the payment transaction number, should be entered in each file in the Gestion du territoire – Permis computer application. It is essential that this information be easy to locate in the computer file, since under the regulations, the permit must not be issued prior to payment of the contribution. As mentioned in previous sections, when the permit file is opened in the Gestion du territoire – Permis application, a meaningful code for the contribution for parks, such as “PARCS,” should be used systematically as a monitoring mechanism for ensuring both that the associated by-law was enforced and that the contribution for parks was received in the form of a cash payment or land transfer.

The use of such a code in the computer application also prevents the file from being closed, which in turn prevents the permit from being issued, until the result “COMPLETE” is entered in the separate field. Such a code could therefore force employees responsible for processing permit applications to ensure that contributions are paid before permits are issued. Attaching proof of payment in the computer application under a separate code would also make it easier for a senior officer to review files.

#### 4.1.1.6.1.B. Recommendation

We recommend that the Direction de l'aménagement urbain et des services aux entreprises of Le Sud-Ouest borough introduce a monitoring mechanism in the Gestion du territoire – Permis computer application to prevent a subdivision or building permit from being issued before the contribution for parks is received in the form of a cash payment or land transfer, as the case may be, in order to comply with the applicable regulatory provisions.

#### Business unit's response:

*[TRANSLATION] Two new lines, one for special follow-up on parts of lots (SS-PTIE) and one for subdivision rates (LO-TARIFS), must be completed prior to the issue of a permit. (Planned completion: June 2014)*

### 4.1.1.6.2. Saint-Laurent Borough

#### 4.1.1.6.2.A. Background and Findings

In Saint-Laurent borough, three files (see Appendix 6.1 – Nos. 8, 11 and 12) out of the six selected involved a contribution for parks. Our audit showed that one of the files was compliant, while the other two were not. For the first file (No. 11), which concerned a building permit, the contribution for parks was paid before the permit was issued, which is compliant with the regulations.

For the second file (No. 8), which also involved a contribution relating to a building permit, the permit was issued in 2011, and, at the time of our audit in November 2013, the contribution for parks still had not been received in cash or in the form of a land transfer. According to a note attached to the file, dating from September 2012, discussions were still under way to determine whether the contribution would consist of a land transfer rather than a cash payment. Therefore, the contribution for parks was not made prior to the issue of the permit. We believe that this is a serious case of non-compliance with the regulations, even though the latter seems very clear on this matter. Indeed, as mentioned above, the two by-laws that must be enforced by the borough, either By-law 02-065 or By-law 08-005, as the case may be, provide that the contribution must be made either as a cash payment or in the form of a land transfer, as the borough council chooses, before the permit can be issued. Consequently, this non-compliance has deprived the borough of a contribution for more than two years. Furthermore, the borough is exposing itself to several risks, including financial loss.

Finally, for the third file (No. 12), the contribution for parks was claimed for a subdivision permit. Our audit revealed that the permit was issued in early August 2012, and that a portion of the contribution for parks was paid in cash at the end of August 2012 and the other portion in early October 2012, after the subdivision permit was issued. The last payment was made when the building permit was issued. According to the person responsible for cadastral operations at the Division des permis et des inspections of the DAUSE, applicants are generally notified that they must make a contribution for parks, if one is required, when the building permit is issued, even if it is required as a result of the cadastral operation, in this case, the subdivision permit. This is a case of non-compliance with regulations, since the payment was not made before the subdivision permit was issued.

With respect to documenting proof of payment in the Gestion du territoire – Permis computer application, a review of the two files involving a payment of the contribution for parks revealed that the payment transaction number was found in the costs tab. We think this is a good practice, because the transaction number provides proof that the contribution was duly paid. However, this is not an adequate monitoring mechanism, because our audit revealed that in two out of the three cases, permits were issued prior to payment of the contribution for parks. We think that in order to comply with the applicable regulations, the DAUSE must revise its permit issuing practices so that the contribution for parks is collected before a permit is issued. We believe that it is necessary for the DAUSE to establish a monitoring mechanism as a systematic way of ensuring that the contribution is made in the form of a land transfer or cash payment prior to the issue of a permit.

#### **4.1.1.6.2.B. Recommendation**

**We recommend that the Direction de l'aménagement urbain et des services aux entreprises of Saint-Laurent borough take the necessary steps to ensure that the contribution for parks is received in cash or in the form of a land transfer before the subdivision or building permit is issued, as the case may be, in order to comply with the applicable regulations.**

#### **Business unit's response:**

*[TRANSLATION] A procedure will be established outlining the steps to be taken in order for the contribution for parks to be received in the form of a cash payment or land transfer prior to the issue of the subdivision or building permit, as the case may be, in order to comply with the applicable regulations. (Planned completion: drafting of the procedure – October 2014)*

#### 4.1.1.6.2.C. Recommendation

We recommend that the Direction de l'aménagement urbain et des services aux entreprises of Saint-Laurent borough put in place a monitoring mechanism in the Gestion du territoire – Permis computer application to prevent a subdivision or building permit from being issued before the contribution for parks is received in cash or in the form of a land transfer, as the case may be, in order to comply with the applicable regulatory provisions.

#### Business unit's response:

*[TRANSLATION] A procedure will be established outlining the steps to be taken in order for the contribution for parks to be received in the form of a cash payment or land transfer prior to the issue of the subdivision or building permit, as the case may be, in order to comply with the applicable regulations. (Planned completion: drafting of the procedure – October 2014)*

*A monitoring mechanism will be introduced in the Gestion du territoire – Permis computer application to prevent a subdivision or building permit from being issued before the contribution for parks is made in the form of a cash payment or land transfer, as the case may be, in order to comply with the applicable regulatory provisions. (Planned completion: upgrade of the permit management system for building permits and integration of a module for subdivision permits – December 2014)*

### 4.1.1.6.3. L'Île-Bizard–Sainte-Geneviève Borough

#### 4.1.1.6.3.A. Background and Findings

In L'Île-Bizard–Sainte-Geneviève borough, according to information obtained from the manager of the Division de l'aménagement urbain et de la sécurité publique, subdivision and building permits are not issued as long as the contribution is not paid in cash or in the form of a land transfer.

Examination of the two files (see Appendix 6.1 – Nos. 13 and 16) involving a contribution for parks revealed that the amounts had in fact been paid before the corresponding permits were issued. Accordingly, this practice is compliant with regulations.

With respect to documenting proof of payment in the Gestion du territoire – Permis computer application, a review of the two permit files involving a contribution for parks revealed that the application did not contain such proofs. For the first file (No. 16), the contribution amount was entered in the costs tab, along with the number of the resolution adopted by the borough council. However, while entering a resolution number constitutes sound practice, it does not

constitute proof of payment of the contribution for parks. The payment transaction number confirms that the payment was in fact made, and should therefore also appear in the permit file. For the other file that we examined (No. 13), the resolution number has been entered in the remarks section of the permit file in the computer application, but no other information has been. This procedure does not show that the payment has actually been received, and it does not facilitate the file review process. Furthermore, the fact that proof of payment is not found under a separate code makes it impossible to monitor this regulatory provision. Even though both of the cases examined proved to be compliant, the lack of monitoring mechanisms in place still puts the borough at risk for issuing a permit before a claimed contribution is received.

In our opinion, those in charge should use a specific code in the Gestion du territoire – Permis computer application and enter the transaction number in it or attach proof of payment to it to ensure systematically that the contribution was received in cash or in the form of a land transfer before the permit was issued.

#### 4.1.1.6.3.B. Recommendation

**We recommend that the Direction des travaux publics, de l'ingénierie et de l'aménagement urbain of L'Île-Bizard–Sainte-Geneviève borough establish a control mechanism in the Gestion du territoire – Permis computer application designed to prevent a subdivision or building permit from being issued before the contribution for parks is received in cash or in the form of a land transfer, as the case may be, in order to comply with the applicable regulatory provisions.**

#### Business unit's response:

*[TRANSLATION] The automatic creation of a line on the contribution for parks, playgrounds and natural areas will be added to the permit application system (Gestion du territoire – Permis [Oracle]). This line must be completed in order to unlock the software before a building or subdivision permit can be issued. (Planned completion: February 2015)*

### 4.1.1.7. Measures for Detecting Non-Compliances Prior to the Issue of Permits

#### 4.1.1.7.A. Background and Findings

Permit application files are basically complex files that require a good knowledge of the applicable regulations and expertise in the field. Since considerable revenue is involved, the risk of errors, misinterpretation or irregularities during the processing of files takes on special

meaning. For files for which officers had to examine the enforcement of the regulations governing the contribution for parks, our audit uncovered several non-compliances. They mainly involve the enforcement of By-law 02-065 itself, the application of exemptions in connection with the requirement of a contribution for parks, the consideration of previous contributions, the calculation of the contribution for parks and receipt of payment of the contribution. For several of these non-compliances, the consequence was that boroughs did not claim a contribution when they should have, or that they did not claim the correct amount as a contribution for parks. In both cases, this represented a shortfall for the boroughs.

In order to reduce non-compliance risks, control measures must be established so that the people in charge ensure compliance with the regulations and detect cases of non-compliance as a result. Here we cite separation of duties and the file review as key steps in the process.

Since all building and subdivision permits issued are signed by a designated person within the borough, we wondered whether review mechanisms existed previously. However, according to information obtained, at the time of our audit, a formal process for reviewing the files was not in place within the three boroughs. For Le Sud-Ouest borough, a guideline was produced in August 2013 by the Division des permis et inspections in response to one of the recommendations we made in our audit report *Issue of Building and Subdivision Permits – Contaminated Lands* (produced in March 2013). At that time, we recommended that:

- an officer senior in rank to permit issuing officers be designated to review the files compiled, before the permit is issued;
- evidence of this approval appear on the analysis sheet (monitoring tool) to be developed and attached in the files compiled.

Since enforcement of by-laws on the contribution for parks is part of the permit issuing process, we provide here an overview of the part of the guideline that applies to the file review process:

- **Building permit validation process:** At the time of the review, the officer responsible for processing an application received must complete and sign a regulatory analysis sheet and file it. Prior to the issue of the permit, the senior technical officer must then review the file. If corrections need to be made to the project, to the regulatory analysis sheet or to the amount charged for the permit application, the senior technical officer notifies the application processing officer so that the corrections are made. When a senior technical officer finds that the file is complete and compliant and that the permit can therefore be issued, he or she must sign and enter the date on the regulatory analysis sheet. The senior technical officer must also enter a specific code (VZ-Étude) in the Gestion du territoire – Permis computer application to attest that the file was reviewed before a permit was issued. After duly signing the regulatory analysis sheet and attesting

that it was reviewed in the computer application, the senior technical officer returns the file to the application processing officer, who issues a building permit bearing the DAUSE manager's electronic signature.

- **Subdivision permit validation process:** Under this procedure, the officer responsible for processing the application must submit the file (plans and decision-making summary, if any) to the technical officer responsible. The senior technical officer must review the file and, if necessary, request corrections. When a senior technical officer finds that the file is complete and compliant and that the permit can therefore be issued, he or she must enter a specific code (VZ-Étude) in the Gestion du territoire – Permis computer application to attest that the file was reviewed. Next, the senior technical officer returns the permit application file to the application processing officer, who issues a subdivision permit bearing the DAUSE manager's electronic signature.

During our audit in this borough, the information obtained revealed that the review of a building permit file before a permit was issued and the entry of a specific code (VZ-Étude) did not necessarily cover regulations governing the requirement of the contribution for parks. For subdivision permit files, no review was conducted before permits were issued.

In Saint-Laurent borough, only building permits are issued through the Gestion du territoire – Permis computer application; they bear the electronic signature of the manager of the Division des permis et des inspections. Subdivision permits are not issued through the Gestion du territoire – Permis computer application. Instead, they are issued and signed by the officer responsible for processing these files without a senior officer conducting a complete review of the file. We think it should be a manager in charge who signs subdivision permits.

In L'Île-Bizard–Sainte-Geneviève borough, permits are issued through the Gestion du territoire – Permis computer application without a file review first being conducted by a senior official. In addition, permits are signed by the building inspector. We think they should be signed instead by a manager in charge.

On the other hand, in Le Sud-Ouest and L'Île-Bizard–Sainte-Geneviève boroughs, for files that involve a contribution for parks (from 2% to 18% of the total number of permits issued, depending on the year), a decision-making record is prepared to have the borough council approve the choice to receive this contribution in the form of a cash payment or land transfer. In both cases, a decision-making summary that includes information on how the contribution for parks is calculated is endorsed by the manager of the Division des permis et des inspections (Le Sud-Ouest borough) or by the manager of the division responsible for issuing permits (L'Île-Bizard–Sainte-Geneviève borough). Endorsement of this decision-making



summary confirms that the information submitted is complete and accurate with respect to the decision requested. In addition, the decision-making summaries are recommended by either the manager of the DAUSE (Le Sud-Ouest borough), or the manager of the Division de l'aménagement urbain et de la sécurité publique (L'Île-Bizard–Sainte-Geneviève borough). The person who signs the recommendation is the officer responsible for the file in the borough management and the borough council. In our opinion, this is the only step during which non-compliances are likely to be detected by those in authority. Note that this step takes place before the contribution for parks is collected and the permit is actually issued.

Still in Le Sud-Ouest and L'Île-Bizard–Sainte-Geneviève boroughs, the other files, those not involving a contribution for parks (more than 80% of permit application files), are not reviewed systematically to detect cases of non-compliance. For all the files for which either the applicable by-law was not even enforced, the application of exemptions was not compliant or errors turned up in searches for previous payments, non-compliances are likely to go undetected by an officer senior in rank to permit issuing officers or technical officers, as the case may be. This procedure does not allow cases of non-compliance to be detected systematically before permits are issued. With no formal file review in place, there may even be a risk of misappropriation of funds.

In Saint-Laurent borough, regulatory requirements for approval by the borough council are not followed. Hence, permit application files for which officers had to assess the enforcement of regulations governing the contribution for parks are not systematically reviewed at key steps in the process by an officer senior in rank to permit issuing officers or technical officers. We think that there is a risk that non-compliances are not being detected before permits are issued. Moreover, the results of our audit confirm this, because four of the six files selected for this borough show non-compliances with one regulation or another, including one error of nearly \$450,000.

We think not only that monitoring tools must be placed at the disposal of permit issuing officers, but that a file review procedure outlining the different steps in enforcing regulations on the contribution for parks must be established for Saint-Laurent and L'Île-Bizard–Sainte-Geneviève boroughs. In Le Sud-Ouest borough, we think that it should implement the guideline it produced in August 2013 by making sure that the file review also covers the by-laws governing the requirement of a contribution for parks. Furthermore, the evidence of this review should be documented in files, either through the approval of a regulatory analysis sheet or checklist or the creation of a review code in the computer application. Clearly, this review should be conducted by an officer senior in rank to permit issuing officers and should help detect any errors in enforcing regulations before permits are issued.

#### 4.1.1.7.B. Recommendation

We recommend that the Direction de l'aménagement urbain et des services aux entreprises of Le Sud-Ouest borough ensure that the file review provided for in the guideline it produced in August 2013 also covers the by-laws governing the requirement of a contribution for parks so that non-compliance situations can be detected before permits are issued and any necessary corrective measures can be taken.

#### Business unit's response:

*[TRANSLATION] A reference to the contribution for parks will be added to the permit validation procedure.*

*An information sheet will be created and made available at the Accès Montréal counter, and an additional, electronic, information sheet will be accessible in Information Bank 3-1-1. (Planned completion: October 2014)*

#### 4.1.1.7.C. Recommendation

We recommend that the Direction de l'aménagement urbain et des services aux entreprises of Saint-Laurent borough ensure that all subdivision permits are signed by a manager so that this person is accountable for compliance with the laws and by-laws governing the issue of permits.

#### Business unit's response:

*[TRANSLATION] A procedure will be established outlining the steps to be taken in order for the contribution for parks to be received in the form of a cash payment or land transfer prior to the issue of the subdivision or building permit, as the case may be, in order to comply with the applicable regulations.*

*All subdivision permits will be signed by a manager, who will be accountable for compliance with laws and by-laws governing the issue of permits. (Planned completion: October 2014)*

#### 4.1.1.7.D. Recommendation

We recommend that the Direction des travaux publics, de l'ingénierie et de l'aménagement urbain of L'Île-Bizard–Sainte-Geneviève borough ensure that all building and subdivision permits are signed by a manager so that this person is accountable for compliance with the laws and by-laws governing the issue of permits.

**Business unit's response:**

*[TRANSLATION] A procedure will be created for permits to be signed by the division head.*

*Another procedure will be added involving cross-checking to be done by a colleague-inspector prior to the issue of a permit. (Planned completion: November 2014)*

**4.1.1.7.E. Recommendation**

**We recommend that the Direction de l'aménagement urbain et des services aux entreprises of Saint-Laurent borough and the Direction des travaux publics, de l'ingénierie et de l'aménagement urbain of L'Île-Bizard–Sainte-Geneviève borough put in place mechanisms for reviewing files dealing with the enforcement of regulations governing the contribution for parks so that non-compliance situations can be detected before permits are issued and any necessary corrective action can be taken.**

**Business units' responses:****SAINT-LAURENT BOROUGH**

*[TRANSLATION] File review mechanisms will be established to help enforce by-laws governing the contribution for parks so that non-compliance situations can be detected before permits are issued and any necessary corrective action can be taken. (Planned completion: upgrade of the permit management system for building permits and integration of a module for subdivision permits and checklist – December 2014)*

**L'ÎLE-BIZARD–SAINTE-GENEVIÈVE BOROUGH**

*[TRANSLATION] A general permit review chart that includes a section on the contribution for parks, playgrounds and natural areas will be created. This section must include conditions for exemption from a contribution. The chart shall be completed and signed by the employee who issues the permit. It will be attached to and archived in the file. (Planned completion: February 2015)*

*The automatic creation of a line on the contribution for parks, playgrounds and natural areas will be added to the permit application system (Gestion du territoire – Permis [Oracle]). This line must be completed in order to unlock the software before a building or subdivision permit can be issued. (Planned completion: February 2015)*

*A guideline will be created on entering the required information (calculation and relevant data) in the "note" section of the new line that will be created in the permit application system (Gestion du territoire – Permis [Oracle]). (Planned completion: February 2015)*

### 4.1.1.8. Special Parks Fund and Authorized Expenditures from the Fund

#### 4.1.1.8.A. Background and Findings

As mentioned above, a borough council can elect to receive a contribution for parks in the form of either a land transfer or equivalent compensation. According to the ALUPD, when the contribution consists of a land transfer, it must be used only for park purposes. The ALUPD also provides that cash amounts received as a contribution for parks must be deposited in a special fund. According to Section 117.15: *“The fund may be used only to purchase or develop land to be used for parks or playgrounds, to purchase land to be used for natural areas or to purchase plants and to plant them on property of the municipality.”*

Moreover, on the MAMROT website, we found a guide to decision-making in urban planning, *La prise de décision en urbanisme*. This guide, described as an urban planning toolbox, is intended for elected officials, municipal officers and employees who work in the field of urban planning. One of the topics discussed is funding and land management tools, including the contribution for parks. According to the MAMROT, this contribution is to be used in the following ways:

*[TRANSLATION] [...] amounts paid to the municipality as a contribution for parks and land [...] transferred for this purpose go into a special fund can be used only to:*

- *purchase or develop land for parks or playgrounds;*
- *construct a building whose use is inherent to the use or maintenance of a park, playground or natural area;*
- *purchase land for natural areas;*
- *purchase plants (trees, plants, lawn, etc.) and plant them on municipal property.*

*One of the purposes of the special fund is to maintain these investments at such a level that existing and future taxpayers can enjoy adequate recreational and natural areas at reasonable costs. The fund cannot be used for regular maintenance because operating expenditures are part of a municipality’s ongoing operations. This type of expenditure must be borne by taxpayers who receive the services in the year in which they are provided.<sup>24</sup>*

Management of the special fund involves risks of non-compliance with the ALUPD and guidelines issued by MAMROT. First, there is a risk that amounts will not be deposited in this special fund or that funds available in the special fund will be spent for purposes other than those specified in ALUPD or MAMROT guidelines.

---

<sup>24</sup> Guide *La prise de décision en urbanisme*, “Outil de financement et de maîtrise foncière” section, MAMROT, last updated: February 11, 2013. [[www.mamrot.gouv.qc.ca/amenagement-du-territoire/guide-la-prise-de-decision-en-urbanisme](http://www.mamrot.gouv.qc.ca/amenagement-du-territoire/guide-la-prise-de-decision-en-urbanisme)].

The first phase of our audit work in this area therefore consisted in examining files in our sample, for the three boroughs selected, that involved a contribution for parks, to ensure that the amounts received had actually been deposited in this fund. Note that none of the permit files we sampled for 2011, 2012 and 2013 involved a land transfer.

The second phase consisted in examining, for the three boroughs targeted by our audit, whether expenditures made from their special funds for 2011, 2012 and 2013 were compliant with the ALUPD and in line with MAMROT guidelines.

#### 4.1.1.8.1. Le Sud-Ouest Borough

##### 4.1.1.8.1.A. Background and Findings

In Le Sud-Ouest borough, the responsibility for managing the special fund falls to the Direction des services administratifs. For three of the six permit files selected, a contribution for parks was paid in cash (see Appendix 6.1 – Nos. 1, 2 and 3). Examination of the detailed account associated with this special fund for 2011, 2012 and the first six months of 2013 showed that it contained the amounts received as a contribution for parks for these three files, which is compliant with the ALUPD. The date of deposit, the number of the decision-making summary, the number of the council resolution to accept the amount of funds and the amount of the contribution appear in this account.

Examination of the detailed account of the special fund showed that at January 1, 2011, the balance was \$545,109 and at June 30, 2013, it was \$693,892 (see Table 2).

**Table 2 – Special Parks Fund  
Le Sud-Ouest Borough  
January 1, 2011, to June 30, 2013**

Year	Balance at January 1	Contributions for parks received	Interest paid <sup>[a]</sup>	Use of the fund	Balance at December 31, 2011 and 2012 and at June 30, 2013
2011	\$545,109	\$232,628	\$8,005	\$25,564	\$760,178
2012	\$760,178	\$144,884	\$7,006	\$575,338	\$336,730
2013	\$336,730	\$357,162	\$0	\$0	\$693,892
<b>Total</b>		<b>\$734,674</b>	<b>\$15,011</b>	<b>\$600,902</b>	

<sup>[a]</sup> Interest is posted on December 31.

Examination of decision-making summaries showed that expenditures from the special fund were used for different purposes, such as developing parks, planting vegetation, installing

playground equipment in a park, professional services involving the design and preparation of plans and specifications and supervision of work, professional services for conducting soil analyses, for landscaping purposes and intensive planting. In our opinion, these expenditures were for activities authorized by the ALUPD and the activities outlined in the MAMROT guide were therefore compliant.

#### 4.1.1.8.2. Saint-Laurent Borough

##### 4.1.1.8.2.A. Background and Findings

In Saint-Laurent borough, responsibility for managing the special fund falls to the Direction des services administratifs et du greffe. Two of the six files sampled involved a contribution paid in cash (see Appendix 6.1 – Nos. 11 and 12). Examination of the detailed accounts associated with this special fund for 2011, 2012 and the first six months of 2013 showed that, in both cases, these contributions for parks were entered in the special fund accounts. The date of deposit and amount of the contribution appear in the account. We should point out that we did not find the number of the decision-making summary because files are not submitted to the borough council for approval.

Examination of the detailed accounts of the special fund revealed that the balance at January 1, 2011, was \$1,329,486 and that at June 30, 2013, it was \$131,648 (see Table 3).

**Table 3 – Special Parks Fund  
Saint-Laurent Borough  
January 1, 2011, to June 30, 2013**

Year	Balance at January 1	Contributions for parks received	Interest paid <sup>[a]</sup>	Use of the fund	Balance at December 31, 2011 and 2012 and at June 30, 2013
2011	\$1,329,486	\$1,031,874	\$18,783	\$646,989	\$1,733,154
2012	\$1,733,154	\$731,919	\$21,316	\$920,697	\$1,565,692
2013	\$1,565,692	\$127,468	\$0	\$1,561,512	\$131,648
<b>Total</b>		<b>1,891,261</b>	<b>\$40,099</b>	<b>\$3,129,198</b>	

<sup>[a]</sup> Interest is posted on December 31.

We examined the detailed accounts for 2011, 2012 and the first six months of 2013 to see how the special fund had been used. For each disbursement, we took note of the type of expenditure, referring to the decision-making summary. We found that some expenditures were for activities authorized by the ALUPD and activities established in the MAMROT guide,

which is compliant. However, other expenditures were of a type that we do not think is compliant.

In 2013, a contract was awarded for the watering of 750 trees, and an expenditure of \$50,000 was incurred in the same year. These trees had been planted from 2009 to 2011 under another contract, which originally covered the purchase, planting and watering of trees. According to information obtained from the manager responsible, this expenditure was made under the urban forestry plan of Saint-Laurent. In our opinion, since this expenditure is for the regular maintenance of trees, it does not correspond to the definitions set out in the MAMROT guide *La prise de décision en urbanisme*, or in the ALUPD. In our opinion, the fact that the borough's urban forestry plan provided for the expenditure did not make it more compliant with the ALUPD. Indeed, as mentioned above, the ALUPD specifies that the special fund may be used only for purchasing plants and planting them on municipal property. The MAMROT guide further specifies that the fund cannot be used for regular maintenance purposes. Accordingly, we think that the use of the special fund to pay this expenditure is not compliant.

In addition, another expenditure of \$233,000, incurred in 2012, also caught our attention. This expenditure was made under the provisions of a three-year contract (2012 to 2014) of nearly \$730,000 for professional services to inventory the borough's wooded areas. According to documents found, this contract falls under the objectives of the borough's Local Sustainable Development Plan and the Sustainable Development Plan of Montréal aimed at improving green infrastructure. The expenditure was made in 2012 to conduct a comprehensive pre-project study, which we do not believe falls into any category of expenditures authorized by the ALUPD. The guide *La prise de décision en urbanisme* clearly states that [TRANSLATION] "one of the purposes of the special fund is to maintain these investments at such a level that existing and future taxpayers can enjoy adequate recreational and natural areas at reasonable costs." Such a study cannot be covered by the type of investment described in this guide. At the time of our audit, an expenditure of \$233,000 was the only portion of the contract that had been incurred.

In our opinion, the use of a special fund set aside for parks for expenditures not provided for under the ALUPD is not compliant. The spending involved is substantial, to say the least, totalling \$283,000 to date, while future spending will reach nearly \$500,000. In our opinion, the special fund should be adjusted to take into account only the types of expenditures authorized by the ALUPD.

In addition, we believe that steps should have been taken to detect non-compliance situations. Moreover, these non-compliances should have been detected when the contracts were

awarded. Indeed, when the two aforementioned contracts were granted, the borough's Direction des services administratifs et du greffe had certified that each of the associated files was compliant according to the conditions set out in budget message No. 22. It also certified that it had budget credits available to follow up on the contract's recommendation. However, these available credits were from the parks fund. We think that the borough should take the necessary measures to ensure compliance with the regulatory provisions and MAMROT guidelines on the use of the special parks fund when a treasurer's certificate is issued.

#### 4.1.1.8.2.B. Recommendation

**We recommend that the Direction des services administratifs et du greffe of Saint-Laurent borough establish monitoring mechanisms to ensure that the funds available in the special fund reserved for parks are used solely for the types of expenditures authorized by the *Act respecting land use planning and development* and guidelines issued by the Ministère des Affaires municipales, des Régions et de l'Occupation du territoire in order to comply with the applicable legislation.**

#### Business unit's response:

*[TRANSLATION] The Direction des services administratifs et du greffe has established the monitoring mechanisms described below. A financial advisor who receives a request for the issue of a treasurer's certificate from a directorate must adhere to Section 117.15 of the ALUPD as well as the MAMROT guide to decision-making in urban planning. If in doubt, the financial advisor must contact the MAMROT. The selection of a financial advisor is validated by the division head of Ressources financières et matérielles. Next, the use of funds is confirmed by the manager of the Direction des services administratifs et du greffe, who endorses the treasurer's certificate, and then by the borough director, who signs the recommendation of the decision-making summary. Lastly, the borough's secretariat conducts a final review when the file is placed on the agenda of a borough council session.*

*An administrative framework for monitoring mechanisms intended for financial advisors, the division head of Ressources financières et matérielles, directors, administrative officers and the borough's secretariat was sent to all the borough's employees and was entered in both the borough's Intranet and the decision-making record management system (GDD). **(Planned completion: the administrative framework will be sent no later than May 2014)***

*At the same time, the borough will approach the MAMROT to argue its interpretation of Section 117.15 of the ALUPD and have it authorize the use of the special parks fund for this type of expenditure.*



#### 4.1.1.8.2.C. Recommendation

We recommend that the Direction des services administratifs et du greffe of Saint-Laurent borough take the necessary steps to ensure that accounting corrections are made to replenish the special fund set aside for parks concerning non-authorized expenditures in order to comply with the *Act respecting land use planning and development* and guidelines issued by the Ministère des Affaires municipales, des Régions et de l'Occupation du territoire.

#### Business unit's response:

*[TRANSLATION] The Direction des services administratifs et du greffe has reserved the necessary funds from the borough's surplus balances to replenish the special parks fund for the expenditures of a type deemed non-compliant. (Planned completion: December 2014)*

*At the same time, the borough will approach the MAMROT to argue its interpretation of Section 117.15 of the ALUPD and have it authorize the use of the special parks fund for this type of expenditure.*

### 4.1.1.8.3. L'Île-Bizard–Sainte-Geneviève Borough

#### 4.1.1.8.3.A. Background and Findings

Within L'Île-Bizard–Sainte-Geneviève borough, the Division des ressources financières et matérielles is responsible for managing the special fund. Two of the six permit files sampled involved a contribution for parks paid in cash (see Appendix 6.1 – Nos. 13 and 16). Examination of the special fund showed that these contributions were registered in the detailed account for this fund for 2012 and the first six months of 2013, which is compliant with the ALUPD. Among the account details are the date and amount of the deposit, the council resolution number and the address of the place for which the contribution was made.

The examination of the detailed account of the special fund revealed that at January 1, 2011, the balance was \$112,100 and at June 30, 2013, it was \$312,812 (see Table 4).

**Table 4 – Special Parks Fund  
L'Île-Bizard–Sainte-Geneviève Borough  
January 1, 2011, to June 30, 2013**

Year	Balance at January 1	Contributions for parks received	Interest paid <sup>[a]</sup>	Use of the fund	Balance at December 31, 2011 and 2012, and at June 30, 2013
2011	\$112,100	\$54,678	\$1,721	\$0	\$168,499
2012	\$168,499	\$119,567	\$2,322	\$0	\$290,388
2013	\$290,388	\$22,424	\$0	\$0	\$312,812
<b>Total</b>		<b>\$196,669</b>	<b>\$4,043</b>	<b>\$0</b>	

<sup>[a]</sup> Interest is posted on December 31.

For the use of the special fund, during our audit we examined the detailed account for 2011, 2012 and the first six months of 2013. No expenditure was made during this period.

## 4.1.2. Staff Information and Training Mechanisms

### 4.1.2.A. Background and Findings

Compliance with laws and by-laws requires that the people enforcing them have sufficient expertise and knowledge, failing which a host of non-compliance risks are likely to materialize. This can lead to risks of financial losses, public criticism of the government, etc. It is therefore important that staff receive adequate training, and that they are kept informed on an ongoing basis of new legislative and regulatory provisions that can affect their activities. This means that staff engaged in enforcing laws and by-laws must have access to training on these laws and by-laws.

Our audit consisted in examining whether mechanisms had been established to ensure that the employees responsible for enforcing laws and by-laws have received or have access to training, tools, information and an up-to-date inventory of laws and by-laws they can use to enforce them with assurance. First, we wanted to make sure that the inventory of laws and by-laws included the ALUPD and the by-laws discussed in the previous sections, and that staff involved in enforcing them were aware of and had access to this inventory.

We also wanted to make sure that the staff assigned to the processing of subdivision and building permit files had sufficient knowledge and expertise to determine the files for which the contribution for parks is required. Employees who handle these activities should be adequately trained and be kept informed of the applicable regulations and legislative and regulatory amendments governing the contribution for parks.

In order to provide the managers concerned with some degree of assurance when they must sign their certificate of compliance with laws and by-laws (see Appendix 6.2) that is submitted every year to the city manager, as noted in the introduction of this audit report, monitoring mechanisms need to be established to reduce non-compliance risks. One way to achieve this is to ensure that staff have received adequate training and information follow-up to keep them up to date in this activity.

The SAJEF provides a legislative oversight service for boroughs. In fact, the SAJEF provides legislative oversight and checks provincial and federal laws and regulations and by-laws adopted by city council and the urban agglomeration council to identify major amendments. They are then compiled in an inventory so that boroughs can be informed of the legislative and regulatory amendments affecting their areas of responsibility. This inventory, then, is more than just a simple list of laws and by-laws. It is also an instrument for informing stakeholders of the major legislative and regulatory amendments they must consider within the scope of their activities. Moreover, boroughs are responsible for forwarding these legislative and regulatory amendments to their borough's administrative units, which must ensure that laws and by-laws are enforced.

At the time of our audit, we wanted to determine the extent to which business units had access to the inventory prepared by the SAJEF. According to documents and information obtained from officers responsible for registry activities at each borough, the inventory is sent to administrative units, including the DAUSE or the Direction des travaux publics, de l'ingénierie et de l'aménagement urbain, as the case may be. For Le Sud-Ouest and Saint-Laurent boroughs, the inventory is accessible through an electronic register common to all directorates, which is not the case in L'Île-Bizard–Sainte-Geneviève borough. However, according to information obtained from the person responsible for registry activities in the latter borough, it plans to put the inventory on a shared electronic register. However, as a result of interviews conducted, we have no evidence that the inventory is known to and used by all employees responsible for enforcing regulations. In our opinion, all employees involved in enforcing laws and by-laws as part of their duties should be familiar with the inventory so that they can use it within the scope of their activities. It is therefore important that monitoring mechanisms be established in order to ensure that all employees concerned are made aware of the existence of the inventory and its usefulness. As mentioned above, the inventory of laws and by-laws prepared by the SAJEF is a legislative oversight tool that also has a mandate to report major legislative and regulatory amendments affecting boroughs.

In addition, our audit showed that, during the review of inventories of laws and by-laws provided by the boroughs' registry officers, none of these inventories includes By-laws O-1,

02-065, 08-005 and 09-002. In our opinion, it is important that this inventory include all by-laws applicable by the boroughs.

However, our audit also revealed that the DAUSE of Le Sud-Ouest and Saint-Laurent boroughs had created electronic records of laws and by-laws on their own registries. In the case of Le Sud-Ouest borough, the examination of documents obtained showed that the DAUSE had compiled an electronic register containing all the by-laws affecting its activities and areas of responsibility, including By-laws O-1 and 02-065. The register was accessible to all DAUSE employees. In the case of Saint-Laurent borough, the examination of documents obtained showed that the DAUSE also had an electronic register which included By-laws 08-005 and 02-065. For L'Île-Bizard–Sainte-Geneviève borough, we noted that the Division de l'aménagement urbain et de la sécurité publique uses the website for the city's by-laws to access its By-law 09-002. Managers are not familiar with By-law 02-065. Note that it was not included in the inventory prepared by the SAJEF and sent to the boroughs, which could explain the situation.

In addition, we wanted to determine the extent to which business units had guides at their disposal. For Le Sud-Ouest borough, we noted that DAUSE employees had guides on cadastral operations to help them process subdivision permit applications in accordance with the applicable provisions of By-law O-1. However, our examination of these guides showed that they were produced in 2002 and 2004 and are therefore no longer up to date. In our opinion, these guides should be updated so that the employees concerned will have technical support in written form. For Saint-Laurent and L'Île-Bizard–Sainte-Geneviève boroughs, the units that handle subdivision and building permits have no procedural guide on enforcement of regulations governing the contribution for parks. In this area, enforcement depends largely on the knowledge and expertise of a handful of employees.

Moreover, we did not note the existence of a formal procedural guide on the enforcement of By-law 02-065. We believe that such a guide should be developed and made available to all employees concerned to help them process building permit applications involving a contribution for parks. We also think that the DAUSE of Saint-Laurent borough and the Direction des travaux publics, de l'ingénierie et de l'aménagement urbain of L'Île-Bizard–Sainte-Geneviève borough would benefit from developing and providing their staff with procedural guides on the enforcement of By-laws 08-005 and 09-002, respectively .

We think that relying mainly on the knowledge and expertise of staff for the enforcement of regulations on the contribution for parks weakens the organization, because if an experienced employee leaves, there could be greater non-compliance risks involved in enforcing regulations due to the lack of written documents. For this reason, monitoring mechanisms

and measures should be implemented to ensure that the knowledge and expertise developed are maintained in written form in appropriate procedural guides that staff concerned and new employees can use.

In addition, according to information obtained from people we met with in the three business units, other measures are used to inform staff of the laws and regulations on subdivision and building permits, including:

- circulating a legal bulletin prepared by the SAJEF to staff;
- using electronic registers shared by employees for filing by-laws enforced in boroughs;
- sending emails to inform employees of legislative and regulatory amendments;
- providing information on laws and by-laws that affect this area of activity at meetings with employees;
- sending borough council by-laws to the employees concerned;
- introducing in-house training.

In our opinion, these are appropriate measures that constitute sound management practices for the purpose of compliance with laws and by-laws.

Moreover, we broached the issue of training for employees assigned to the processing of subdivision and building permit applications, for each business unit. In Le Sud-Ouest borough, the person responsible for subdivision permits took in-house training on the enforcement of By-law O-1 but not on the enforcement of By-law 02-065. With respect to the processing of building permit applications and the enforcement of By-law 02-065, according to information obtained, permit issuing officers experience difficulties in enforcing them.

For Saint-Laurent borough, the person responsible for processing subdivision permit applications had taken in-house training, but the manager of the Division des permis et des inspections said he was not familiar with the content of this training. He also acknowledged that the employees responsible for processing building permit applications did not have the knowledge and expertise to properly process a building permit application as far as the examination of the contribution for parks. These employees need assistance from the person responsible for subdivision permits. He says he is aware of the situation and wants the necessary corrective action to be taken so that these employees will be capable of processing an application completely without requiring assistance from the person responsible for subdivision permits.

For L'Île-Bizard–Sainte-Geneviève borough, according to information obtained from the manager of the Division de l'aménagement urbain et de la sécurité publique, a new employee who had just arrived would be handling files involving the contribution for parks. At the time

of our audit, she had not yet received training on enforcement of the borough's regulations regarding the contribution for parks. This training was to be given by another employee with knowledge and expertise in the regulations associated with the contribution for parks.

Although efforts have been made to inform and train the staff concerned, the examination of sample files for each borough revealed a lack of knowledge and expertise in the understanding and enforcement of regulations on the contribution for parks. The methods used for processing building permit files is not compliant. Indeed, for Le Sud-Ouest and L'Île-Bizard–Sainte-Geneviève boroughs, for example, examination of the application of an exemption in a building permit file revealed that it related to regulations governing the subdivision, when exemptions for a building permit should be applied. For Saint-Laurent borough, the procedure followed to process one of the subdivision permit files for claiming a contribution for parks refers to the old cadastre when a renovated lot, i.e., a lot found in the new cadastre, is involved. The procedure for the new cadastre should be the one used. Accordingly, as a result of our examination of permit files, we can assert that employees assigned to enforce regulations on the contribution for parks for each business unit are lacking in the expertise associated with this area of activity and that all employees involved in enforcing these regulations need training.

For this reason, we think that managers of the DAUSE of Le Sud-Ouest and Saint-Laurent boroughs and the Direction des travaux publics, de l'ingénierie et de l'aménagement urbain of L'Île-Bizard–Sainte-Geneviève borough should make sure that they determine training needs in order to enforce regulations associated with the contribution for parks.

#### 4.1.2.B. Recommendation

**We recommend that the Service des affaires juridiques take the necessary steps to include, in the inventory of laws and by-laws sent to the boroughs, all the applicable by-laws governing the contribution for parks so that boroughs have complete information on the regulations to be enforced.**

#### Business unit's response:

*[TRANSLATION] On April 30, 2014, by-laws on the contribution for parks applicable to boroughs were added to the inventory list of laws and by-laws.*

*An update of the inventory of laws and by-laws, which in particular includes the addition of these by-laws, was emailed to borough secretaries by the Service des affaires juridiques – Direction des affaires civiles on May 1, 2014. In addition to this inventory, a list of laws and by-laws that were added or amended since the last mail-out was attached to the email that was sent. **(Completed)***

#### 4.1.2.C. Recommendation

We recommend that the Direction de l'aménagement urbain et des services aux entreprises of Le Sud-Ouest and Saint-Laurent boroughs and the Direction des travaux publics, de l'ingénierie et de l'aménagement urbain of L'Île-Bizard–Sainte-Geneviève borough develop a procedural guide on enforcement of the regulations governing the contribution for parks and keep it up to date to make it easier for the employees concerned to enforce the applicable regulations.

#### Business units' responses:

##### LE SUD-OUEST BOROUGH

*[TRANSLATION] A procedural guide will be produced and training of employees concerned will be ensured. (Planned completion: December 2014)*

##### SAINT-LAURENT BOROUGH

*[TRANSLATION] A guide will be prepared to explain the procedure for enforcing by-laws governing the contribution for parks, and it will be kept up to date. (Planned completion: December 2014)*

##### L'ÎLE-BIZARD–SAINTE-GENEVIÈVE BOROUGH

*[TRANSLATION] A guideline will be created on entering the required information (calculation and relevant data) in the "note" section of the new line that will be created in the permit application system (Gestion du territoire – Permis [Oracle]). This guideline will include a procedural guide. (Planned completion: February 2015)*

#### 4.1.2.D. Recommendation

We recommend that the Direction de l'aménagement urbain et des services aux entreprises of Le Sud-Ouest and Saint-Laurent boroughs and the Direction des travaux publics, de l'ingénierie et de l'aménagement urbain of L'Île-Bizard–Sainte-Geneviève borough establish the training needs of employees involved in enforcing and checking regulations governing the contribution for parks so that they will have the necessary knowledge and expertise to ensure compliance with laws and by-laws.

#### Business units' responses:

##### LE SUD-OUEST BOROUGH

*[TRANSLATION] Training will be offered to both permit issuing officers and technical architectural representatives. (Planned completion: December 2014)*

**SAINT-LAURENT BOROUGH**

*[TRANSLATION] The training needs of employees involved in enforcing and verifying by-laws governing the contribution for parks will be established. (Planned completion: preparation and dissemination of training and information sessions – December 2014)*

**L'ÎLE-BIZARD–SAINTE-GENEVIÈVE BOROUGH**

*[TRANSLATION] A guideline will be created on entering the required information (calculation and relevant data) in the “note” section of the new line that will be created in the permit application system (Gestion du territoire – Permis [Oracle]). This guideline will include a procedural guide. Since only three of our employees are capable of performing this task, we plan to offer mentoring rather than organize training sessions. (Planned completion: February 2015)*

### 4.1.3. Enforcement of the By-law Concerning the Issue of Certain Building Permits (02-065) by All Boroughs

#### 4.1.3.A. Background and Findings

As mentioned in previous sections, we noticed particular problems in the enforcement of By-law 02-065. While this by-law applies to all boroughs, our audit revealed that L'Île-Bizard–Sainte-Geneviève borough did not enforce this by-law and that Saint-Laurent borough has been enforcing it only since 2013. In the case of Le Sud-Ouest borough, we noted that By-law 02-065 had not been enforced systematically and in a compliant manner with regard to building permit applications. Considering that this by-law has been applicable since 2002, we are concerned by the fact that large sums might not be claimed in connection with building permit applications. We cannot say what percentage of building permit applications are affected by the enforcement of this by-law, nor how many permits are involved or the amount of revenues lost. A review of all building permit files must be conducted to determine the scope of the situation. However, after all these years, we have serious doubts on the likelihood that the city will be able to recover the lost revenue because of the risk of claims or lawsuits filed by applicants. However, if the past cannot be corrected, monitoring measures can now be established to ensure compliance with this by-law and detect any cases of non-compliance before permits are issued.

In view of the particular issue we noted concerning this by-law, and since it was supposed to be enforced by all boroughs since 2002 or commencing on the date of the cadastral renewal, at this stage of our audit, we wanted to know the extent to which this by-law was known to and enforced by the boroughs. Consequently, for the other 16 boroughs, our audit consisted first in examining the documentation available in the city's computer applications (GDD), and then questioning the other boroughs about enforcement of this by-law.



The results of our additional audit revealed that, for four of the 16 boroughs, By-law 02-065 was not known or not enforced, or even both at once. As for the 12 other boroughs, we tracked down decision-making summaries aimed at having the borough councils approve the choice of claiming the contribution in the form of a cash payment or land transfer under By-law 02-065. Borough directors also informed us that these boroughs were aware of and enforced this by-law. However, we cannot say whether these 12 boroughs systematically enforced By-law 02-065 or since when. In our opinion, there are obvious risks that contributions for parks were not claimed, with the result that these boroughs sustained a financial loss.

As mentioned above, the cadastral renewal had financial consequences for municipalities with by-laws on the contribution for parks associated with the requirement of a subdivision permit. Under the cadastral renewal, separate lot numbers were assigned to parts of lots, so it was no longer possible for municipalities to require a subdivision permit as part of a building permit application and, therefore, to claim a contribution for parks.

In his book *Les opérations cadastrales et la réglementation municipale*,<sup>25</sup> Jean Doré mentions that in 2000, the Ville de Montréal had estimated that the loss of revenues caused by the cadastral renewal for the territory of the former Ville de Montréal alone<sup>26</sup> would be approximately \$50 million. Since the municipal mergers took place later, no estimate was made for the new city as a whole, including the 19 boroughs. We would have expected the estimate to be appreciably higher. We cannot say what this estimate would amount to today, because building permits were issued for a large number of sites consisting of parts of lots prior to the cadastral renewal since By-law 02-065 came into force and the value of the sites has also increased since then, which affects the amount of revenue. Nevertheless, By-law 02-065 was adopted to counter the financial impacts of the cadastral renewal, and it represents a significant source of revenue.

Although the responsibility for enforcing regulations governing the contribution for parks has been delegated to borough councils, it is important to note that, as previously mentioned, the adoption of these regulations comes under the jurisdiction of city council. It should also be mentioned that at the time By-law 02-065 was adopted, it was a city centre initiative aimed primarily at avoiding financial losses caused by the cadastral renewal.

Accordingly, since all the city's boroughs are involved in enforcing the provisions of this by-law and our findings showed that this was a widespread problem, we believe that a concerted

---

<sup>25</sup> DORÉ, Jean. *Les opérations cadastrales et la réglementation municipale*, Montréal, Wilson & Lafleur, 2013, 420 p.

<sup>26</sup> Including nine boroughs.

effort must be made to ensure that they comply with the regulations. We think that each borough should have tools (such as procedural guides and checklists) to facilitate enforcement of this by-law. In our opinion, since compliance with the laws and by-laws is a strategic issue, the Direction générale could play a key role in establishing measures and tools to ensure that boroughs enforce By-law 02-065.

#### 4.1.3.B. Recommendation

We recommend that the Direction générale remind all the boroughs concerned of the importance of enforcing the *By-law concerning the issue of certain building permits (02-065)* in order to comply with the applicable regulations and claim revenue to which the city is entitled.

#### Business unit's response:

*[TRANSLATION] A personalized letter will be sent to all borough directors whose territory is subject to By-law 02-065,\* along with a copy of the By-law and a reminder of the importance of ensuring that is enforced. (Planned completion: June 2014)*

\* *By-law 12-049* (By-law concerning the transfer for the purposes of establishing, maintaining and improving parks and playgrounds, and of preserving natural areas on the territory of Plateau-Mont-Royal borough), *adopted December 17, 2012*, and *By-law 13-011* (By-law concerning the transfer for the establishment, maintenance and enhancement of parks and play grounds, and the preservation of natural areas, on the territory of Rosemont-La Petite-Patrie borough), *adopted July 4, 2013*, *repeal By-law 02-065 for the territories of Le Plateau-Mont-Royal and Rosemont-La Petite-Patrie boroughs, respectively.*

#### 4.1.3.C. Recommendation

We recommend that the Direction générale ensure that training methods and tools (procedural manuals, guides) are made available to all boroughs involved in enforcing the *By-law concerning the issue of certain building permits (02-065)* in order to optimize the use of resources and ensure that the applicable regulations are enforced.

#### Business unit's response:

*[TRANSLATION] A mandate will be awarded to Alain Dufort, associate city manager of Ville-Marie borough and borough coordination, in collaboration with the other departments concerned (Mise en valeur du territoire and Affaires juridiques).*

**Purpose of the mandate:** *Training and tools will be developed based on best practices to facilitate the task of enforcing By-law 02-065 for boroughs and a timeline for their deployment will be provided (training and tools). (Planned completion: June 2014)*

## 4.2. Regulation Respecting the Hours of Driving and Rest of Heavy Vehicle Drivers

### 4.2.A. Background and Findings

The *Highway Safety Code*<sup>27</sup> sets out special rules for owners and operators of heavy vehicles, including rules governing hours of driving, work and rest, to help limit fatigue in heavy vehicle drivers. These standards are set out in the *Regulation respecting the hours of driving and rest of heavy vehicle drivers*.

To counter the problem of driver fatigue in heavy vehicle drivers, this Regulation contains many provisions designed to regulate the hours of driving and rest of heavy vehicle drivers. In particular, it prescribes a maximum number of hours of driving and work for a day and for a work cycle, and it requires the keeping of daily logs or registers in which to enter drivers' activities.

First, the heavy vehicles to which the Regulation refers are defined in the *Act respecting owners, operators and drivers of heavy vehicles*.<sup>28</sup> Since January 1, 2011, a heavy vehicle is defined as a road vehicle or combination of road vehicles with a gross vehicle weight rating (GVWR)<sup>29</sup> of 4,500 kg or more. This law also defines an "operator" of a heavy vehicle as "*the person who controls the operation of a heavy vehicle*."<sup>30</sup> The word "person" includes natural persons, legal persons and companies.

As part of the responsibilities entrusted to them by the *Charter of Ville de Montréal* and by delegation by-laws, in particular, boroughs carry out a variety of activities involving the use of heavy vehicles, including transportation of materials, and maintenance and repair of the city's infrastructure (e.g., pavement, water and sewer systems). Many employees must use a heavy vehicle to carry out their daily duties.

Driver fatigue, especially in heavy vehicle drivers, is a topical subject, and for good reason. The Québec government, through the Société de l'assurance automobile du Québec (SAAQ), published a driver fatigue management guide for use by the carrier transportation industry in 2011.<sup>31</sup> According to this guide, heavy vehicle drivers generally experience fatigue after 10 hours of driving. It is the most frequently cited cause of accidents in which they are

<sup>27</sup> RSQ, chapter C-24.2.

<sup>28</sup> RSQ, chapter P-30.3.

<sup>29</sup> Corresponds to the vehicle's weight, including its maximum load capacity, according to information provided by the manufacturer.

<sup>30</sup> Section 2.

<sup>31</sup> *Driver Fatigue: Fatigue Management Guide for Use by the Carrier Transportation Industry*, SAAQ and Québec government, 2011, 30 p.

involved.<sup>32</sup> In other words, the risk of an accident occurring is related mainly to the number of hours of work. According to the SAAQ, work schedules with shifts<sup>33</sup> varying from 10 to 14 hours pose a medium risk. Work schedules of more than 70 hours per week, unpredictable work schedules with 14-hour shifts per day or work schedules with more than 20 overtime hours per week pose a high risk.<sup>34</sup>

For boroughs, non-compliance with the *Regulation respecting the hours of driving and rest of heavy vehicle drivers* entails major risks. First, drivers are at risk for facing fines, which can range from \$350 to \$2,100, depending on the type of offence. Another risk is that employees or citizens could be involved in accidents causing injuries, some even fatal. There is also the risk that major damage could be caused to property owned by the city or citizens. Any of these situations that could come about as a result of non-compliance with regulations could pose further risks, such as creating a negative image of the city, citizen dissatisfaction, public criticism of the government and lawsuits, not to mention financial losses.

At this stage of our audit on compliance with laws and by-laws, we wanted to examine the following elements of the *Regulation respecting the hours of driving and rest of heavy vehicle drivers*:

- List of heavy vehicles;
- Hours of driving, work and rest;
- Log-keeping;
- Keeping documents;
- Independent truckers and tender documents.

Also, based on an examination of these elements, we wanted to assess the extent to which monitoring mechanisms had been established to ensure the Regulation was enforced. Further, we wanted to examine whether measures were taken to detect non-compliances with the Regulation so that the necessary corrective action could be taken to comply with regulations. Lastly, we assessed whether the staff of business units had received adequate information and training on how the Regulation applies to their activities.

---

<sup>32</sup> *Ibid.*, p. 3.

<sup>33</sup> A work shift is the time between two periods of at least eight consecutive hours of rest.

<sup>34</sup> *Ibid.*, p. 15.

## 4.2.1. Establishment of Monitoring Mechanisms to Ensure Compliance with Regulations and of Measures for Detecting Non-Compliances

### 4.2.1.A. Background and Findings

In order for managers to be able to ensure compliance with the laws and by-laws that concern them, it is important that monitoring mechanisms be established. These monitoring mechanisms help ensure that the requirements prescribed by the regulations are identified and verified before definitive action is taken. Ultimately, these mechanisms will help reduce risks associated with non-compliance with laws and by-laws. Monitoring mechanisms can take the form, for example, of internal checks, computer applications, adequate separation of duties, employee training and authorization to carry out key steps in a process.

In the following sections, we will briefly describe each important provision of the by-law employees and boroughs must comply with in order to be compliant and failing which they could expose themselves to risks that can have major consequences. Referring to surveys, we assessed the extent to which the boroughs selected complied with the regulatory requirements applicable to these major provisions. We also made sure that monitoring mechanisms were in place so that non-compliance situations could be detected.

### 4.2.1.1. List of Heavy Vehicles

#### 4.2.1.1.A. Background and Findings

One of the first factors to be considered for the enforcement of the *Regulation respecting the hours of driving and rest of heavy vehicle drivers* is the identification of heavy vehicles covered by this Regulation, since it determines how employees' hours are managed on a daily basis to ensure compliance with the regulations. Note that the Regulation does not apply to some vehicles (such as special mobile equipment and emergency vehicles).

It should be pointed out that, following the amendment to the *Act respecting owners, operators and drivers of heavy vehicles*, the *Regulation respecting the hours of driving and rest of heavy vehicle drivers* was also amended in 2011 with respect to the definition of a heavy vehicle.<sup>35</sup> This was a major change, because effective from that date, any road vehicle or combination of road vehicles with a GVWR of 4,500 kg or more was now considered a heavy vehicle within the meaning of the Act and the Regulation. Before then, the legislation applied to any road vehicle with a net weight of more than 3,000 kg. These amendments

<sup>35</sup> *Regulation to amend the regulation respecting the hours of driving and rest of heavy vehicle drivers. GO. Part 2, Vol. 142, No. 50, December 15, 2010, p. 5492. The amendment came into force on January 1, 2011.*

have therefore had a strong impact, since vehicles that were not defined as heavy vehicles prior to 2011 became heavy vehicles as of that year. In order to be able to properly enforce the regulations on the number of hours of driving and rest of drivers, it is important to be thoroughly familiar with the characteristics used to identify vehicles covered by the Act, since they in particular will be the focus of monitoring. It is therefore important to have an up-to-date list of heavy vehicles that specifies their characteristics and can be used as a sort of work guide to help train employees who drive these vehicles.

At this stage of our audit, we made sure that the boroughs had identified the heavy vehicles whose drivers had to be monitored regarding hours of driving, work and rest. To do this, we requested lists of heavy vehicles from each of the boroughs' public works directorates.

For the Direction des travaux publics of Le Sud-Ouest borough, two divisions use heavy vehicles for their activities. During our audit, we obtained three lists of heavy vehicles, but none of them provided us with assurance that all heavy vehicles were identified in such a way as to permit monitoring of hours of driving, work and rest, either because the lists were not up to date, or they did not contain enough information for monitoring purposes. Here are the three lists:

- **Daily dispatch list of employees assigned to road works activities:** This list, which dates from 2010 and includes 25 vehicles, specifies categories of vehicles and their net weights. However, since the Regulation was amended in 2011, the important factor used to establish whether it is a heavy vehicle covered in the regulations is no longer the net weight but the GVWR.
- **List of vehicles used for the preventive maintenance program (PMP) associated with the mandatory mechanical inspection program under the law:**<sup>36</sup> This list, submitted by one of the managers of the Division de la voirie, included 116 vehicles and showed the machine number, the vehicle registration, date of the PMP and type of inspection. According to information obtained, even though the list was recent, it was incomplete because it did not include trailers. Since the PMP includes not just heavy vehicles, but other types of vehicles as well, including emergency vehicles and trailers, we would have expected heavy vehicles to be identified. This was not the case, because the list did not specify certain important characteristics of vehicles, including the GVWR, the make and the category. The GVWR is important information because, as previously mentioned, it is used to determine whether or not a vehicle is covered by the Regulation.
- **List obtained from the manager of the Division des parcs et de l'horticulture:** From the information appearing on this list, it was not possible to determine whether it referred to heavy vehicles covered by the Regulation.

---

<sup>36</sup> *Highway Safety Code* (RSQ, Chapter C-24.2) and *Regulation respecting safety standards for road vehicles* (GO. Part 2, Vol. 130, No. 50, December 9, 1998, p. 6221-55).

For this borough, we wondered whether lists were circulated and used for the purpose of monitoring hours of driving, work and rest since the foreman responsible for repairing water main breaks at the Division de la voirie admitted that he did not have a list of heavy vehicles. This surprised us, since he is in charge of employees and heavy vehicles that are used for water main activities.

At the Direction des travaux publics of Saint-Laurent borough, three divisions use heavy vehicles for their activities. During our audit, we obtained lists of vehicles from managers of each division: the Division de la Voirie, the Division des Parcs et des espaces verts, and the Division de la mécanique des bâtiments et de l'éclairage des rues. However, none of these lists provided assurance that the heavy vehicles covered by the Regulation had been identified for the purpose of monitoring hours of driving, either because the lists were out of date, they contained contradictory information or they included all vehicles used for activities of the Direction des travaux publics. However, our examination showed that these lists gave several details on vehicle descriptions, including the number, category, make, model, year, weight and the GVWR. In our opinion, while much of this information is necessary for the identification of heavy vehicles, managers should have lists of vehicles specifically covered by the Regulation (excluding exempted vehicles), to facilitate the monitoring of hours of driving, work and rest of heavy vehicle drivers.

Finally, for the Direction des travaux publics, de l'ingénierie et de l'aménagement urbain of L'Île-Bizard–Sainte-Geneviève borough, from an examination of the list of vehicles that we obtained from foremen, we found that it includes various types of information on the characteristics of vehicles, including the vehicle number, make, category and GVWR. This list is for the PMP and includes 18 vehicles that are not all heavy vehicles within the meaning of the Regulation, such as special mobile equipment and vehicles with a GVWR lower than 4,500 kg. According to the people we met with at the time of our audit, this list was up to date. In our opinion, while information appearing on the list is necessary for the identification of heavy vehicles, managers should have lists of vehicles specifically covered by the Regulation (excluding exempted vehicles), to facilitate the monitoring of hours of driving, work and rest of heavy vehicle drivers.

In closing, the various lists of vehicles we obtained raise questions, because none of them clearly specifies which are heavy vehicles covered by the Regulation, even though some of them mention the GVWR, which is a determining factor. In our opinion, the list of heavy vehicles is the reference tool for establishing monitoring and verification mechanisms for the hours of driving of employees who use these vehicles.

If a list of heavy vehicles covered by the Regulation is missing, out-of-date, or incomplete, vehicles might not be monitored for the purpose of ensuring compliance with the rules for hours of driving prescribed by the Regulation. Such a situation could pose non-compliance risks if a heavy vehicle is driven by an employee who has exceeded the maximum number of hours or did not comply with the rules for hours of rest prescribed in the Regulation.

We think it would be in the best interest of each of the business units concerned to have a list that includes only heavy vehicles covered by the Regulation so as to facilitate enforcement of this Regulation and thereby reduce the risks of confusion. We also think that all managers responsible for supervising employees whose duties include driving these heavy vehicles should have a complete, up-to-date list of these vehicles so that they can monitor drivers' hours of driving and rest in compliance with the Regulation.

#### 4.2.1.1.B. Recommendation

**We recommend that the Direction des travaux publics of Le Sud-Ouest and Saint-Laurent boroughs and the Direction des travaux publics, de l'ingénierie et de l'aménagement urbain of L'Île-Bizard–Sainte-Geneviève borough keep an up-to-date list of heavy vehicles covered by the *Regulation respecting the hours of driving and rest of heavy vehicle drivers* so that all managers can monitor hours of driving and rest of the employees concerned and thereby comply with the applicable regulations.**

#### Business units' responses:

##### **LE SUD-OUEST BOROUGH**

*[TRANSLATION] The list of vehicles covered by the Act respecting owners, operators and drivers of heavy vehicles (Bill 430) will be updated and distributed to managers. (Planned completion: June 2014)*

##### **SAINT-LAURENT BOROUGH**

*[TRANSLATION] The responsibility of updating the vehicle fleet list will fall to the Division de la mécanique des bâtiments et de l'éclairage des rues, since it is also responsible for purchasing new vehicles to replace old ones and having old vehicles scrapped or auctioned. This way, only one official list will be in circulation. (Completed)*

##### **L'ÎLE-BIZARD–SAINTE-GENEVIÈVE BOROUGH**

*[TRANSLATION] A register will be created in the form of an Excel table. (Planned completion: December 2014)*



## 4.2.1.2. Hours of Driving, Work and Rest

### 4.2.1.2.A. Background and Findings

The *Regulation respecting the hours of driving and rest of heavy vehicle drivers* provides for both a maximum number of hours for driving a heavy vehicle or hours of work that include driving a heavy vehicle and a minimum number of hours of rest for drivers. Moreover, the Regulation imposes a responsibility, not just on the drivers themselves, but also on operators.

The Regulation provides for a choice between two work cycles: cycle 1, which takes place over a seven-day period and cycle 2, which takes place over a 14-day period.<sup>37</sup> Here are the main rules for hours of driving and rest that the driver and the operator must follow to comply with the Regulation.

Under cycle 1, drivers may not drive, and operators may not ask them to drive, after drivers have accumulated 70 hours of work over a period of seven consecutive days. This work cycle can begin with a different day from one employee to the next. The Regulation also provides for a minimum number of hours of rest at the end of a cycle. A driver must take at least 36 consecutive hours of rest before driving a heavy vehicle again and resuming a new work cycle. In a manner of speaking, this resets the cycle to zero.<sup>38</sup>

Under cycle 2, drivers may not drive, and operators may not ask them to drive, after drivers have accumulated 120 hours of work over a period of 14 consecutive days. They are also prohibited from driving after 70 hours of work without taking at least 24 consecutive hours of rest. Under the Regulation, drivers must also take at least 72 consecutive hours of rest before driving a heavy vehicle again and resuming a new work cycle.<sup>39</sup>

The Regulation also sets a limit on daily hours. Drivers may not drive, and operators may not ask them to drive, a heavy vehicle once drivers have accumulated 13 hours of driving or 14 hours of work.<sup>40</sup> Regarding hours of rest, the Regulation stipulates that before driving, drivers must take eight consecutive hours of rest immediately before they begin their work shift. Finally, drivers must take at least 10 hours of rest per day, and operators must verify whether drivers take their hours of rest, which consist of eight consecutive hours plus breaks lasting at least 30 minutes each and totalling two hours.<sup>41</sup>

---

<sup>37</sup> Sections 1 and 5.

<sup>38</sup> Sections 6 and 8.

<sup>39</sup> Sections 7 and 8.

<sup>40</sup> Sections 9 and 10.

<sup>41</sup> Section 13.

At this stage of our audit, we wanted to assess whether heavy vehicle drivers were in compliance with the rules for hours of driving, work and rest with respect to the work cycle chosen and number of daily hours provided for in the Regulation. We also wanted to assess the extent to which the business units had established monitoring mechanisms to ensure compliance with this Regulation.

It should be mentioned that the work schedules of the city's blue-collar employees, including those assigned to road works or water main or sewer works, are governed by the collective labour agreement,<sup>42</sup> which establishes a work schedule of 36 hours a week for blue-collar employees. Beyond 36 hours, however, they can work overtime, and the agreement also provides for different frameworks for overtime work.

An administrative framework on maximum consecutive hours of work was adopted by the Service du capital humain, and has been in force since 2006. However, it does not deal specifically with hours of driving, only hours of work and hours of rest.<sup>43</sup>

While these official documents in some sense help regulate hours of work and rest of employees, they do not provide a framework as such for the rules applicable to employees required to drive heavy vehicles, as the Regulation specifies. In fact, the administrative framework, like the collective agreement, does not provide information on hours of driving, work or rest of heavy vehicle drivers.

For boroughs, the issue of driver fatigue arises mainly in cases where employees work overtime. To assess compliance with the rules for hours of driving, work and rest for heavy vehicle drivers, we selected two activities for which employees should use heavy vehicles when they work both regular and overtime hours: snow removal activities and activities involving water main and sewer repairs.

For snow removal activities, particularly snow plowing and salt spreading, we wanted to focus on compliance with the rules for hours of driving, work and rest over a longer period than a work cycle. According to information obtained from people we met with in the three boroughs' administrative units, for the city as a whole, cycle 1 is mostly used. For this reason, we examined only compliance with rules for hours of driving for this cycle. To do this, we selected heavy vehicles used for each borough's road works activities for the period from March 16 to 31, 2013.

---

<sup>42</sup> Convention collective entre la Ville de Montréal et le Syndicat des cols bleus regroupés de Montréal (the collective agreement between Ville de Montréal and its union of blue-collar workers), CUPE local 301, January 1, 2013, to December 31, 2017, Section 5.02.

<sup>43</sup> "Temps de travail consécutif maximum" (maximum consecutive hours of work), C-RH-SCH-D-06-001, Ville de Montréal.

However, for water main or sewer repairs, we assessed compliance with rules for hours of driving and rest of heavy vehicle drivers on a daily basis. To do this, we examined eight files involving water main repairs for 2012 and 2013 for each borough audited.

### Hours of Driving, Work and Rest in a Work Cycle

At this stage of our audit, we wanted to assess the extent to which drivers were in compliance with the Regulation for hours of driving and rest for work cycle 1. More specifically, we wanted to know whether employees had driven a heavy vehicle after accumulating 70 hours of work over seven consecutive days. We also wanted to know whether, once a cycle was completed, employees required to drive a heavy vehicle had taken 36 consecutive hours of rest before driving a heavy vehicle again. For the three boroughs audited, we examined the documents used by divisions that handle road works activities, particularly in the area of management of the use of these heavy vehicles and the duties and hours of work of employees assigned to these vehicles.

#### Le Sud-Ouest Borough

At the Direction des travaux publics of Le Sud-Ouest borough, snow removal activities were administered until November 2013 by the Division de la voirie, des parcs et des installations. After that date, as the result of a reorganization, this division was replaced by two divisions: the Division des parcs et de l'horticulture and the Division de la voirie. Nearly 90 blue-collar employees are required to drive heavy vehicles to carry out snow removal activities. It should be noted that snow removal activities are administered by the Division de la voirie, but blue-collar employees of the Division des parcs et de l'horticulture are also occasionally assigned to snow removal activities.

According to one of the managers of the Division de la voirie, heavy vehicle drivers must follow the work schedules provided for in the collective agreement, just like the other employees; the administrative framework governing maximum consecutive hours of work, which was produced by the Service du capital humain in 2006, also applies to all the Division's employees. The *Regulation respecting the hours of driving and rest of heavy vehicle drivers* is a specific feature to be enforced for heavy vehicle drivers.

According to the regular work schedules, the maximum number of work hours per day is set at 12; for snow removal activities, the number of work days per week is limited to six. For snow removal activities in particular, the Division de la voirie operates with four teams working different schedules during the week and on the weekend. Snow removal activities are

suspended so that employees can take 36 hours of rest, in compliance with the provisions of the bylaw.

More specifically, different tools are used to monitor the hours of driving, work and rest of employees required to drive heavy vehicles. One such tool is the computer application Kronos, which shows employees' start and end times and the total hours worked for the day. For snow removal activities, dispatchers assign employees every day to machines, including heavy vehicles. For this purpose, a document entitled "Répartition" (Dispatching) is prepared for each work day. In addition, when overtime hours are needed, a dispatch team calls employees to ask them to work those hours. According to information obtained, before employees are asked to work overtime, a check is performed to ensure that they are fit to drive under the Regulation, especially when they begin a new cycle.

The dispatching document shows vehicle and machine numbers, classified by category, without specifying whether they are heavy vehicles under the Regulation. On the dispatching document, which is prepared for every workday, employees' names are associated with vehicle numbers, which means that they have driven or used the vehicles. The document also gives a function code, which shows the employee's activity for that day. For example, the code 502 means that the employee was a "motor driver/operator B."

To assess compliance with the rules for hours of driving, work and rest of heavy vehicle drivers for cycle 1 and the monitoring mechanisms established, we selected vehicle categories that covered heavy vehicles, according to information obtained. These are vehicles with numbers starting with 293, which stands for "10 wheels," and with 393, which stands for "six wheels/multimode."

According to the forewoman in charge, three employees had been assigned to these vehicles for the period from March 16 to 31, 2013. We therefore obtained these employees' time sheets. They showed the start and end times of the work shift for each date and day of the week and the total hours worked for the day and the week. However, they did not show whether the employee drove a heavy vehicle, which work cycle the employee followed (cycle 1 or 2) or the start and end of this cycle.

An examination of the documents obtained revealed that the hours of driving, work and rest in a work cycle complied with the provisions of the by-law for the three employees, if the first work day specified on the time sheet is considered to be the start of a cycle.

However, examination of documents obtained from the Division de la voirie did not provide us with evidence that a check had been performed to ensure that employees were fit to drive

a heavy vehicle. In our opinion, it is important that hours of driving, work and rest be checked since this helps detect non-compliance situations before they occur.

Furthermore, although our surveys focused on snow removal activities, we learned that the road works dispatch team did not perform regulatory checks for hours of driving and rest for all the other administrative units of the Direction des travaux publics. For example, the Division des parcs et de l'horticulture must itself handle the work of organizing employee dispatching and checking whether employees are fit to drive a heavy vehicle. We think that monitoring mechanisms must also be established for hours of driving, work and rest of heavy vehicle drivers to ensure compliance with the applicable regulations.

### Saint-Laurent Borough

At the Direction des travaux publics of Saint-Laurent borough, heavy vehicles assigned to snow removal operations are used by the Division de la voirie. During the period in which these activities are carried out, nearly 120 blue-collar employees are required to drive a heavy vehicle as part of their work. These employees are likely to come from other divisions (e.g., the Division des parcs et des espaces verts).

According to managers of the Division de la voirie, since snow removal activities are likely to generate considerable overtime, a variety of measures are used to ensure compliance with the by-law as it applies to cycle 1. For instance, the Division de la voirie operates with four teams working different schedules during the week and on the weekend, which limits the number of hours that the assigned employees work. Each work team operates under cycle 1, and each team stops its activities so that it can take the hours of rest provided for in the Regulation and resume a new work cycle later. The current practice is to treat all vehicles as if they were heavy vehicles and apply the Regulation to all employees accordingly.

In addition, from November 1 to April 1 of each year, a foreman acts as a dispatcher for the Division de la voirie. In particular, this person is responsible for assigning employees to machines and vehicles every day and recalling employees to do overtime work while ensuring that each driver is fit to drive a heavy vehicle within the meaning of the Regulation, i.e., does not exceed the hours authorized and has taken the hours of rest prescribed by the Regulation before starting a new work cycle. After performing a check, the dispatcher marks on a recall list if the employee is taking 36 hours of rest as per the Regulation, i.e., that the employee is unfit to drive.

According to information obtained, at the time of our audit, the computer application Kronos was used to perform this check. For the 2013–2014 snow removal season, however, the

number of hours worked was checked using information entered in a computer application called “GO-Activités.” This application was developed recently for snow removal activities for 2013–2014. While the corporate application Kronos is used for daily inputting of employees’ hours, this new application is designed to determine in real time the hours already worked by all employees of the Division de la voirie as well as blue-collar employees of other divisions.

To assess whether the number of hours of driving and rest for cycle 1 was compliant, we selected the vehicles numbered 4131 to 4138, which were used mainly for salt spreading during the period from March 16 to 31, 2013. According to the list of vehicles obtained from the manager of the Division de la voirie, these vehicles are heavy trucks because their GVWR is more than 16,000 kg. We obtained the time sheets of 22 employees who had used one of these vehicles at least once during this period. Also, referring to recall lists used to assign employees to overtime work during the period covered, we selected March 20, 2013, for the purpose of our audit.

Examination of the documents we obtained showed that for 21 employees out of 22, the hours of driving, work and rest in a work cycle were compliant with the provisions of the Regulation, if the start of the cycle is considered to be the first work day entered on the time sheet. The 21 employees who drove heavy vehicles during this period did not work more than the maximum of 70 hours for cycle 1. Examination of the documents also showed that the drivers took more than 36 hours of rest after several consecutive days of work, which is compliant. The non-compliant case involved an employee who drove a heavy vehicle after accumulating 70 hours of work. Actually, according to time sheets generated by Kronos, this employee worked 75 consecutive hours, but according to daily activity management reports he worked 71 consecutive hours. We did not attempt to explain the variance between data from the two sources. In any event, after accumulating 70 consecutive hours of work over a seven-day period, drivers may not drive heavy vehicles, and operators may not allow them to drive heavy vehicles. According to the manager, time sheets include hours of rest, but from an examination of these documents we were unable to confirm this explanation. We think that the documents should reflect the hours of rest taken by the driver, and further, that the borough should avoid any situation in which a driver is required to drive a heavy vehicle after accumulating 70 consecutive hours of work over a seven-day period.

Finally, we sought evidence that checks were performed to ensure that employees do not drive a heavy vehicle after accumulating 70 consecutive hours of work over a seven-day period and that they have taken 36 consecutive hours of rest. We found that this had been checked, since the overtime recall lists of March 20, 2013, specified in handwriting which employees were at rest for 36 hours. However, these lists do not specify the start and end of the employee’s work cycle, but are based on a weekly schedule starting on Saturday.

Furthermore, for employees for whom we obtained time sheets and who drove one of the heavy vehicles selected during the cycle, we did not find evidence that hours were checked in every case to ensure that the maximum number permitted under the Regulation was not exceeded. The non-compliant situation we detected regarding the total hours worked, combined with the impossibility of determining the hours of rest, caused us to question whether controls were actually implemented. Even though no incident or accident occurred as the result of the non-compliant situation we identified, this was a situation involving a greater risk of an accident, according to the Regulation. Furthermore, if an accident were to occur, the borough could face charges and criticism because it did not comply with the Regulation. In our opinion, hours of driving, work and rest should be verified because this helps detect non-compliance situations before they arise.

### L'Île-Bizard–Sainte-Geneviève Borough

According to people we interviewed, in L'Île-Bizard–Sainte-Geneviève borough, all snow removal operations come under the jurisdiction of the Direction des travaux publics, de l'ingénierie et de l'aménagement urbain. They are government-run, except for snow transportation operations, for which the services of independent truckers are used. From 14 to 16 blue-collar employees are required to drive heavy vehicles. According to managers we met with, various measures are used to ensure compliance with the rules for hours of driving and rest of heavy vehicle drivers. For instance snow removal operations are stopped when it is expected that the number of hours of driving allowed under cycle 1 will be exceeded. They also use Kronos to check the number of hours worked.

To make sure snow removal activities complied with the rules for hours of driving and rest for cycle 1, we selected heavy vehicles from a list of vehicles that was submitted to us: Nos. 11-4, 00-1, 06-4, 09-5, 05-3 and 03-5. Referring to daily dispatch sheets for the period covered, from March 16 to 31, 2013, we counted 11 employees who were assigned to these heavy vehicles. We also obtained these employees' time sheets from Kronos, as well as recall lists and overtime eligibility lists. Examination of the documents obtained revealed that, in all cases, employees did not drive a heavy vehicle after 70 consecutive hours of work, and none of them began a new work cycle without first taking at least 36 consecutive hours of rest, which is compliant. For the 11 employees covered, the hours of driving, work and rest in a work cycle were therefore compliant with the Regulation. However, none of the documents examined showed which work cycle the driver followed or the start and end dates of the cycle.

We also looked for evidence that a check was performed to ensure that employees required to drive a heavy vehicle complied with the rule for 36 consecutive hours of rest before starting a new work cycle that involved driving a heavy vehicle. However, our audit did not provide

evidence that any checks whatsoever had been performed. In our opinion, it is important that hours of driving, work and rest be checked so that non-compliance situations can be detected before they arise.

## Conclusion

Boroughs expend efforts and employ tools to ensure compliance with the rules for hours of driving and rest for the work cycle followed; however, our audit showed that some of the practices followed and tools used could trigger non-compliance risks.

With respect to the tools used, we noted that none of the documents obtained for the period from March 16 to 31, 2013, mention the work cycle (cycle 1) that boroughs claim to follow. However, the work cycle is provided for in the Regulation and it is important that it be followed. And since work teams or employees assigned to snow removal activities have different work schedules, they do not all necessarily begin their work week on a Monday, and they do not all necessarily begin cycle 1 on the same day. Furthermore, even if an employee begins a work cycle at the same time as other employees, that does not mean that he or she will complete the same number of hours during the cycle. Accordingly, we think that the work cycle should be mentioned in the documents used for each employee so that the tool used can be considered a genuine monitoring mechanism for enforcing this aspect of the Regulation. The fact that the start of a work cycle does not appear on time sheets makes it more difficult for managers to check the number of hours and places them at risk for not detecting cases where the maximum number of hours in a cycle is exceeded.

Still on the subject of tools available, we noted that all the boroughs use vehicle dispatch sheets, but none of them shows the numbers of the heavy vehicles covered by the Regulation. The purpose of these dispatch sheets is actually to assign vehicles to employees on a daily basis, not to monitor hours of driving, work and rest. In our opinion, these practices can lead to confusion in enforcing the Regulation, with the result that the work cycle followed could be non-compliant. The consequence of assigning an employee to a heavy vehicle that was not identified as such could be that hours of driving are not monitored. Finally, we question the practice of considering all vehicles to be heavy vehicles and making all employees who drive vehicles comply with the Regulation, even if the vehicles they drive are not heavy vehicles as defined in the Regulation. If the Regulation is applied to non-heavy vehicles, the result is that the employees who drive them become subject to this Regulation, even though they should not be. We think this practice is likely to lead to confusion, because it imposes provisions of a provincial regulation on employees who are not heavy vehicle drivers as defined in this Regulation. This practice could result in monitoring overtime hours of certain employees who do not drive heavy vehicles.



Practices designed to ensure compliance with the provisions of the Regulation governing the work cycle are not enforced consistently in all administrative units of these boroughs' public works directorates. For example, for the Division de la voirie of Le Sud-Ouest and Saint-Laurent boroughs, dispatchers are not necessarily in charge of checking hours for other activities or other divisions. In our opinion, in all administrative units in which employees are required to drive heavy vehicles, monitoring mechanisms should also be implemented to ensure that employees are fit to drive a heavy vehicle before starting a new work cycle.

### Daily Hours of Driving

The *Regulation respecting the hours of driving and rest of heavy vehicle drivers* also provides for prescribed hours of driving, work and rest of heavy vehicle drivers during a day, i.e., no more than 13 hours of driving, or 14 hours of work and at least eight consecutive hours of rest plus at least two hours of rest taken in breaks of no less than 30 minutes each, for a total of 10 hours of rest per day, including breaks.

At this stage, our audit consisted in assessing the extent of compliance with maximum hours of driving and rest on a daily basis and the extent to which business units had established mechanisms to monitor those hours to ensure compliance with the Regulation. As mentioned in the introduction to this section, our audit focused specifically on eight operations to repair water main breaks in 2012 and in 2013 in each borough.

Finally, our audit consisted in assessing the existence of daily monitoring to ensure that employees take the number of hours of rest prescribed by the Regulation before starting a work shift that involves driving a heavy vehicle.

According to people we interviewed or contacted in the three business units selected, several measures and tools are used to monitor these hours of driving and rest of heavy vehicle drivers.

### Le Sud-Ouest Borough

For Le Sud-Ouest borough, for the days during which water main repair work was performed, we obtained dispatch sheets showing the vehicle numbers and the names of employees assigned to the vehicles. We also obtained daily time sheets that showed the employees' names and duties, hours worked at the regular rate and at the higher overtime rate, and the numbers of the vehicles to which they were assigned. Referring to these documents, we were able to determine which vehicles the employees used. We also obtained the corresponding time sheets generated by Kronos. According to the manager responsible for water main

breaks, these documents and tools are used to monitor the hours of driving and rest of heavy vehicle drivers.

For the eight cases of water main breaks selected, these documents revealed that the hours worked by vehicle drivers were in compliance with the hours of driving and work provided for in the Regulation. Since the time sheets do not show hours of rest and breaks, we were unable to ascertain compliance with the Regulation in this respect.

In terms of mechanisms established to monitor daily hours, the manager on site should first check to ensure that employees who drive heavy vehicles rested for at least eight consecutive hours before starting their workday. Examination of the documents obtained did not provide us with evidence that a check had been performed to determine whether employees were fit or unfit to drive heavy vehicles before starting the work shift. While it is important to perform such a check, we think that the heavy vehicles covered by the Regulation must first be identified, as we mentioned in the previous section. In fact, during our audit, the manager responsible for water main repairs was not able to point out to us heavy vehicles as defined in the Regulation, such as vehicles bearing numbers starting with 227 and 217. In our opinion, it is essential that the manager responsible for supervising employees who drive vehicles can determine whether they are heavy vehicles within the meaning of the Regulation.

Moreover, the manager responsible for water main activities mentioned to us that he would verify whether employee time sheets were compliant the following day. An oral directive had also been issued recently to impress upon employees the importance of complying with the hours of driving and rest prescribed by the Regulation. In our opinion, this type of monitoring measure, implemented after the fact, is not helpful either for ensuring compliance with the Regulation or in detecting non-compliance situations before they arise. If the manager were to detect a situation where the hours worked exceed the maximum number of daily hours provided for in the Regulation, it would be too late to correct the situation. We believe that such a monitoring measure must be taken proactively, when employees are assigned to heavy vehicles. Monitoring mechanisms must also be established so that managers can ensure compliance with the rules for both the maximum hours of driving and work per day and for the minimum hours of rest.

### Saint-Laurent Borough

In Saint-Laurent borough, according to the manager of the Division de la voirie, a major problem of non-compliance with the Regulation exists concerning the hours of driving and rest of heavy vehicle drivers who carry out water main and sewer repair activities.

Eight files on water main and sewer line repairs were submitted to us to show the scope of the problem of non-compliance with the Regulation. These files contained a variety of documents: response records, time sheets generated by Kronos and daily water main and sewer activity reports. The response records showed the employees' names and the hours they worked at the regular rate and the higher overtime rate. They also mentioned the numbers of the vehicles used by employees that day, but did not match vehicles with employees' names. The daily reports gave the employees' names, the numbers of the vehicles they used and the date. Vehicle numbers were matched with employees.

Examination of the documents submitted revealed several serious non-compliances concerning hours of driving and rest. With respect to hours of rest, our audit revealed that for all the files examined, employees assigned to heavy vehicles for the day had not taken eight consecutive hours of rest before starting a work shift. Furthermore, in many cases, employees had not taken a total of 10 hours of rest during the day. For three of these files, examination of the documents showed that the employees assigned to a heavy vehicle even worked more than 20 consecutive hours. In the other five files that concerned employees who were assigned to heavy vehicles, the work time varied from 14 to 18 consecutive hours.

In terms of mechanisms established to monitor daily hours, in examining these documents we were unable to find evidence that a check was performed to determine whether employees were fit to drive a heavy vehicle, i.e., whether they had taken the hours of rest prescribed by the Regulation before starting a work shift that involved driving a heavy vehicle.

We believe that these non-compliances involve major risks, including the risks inherent in driver fatigue, which can trigger other risks, such as the risk of an accident involving citizens as well as the employees themselves. Compliance with the rules for hours of driving and rest for heavy vehicle drivers is important, as is the application of corrective measures. Furthermore, it is also important that monitoring mechanisms be established to ensure compliance with provisions of the Regulation governing these hours.

### L'Île-Bizard–Sainte-Geneviève Borough

For L'Île-Bizard–Sainte-Geneviève borough, when water main breaks occur and overtime hours must be worked, foremen are in charge of calling employees. According to the foreman responsible for water main repairs, the fact that a small team is involved facilitates the task of monitoring hours of driving and rest.

The foreman in charge provided us with eight files on water main and sewer line repairs so that we could assess compliance with the rules for daily hours of driving, work and rest of

heavy vehicle drivers. These files include a sheet showing the location of the break and the employee time sheet generated by Kronos. According to the foreman, these time sheets were for employees who were present during these operations and drove a heavy vehicle.

In examining the documents we received, we were not assured beyond any doubt of compliance with the rules for hours of driving and work of heavy vehicle drivers. While it is true that, according to the time sheets submitted, the hours worked did not exceed 13 hours, which is compliant with the Regulation, for several of the files examined, we were unable to track down either the heavy vehicle number or the name of the employee who had driven this vehicle. We therefore had no proof that the employees for whom we obtained time sheets had actually driven a heavy vehicle during this day, and if so, which one.

Regarding the hours of rest prescribed by the Regulation, examination of the documents submitted did not provide us with evidence that a check was performed to ensure that the employees had actually taken the eight hours of rest prescribed by the Regulation before starting a work shift that involved driving a heavy vehicle.

In short, we must conclude that there are several deficiencies in the tools used to monitor the hours of driving and work of heavy vehicle drivers, because we found it impossible to match an employee with a heavy vehicle; in short, we found it impossible to determine whether a heavy vehicle driver was involved. Similarly, it was impossible for us to determine whether the driver had taken the hours of rest required by the Regulation.

## Conclusion

We believe that, for the three boroughs audited, the tools and measures used as monitoring mechanisms did not help ensure compliance with the provisions of the Regulation governing hours of driving, work and rest, either on a daily basis or for the work cycle as a whole. Consequently, we believe that this puts the boroughs at risk for non-compliance with regulations. We also observed non-compliant situations.

#### 4.2.1.2.B. Recommendation

We recommend that the Direction des travaux publics of Le Sud-Ouest and Saint-Laurent boroughs and the Direction des travaux publics, de l'ingénierie et de l'aménagement urbain of L'Île-Bizard–Sainte-Geneviève borough establish mechanisms to monitor:

- the hours of driving and work of employees who drive heavy vehicles, on a daily basis and for the work cycle as a whole, so that no more hours are worked than the maximum prescribed by the *Regulation respecting the hours of driving and rest of heavy vehicle drivers*;
- the hours of rest of employees assigned to drive heavy vehicles before they start a new work cycle or a new work shift;

in order to ensure compliance with the Regulation.

#### Business units' responses:

##### LE SUD-OUEST BOROUGH

*[TRANSLATION] Training of managers and blue-collar employees. Development of driver dispatch software is under way. This new software will help ensure compliance with all sections of the Act respecting owners, operators and drivers of heavy vehicles (Bill 430). (Planned completion: every year, effective as of December 2014)*

##### SAINT-LAURENT BOROUGH

*[TRANSLATION] Hours of driving are monitored for each employee. We will enter the work cycle (1 or 2) on the document showing the start of the cycle.*

*Since the fall of 2013, all employees have regularly taken at least eight hour of rest. No employee exceeded the maximum number of hours of driving prescribed by the Regulation during the 2013–2014 winter season.*

*Since the winter of 2013–2014, to minimize the risks of error, only one foreman has been assigned to call employees for overtime work for the Section de l'exploitation d'aqueducs et d'égouts and the Section voirie (opérations) et signalisation.*

*Also, a guide to assist in decision-making was produced in the summer of 2013 for foremen and forewomen. This guide specifies the maximum number of hours per shift for all work shifts. (Completed)*

##### L'ÎLE-BIZARD–SAINTE-GENEVIÈVE BOROUGH

*[TRANSLATION] The register will be enforced and monitored jointly with the Kronos system. (Planned completion: December 2014)*

### 4.2.1.3. Register-Keeping

#### 4.2.1.3.A. Background and Findings

The *Regulation respecting the hours of driving and rest of heavy vehicle drivers* provides that drivers must complete a daily log in which they record all the activities they carried out during the day.<sup>44</sup> Operators, for their part, must ensure that drivers complete a sheet. This sheet must include the following information:

- the date;
- the driver's name;
- the time at which the driver begins the day;
- the cycle followed by the driver;
- the licence plate number;
- the odometer reading of each vehicle used by the driver;
- the operator's name;
- during the day: hours of driving, work and rest;
- the driver's signature.<sup>45</sup>

However, the Regulation provides for exceptions to this requirement. Indeed, drivers are not required to fill out such sheets when all the following conditions are met:

- they drive a heavy vehicle within a 160-kilometre radius of their home terminal;
- they return to their home terminal each day to begin at least eight consecutive hours of off-duty time;
- the operator keeps up-to-date detailed or shortened registers.<sup>46</sup>

According to the SAAQ guide on hours of driving and off-duty time (Fact Sheet version),<sup>47</sup> the information found in both registers must be accurate, as shown in Table 5. It should be noted, however, that in the case of the shortened register, certain conditions apply before it can be used. In particular, the work shift must begin and end the same day, it must last 13 hours or less, and the off-duty period before and after the work shift must be at least 11 consecutive hours.

---

<sup>44</sup> Section 29.

<sup>45</sup> Sections 31 and 32.

<sup>46</sup> Section 30.

<sup>47</sup> *Driving and Off-Duty Time for Heavy Vehicle Drivers – Fact Sheet*, SAAQ and Québec government, 2009 edition, 9 p.

**Table 5 – Information Required for Keeping a Register Under the *Regulation Respecting the Hours of Driving and Rest of Heavy Vehicle Drivers***

Detailed register	Shortened register
Date	Date and start time for the day, other than midnight
Cycle followed	Cycle followed
Activities carried out by the driver (rest, driving, work)	
Start and end times of each activity	Start and end times of the work shift
Total hours spent on each activity	Total hours of work during the day
If applicable, reasons for exceeding hours of driving or deferring hours of rest	

Operators who fail to keep such registers as prescribed by the Regulation face a panoply of possible risks, such as a fine, as provided for in the *Highway Safety Code*, public criticism of the government and a negative image of the city or boroughs if the situation is brought to public light. In addition, if an accident should occur, other risks could arise, such as a possible lawsuit. Furthermore, if such registers are not kept, then the conditions provided for in the Regulation would not be met, and heavy vehicle drivers would have to complete daily logs as a result.

Our audit revealed that in all the business units selected, heavy vehicle drivers do not fill out daily logs. As mentioned above, in order for heavy vehicle drivers to be exempted from having to complete these sheets, all the conditions set forth above must be met. According to people we interviewed at business units, one of the main conditions cited as grounds for exemption is not driving within a radius of more than 160 kilometres of their home terminals. However, this condition alone is not sufficient to exempt drivers from completing daily logs. We therefore think that keeping registers is just as important a condition, because, in the final analysis, they replace daily logs.

However, we noticed that none of the boroughs selected had detailed or shortened registers. Furthermore, not all the people we interviewed were familiar with how to keep such a register or what form it should take. They mentioned that several tools and documents similar to registers were used, including the computer application Kronos, which contains employee time sheets, overtime recall lists, employee assignment sheets, daily activity management reports and lists of vehicles. While these tools or documents contain information required under the Regulation, they do not include all the information that operators are required to keep in one of the registers. Indeed, during our audit, we had to match up various pieces of information manually in the documents in order to get an idea of the hours of driving and rest of drivers, and even then we were unable to determine whether a heavy vehicle was involved in several cases. Furthermore:

- None of the documents examined showed the work cycle followed by the driver or the start and end times of each activity, even though this information is important for determining how many hours of driving and rest should follow 70 hours of work over a period of seven consecutive days;
- The employee time sheets we obtained did not specify the hours of rest or show all the activities carried out by the driver;
- To arrive at an accurate calculation of hours of driving and work, the time taken up by breaks, meals and absences must be deducted;
- Using some of these tools involves inputting data more than once, which entails a risk of error.

An examination of the documents used by business units also showed that there were difficulties in enforcing regulations. In one case a driver could not be matched with a heavy vehicle, making it impossible to determine whether the Regulation applied to this employee.

Furthermore, many of the tools used cover all vehicles, including those that are not heavy vehicles within the meaning of the Regulation. However, the detailed and shortened registers required under the Regulation essentially cover heavy vehicle drivers, not drivers of other types of vehicles. We question the practice of considering all vehicles to be heavy vehicles, because it makes the process of keeping registers more cumbersome and it creates confusion in the enforcement of the regulations. We believe that this approach makes it awkward to manage enforcement of regulations because of the greater number of employees to be monitored. Further, we cannot help but note that different documents and different practices are used from one business unit to the next. In our opinion, there should be a certain consistency in the practices used to enforce record-keeping regulations. Note that, if the condition for keep registers provided for in the Regulation is not met, the heavy vehicle driver must complete a daily log.

Moreover, since all the city's boroughs are affected by the development and deployment of tools used for monitoring hours of driving as well as register-keeping, in order to comply with the Regulation, we think that in the interest of sound management, the Service de concertation des arrondissements could play a decisive role for the boroughs. It could assist boroughs in developing the necessary tools for keeping up-to-date registers, as required under the Regulation.



#### 4.2.1.3.B. Recommendation

We recommend that the Direction des travaux publics of Le Sud-Ouest and Saint Laurent boroughs and the Direction des travaux publics, de l'ingénierie et de l'aménagement urbain of L'Île-Bizard–Sainte-Geneviève borough keep up-to-date registers where they enter the information required under the *Regulation respecting the hours of driving and rest of heavy vehicle drivers*, provided that all the conditions are met for exempting heavy vehicle drivers from having to complete daily logs, in order to comply with the provisions of the Regulation.

#### Business units' responses:

##### LE SUD-OUEST BOROUGH

*[TRANSLATION] We will contact the Service des technologies de l'information about upgrading the Kronos computer application to include break times. Development of driver dispatch software is under way. This new software can be used to ensure compliance with all sections of the Act respecting owners, operators and drivers of heavy vehicles (Bill 430). (Planned completion: June 2015)*

##### SAINT-LAURENT BOROUGH

*[TRANSLATION] While we have not been keeping a register for each driver, the foremen's time sheets, the data in Kronos, the tool used for monitoring hours of driving and the pre-departure checklist provide us with all the necessary information. We do not want to duplicate the information by creating another register. We prefer instead to keep all the other documents that we already have, which we need for payroll, for any claims that might arise, etc.*

#### Auditor general's comments:

It should be noted that the Service de concertation des arrondissements has made the Service des technologies de l'information aware of its needs so that an automated tool can be developed in the Kronos computer application and made available to all boroughs.

##### L'ÎLE-BIZARD–SAINTE-GENEVIÈVE BOROUGH

*[TRANSLATION] The register is enforced and monitored together with pre-departure checklists.*

*There will be an attachment in the register of information on hours of driving. (Planned completion: December 2014)*

#### 4.2.1.3.C. Recommendation

We recommend that the Service de concertation des arrondissements implement the tools that all boroughs will need in order to keep up-to-date registers within the meaning of the *Regulation respecting the hours of driving and rest of heavy vehicle drivers* so that they can more easily monitor hours of driving and rest and comply with the applicable regulations.

#### Business unit's response:

*[TRANSLATION] The Service de concertation des arrondissements has completed the process of identifying its needs in order to ensure optimal management of hours of driving and rest in accordance with the Act respecting owners, operators and drivers of heavy vehicles (Bill 430).*

*This information was sent to the Service des technologies de l'information so that an automated tool can be developed and made available to the boroughs.*

*The tool will be implemented in the Kronos system as soon as the migration to the new version is completed. (Planned completion: June 2015)*

### 4.2.1.4. Keeping Documents

#### 4.2.1.4.A. Background and Findings

The Regulation provides that the driver's daily logs and the registers kept by the operator must be kept in chronological order for each driver for at least six months.<sup>48</sup> For all the business units selected, examination of the documents obtained showed that the documents that are used in lieu of registers were kept for more than six months. However, as mentioned above, examination of the documents we obtained revealed that they did not include all the information required by the Regulation in order to qualify as "registers" within the meaning of the Regulation. It is therefore important that these documents comply with the provisions of the Regulation governing their content and that they be kept for the period specified in the Regulation. Otherwise, there could be risks. For example, if such documents are not kept for the period prescribed by the Regulation and a lawsuit is filed, the business unit will be unable to prove that the driver complied with the provisions of the Regulation.

---

<sup>48</sup> Sections 41 and 42.

#### 4.2.1.4.B. Recommendation

We recommend that the Direction des travaux publics of Le Sud-Ouest and Saint-Laurent boroughs and the Direction des travaux publics, de l'ingénierie et de l'aménagement urbain of L'Île-Bizard–Sainte-Geneviève borough take the necessary steps to ensure that the registers, as prescribed by the *Regulation respecting the hours of driving and rest of heavy vehicle drivers*, be kept for the period specified in the Regulation in order to comply with the applicable regulations.

#### Business units' responses:

##### LE SUD-OUEST BOROUGH

[TRANSLATION] Development of driver dispatch software is under way. This new software will help ensure compliance with all sections of the Act respecting owners, operators and drivers of heavy vehicles (Bill 430). (**Planned completion: June 2015**)

##### SAINT-LAURENT BOROUGH

[TRANSLATION] All data that we keep on foremen's time sheets, Kronos and the tool used to monitor hours of driving are recorded in a database and may be consulted at any time. The Division de la mécanique des bâtiments et de l'éclairage des rues keeps information for at least one year.

#### Auditor general's comments:

It should be noted that the Service de concertation des arrondissements has made the Service des technologies de l'information aware of its needs so that an automated tool can be developed in the Kronos computer application and made available to all boroughs.

##### L'ÎLE-BIZARD–SAINTE-GENEVIÈVE BOROUGH

[TRANSLATION] Registers will be kept as per the timelines prescribed by the Regulation:

- Electronic version;
- Paper version;
- Pre-departure checklist. (**Planned completion: December 2014**)

### 4.2.1.5. Independent Truckers and Tender Documents

#### 4.2.1.5.A. Background and Findings

Boroughs occasionally use the services of "independent truckers" to meet occasional needs. This is especially true of the Direction des travaux publics, de l'ingénierie et de

l'aménagement urbain de L'Île-Bizard–Sainte-Geneviève borough, which uses the services of independent truckers for snow loading operations.

Contracts are not always concluded with independent truckers, and for this reason, there are no specific clauses requiring that they comply with regulations, including those that pertain to hours of driving and rest.

As operators, independent truckers are responsible for complying with the *Regulation respecting the hours of driving and rest of heavy vehicle drivers*, but the *Highway Safety Code* also imposes obligations on “any other person” dealing with heavy vehicle drivers. This would mean, for example, that if a borough representative enlists the services of an independent trucker with the knowledge that this person is not in compliance with the *Regulation respecting the hours of driving and rest of heavy vehicle drivers*, the representative may face a fine. If an accident were to occur, further risks can arise, such as lawsuits, public criticism of the government and a negative image of the borough and the city.

According to information and documents we obtained from the road works foreman of L'Île-Bizard–Sainte-Geneviève borough, he has every independent trucker who carries out snow removal and snow loading operations sign a form showing the independent truckers' name, the number of loading operations carried out and a signed attestation that he or she is in compliance with the *Regulation respecting the hours of driving and rest of heavy vehicle drivers*. We think this is a good practice that helps reduce the aforementioned risks in the event of an accident.

Moreover, in 2009, the SAJEF, together with the SCARM, developed a form so that independent truckers could provide a more complete attestation that they have complied with the Regulation. In particular, this form shows the work cycle followed, the start and end times of each day, the hours of work, driving and rest and a summary of hours worked for the previous 14 days. In our opinion, business units that use the services of independent truckers should adopt this form to reduce the risk of incurring fines in the case of non-compliance with the Regulation.

We noted that the tender documents used by the administrative units of Le Sud-Ouest and Saint-Laurent boroughs contain clauses providing that the operator, owner or driver of a heavy vehicle must comply with the *Regulation respecting the hours of driving and rest of heavy vehicle drivers*. We think these clauses constitute good management practices because they help reduce non-compliance risks to a certain extent.

#### 4.2.1.5.B. Recommendation

We recommend that the Direction des travaux publics, de l'ingénierie et de l'aménagement urbain of L'Île-Bizard–Sainte-Geneviève borough use the form developed by the Service des affaires juridiques et de l'évaluation foncière, in cooperation with the Service de concertation des arrondissements et des ressources matérielles so that independent truckers can provide attestations that they have complied with the rules for hours of driving and rest under the *Regulation respecting the hours of driving and rest of heavy vehicle drivers* and thereby reduce the risk of having to assume any liability whatsoever in the event of an incident or accident involving one of these heavy vehicle drivers.

#### Business unit's response:

[TRANSLATION] A register of independent truckers' attestations of hours of driving will be created:

- Table;
- The snow transportation form that already exists will be kept. **(Planned completion: December 2014)**

## 4.2.2. Employee Information and Training Measures

### 4.2.2.A. Background and Findings

At this stage of our audit, we wanted to investigate what measures, if any, were implemented to provide staff with information and training on enforcement of the *Regulation respecting the hours of driving and rest of heavy vehicle drivers* within the business units selected.

Our examination of the boroughs' inventories of laws and by-laws showed that the *Regulation respecting the hours of driving and rest of heavy vehicle drivers* was mentioned for each business unit selected. However, we noted that not all employees of these business units are familiar with or use the inventory.

According to information obtained in the three business units audited, the following measures are the most frequently used to inform and train the staff on the rules to be followed with respect to driver fatigue and the Regulation:

- Putting up posters on public works premises, particularly in common areas such as employee dining rooms;
- Circulating leaflets to employees or placing them in common areas such as the cafeteria;
- Providing information on regulations at staff meetings.

In our opinion, these are sound management practices that promote compliance with the Regulation, and it would be a good idea to carry out such initiatives on a regular, ongoing basis.

While several managers we met with mentioned that they were responsible for and had received training on enforcement of the Regulation, our audit revealed that many of them were not very familiar with the requirement of keeping detailed or shortened registers on heavy vehicle drivers' activities. We think this is especially important since such registers serve to monitor hours of driving and rest of heavy vehicle drivers. Indeed, by keeping such registers, in particular, the operator ensures that the Regulation is enforced, ultimately leading to compliance with the regulations. Accordingly, we think it is essential that managers, as the people responsible for enforcing the Regulation, be thoroughly versed in all its important facets. We believe that managers who are responsible for enforcing the Regulation should receive training on its important aspects.

### Le Sud-Ouest Borough

According to information obtained from people we met with at the Division de la voirie, dispatchers, or employees responsible for assigning employees to heavy vehicles, received training at the training centre of the Direction du matériel roulant et des ateliers municipaux. The division manager was also an instructor who provides training on this Regulation at this centre. According to documents on courses given on this Regulation we obtained from the training centre of the Direction du matériel roulant et des ateliers municipaux, for the years 2007, 2008 and 2009, 10 people took this training. Another manager at this division who we met admitted that he did not receive in-depth training on this Regulation, but he obtained information informally. As well, according to a manager at the Division des parcs et de l'horticulture, several foremen at this division had not received training on enforcement of this Regulation, and refresher training on its key aspects would be appropriate for employees, herself included. As a result, we have no evidence that all employees involved in enforcing the Regulation have received appropriate training.

Finally, a poster that was put up in premises accessible to employees displays all the major rules to be followed to comply with the Regulation. However, the title of this poster concerns snow removal operations. As noted above, enforcement of the Regulation is concerned with more than just snow removal activities. In our opinion, all employees assigned to various activities involving driving of a heavy vehicle should be informed of these rules.

## Saint-Laurent Borough

According to documents and information obtained from managers we met with or contacted, our audit revealed that training on this Regulation and driver fatigue management for heavy vehicle drivers was given in 2010 to 208 public works employees, including both blue-collar employees and managers, especially foremen.

However, according to the manager of the Division de la voirie, not all employees required to drive a heavy vehicle have taken training on enforcement of the Regulation. He acknowledged that it would be desirable for all employees to take such training.

## L'Île-Bizard–Sainte-Geneviève Borough

During our audit, two of the three managers we met with mentioned to us that they had taken training on enforcement of the Regulation. However, we found no evidence that employees who drive heavy vehicles had taken such training.

In our opinion, both employees who are required to drive heavy vehicles and managers who have heavy vehicle drivers under their supervision should receive training on enforcement of this Regulation. We also think that monitoring mechanisms should ensure that all employees have received adequate training, especially new employees who are required to drive heavy vehicles.

## Conclusion

In order for all business units' employees concerned to have the knowledge and expertise they need to comply with the *Regulation respecting the hours of driving and rest of heavy vehicle drivers*, we believe that business units should make sure they establish their training needs in order to enforce this Regulation, including with respect to employees concerned, resources targeted, training and information measures, frequency of training and refresher training.

We also think that, in the interest of sound driver fatigue management, an occasional reminder of the main rules set out in the Regulation should be circulated to employees to ensure that their knowledge of them is up to date, thereby reducing the chances of an accident caused by driver fatigue.

#### 4.2.2.B. Recommendation

We recommend that the Direction des travaux publics of Le Sud-Ouest and Saint-Laurent boroughs and the Direction des travaux publics, de l'ingénierie et de l'aménagement urbain of L'Île-Bizard–Sainte-Geneviève borough define the training needs of their employees covered by the *Regulation respecting the hours of driving and rest of heavy vehicle drivers* so that they receive the information required and that the applicable regulations are enforced accordingly.

#### Business units' responses:

##### LE SUD-OUEST BOROUGH

[TRANSLATION] All managers and blue-collar employees will receive training. (**Planned completion: December 2014**)

##### SAINT-LAURENT BOROUGH

[TRANSLATION] In 2010, 208 employees were trained. This training will be provided again in the fall of 2014 to all staff so that new employees will receive training and those who already received training in 2010 will receive refresher training. (**Planned completion: November 2014**)

##### L'ÎLE-BIZARD–SAINTE-GENEVIÈVE BOROUGH

[TRANSLATION] Establish a timeline for training:

- Needs analysis;
- Choice of training (training centre of the Direction du matériel roulant et des ateliers municipaux);
- Introduction of training and ongoing training follow-up. (**Planned completion: November 2014**)

#### 4.2.2.C. Recommendation

We recommend that the Direction des travaux publics of Le Sud-Ouest and Saint-Laurent boroughs and the Direction des travaux publics, de l'ingénierie et de l'aménagement urbain of L'Île-Bizard–Sainte-Geneviève borough implement, on a regular, ongoing basis, initiatives to inform their employees of the main aspects of enforcing the *Regulation respecting the hours of driving and rest of heavy vehicle drivers* in order to promote compliance with the applicable regulations.



**Business units' responses:****LE SUD-OUEST BOROUGH**

*[TRANSLATION] The annual training on snow removal operations will include a section on the Act respecting owners, operators and drivers of heavy vehicles (Bill 430), and will be offered to all staff. (Planned completion: December 2014)*

**SAINT-LAURENT BOROUGH**

*[TRANSLATION] After training is provided in the fall of 2014, we will hold regular meetings to discuss the Act respecting owners, operators and drivers of heavy vehicles (Bill 430). These meetings will be held by foremen, who will meet with employees. An attendance list will be produced and a register will be developed to record the main items discussed at these meetings. A general training session will be held every three or four years as well. (Planned completion: June 2015)*

**L'ÎLE-BIZARD–SAINTE-GENEVIÈVE BOROUGH**

*[TRANSLATION] Recapitulation of the guidelines and applicable by-laws at a meeting early in the season with:*

- *Blue-collar employees;*
- *Independent truckers. (Planned completion: November 2014)*

**4.3. Private Security Act****4.3.A. Background and Findings**

The *Private Security Act*, which came into force in full in July 2010, prescribes that individuals who carry out security activities must hold an agent licence. Some of these activities involve security guarding, investigation, locksmithing and areas of activity related to electronic security systems.

In the case of municipalities, employees must hold an agent licence if they perform such duties as their main activity solely for the municipality. The Act does not define what constitutes a main activity. According to information obtained from the Bureau de la sécurité privée, because of certain legal subtleties inherent in this concept, a main activity is not necessarily calculated according to the “50 plus 1” formula, and principles of legal interpretation are called for. An analysis of job duties must be conducted.

It should be noted that after the Act came into force in July 2010, the people concerned had six months to comply with it. Thus, boroughs had until January 2011 to ensure that employees who carry out security activities as part of their job held agent licences, or else they could not perform such work.

If an employee carries out such activities without holding an agent licence, this constitutes a non-compliance for the borough. If a borough is not compliant, it runs the risk of facing a fine in the \$500–\$5,000 range. It also lays itself open to other risks, such as a negative image for the borough, public criticism of the government and dissatisfied citizens, if a loss should occur as the result of an employee performing a security activity without a licence.

For employees of the boroughs selected, our audit consisted essentially in making sure that a procedure was in place, since the Act came into force, to analyze all jobs to determine whether employees were carrying out security activities and, if applicable, to require that they obtain an agent licence. Our audit also consisted in assessing whether this procedure was carried out on an occasional basis, in this case, at least once a year because of the possible changes that can affect jobs.

In cases where contracts were awarded to private security firms, our audit consisted in examining whether call for tender documents contained clauses requiring that firms that are awarded contracts comply with the provisions of the *Private Security Act*, including the requirement that their employees hold agent licences. Even though it is the firm's responsibility to ensure that its employees hold licences as part of a contractual framework, we still think it is preferable that tender documents contain such clauses in order to reduce all possible risks of a lawsuit.

### 4.3.1. Application of the *Private Security Act* to Borough Activities

#### 4.3.1.A. Background and Findings

At this stage of our audit, we therefore wanted to know whether the business units selected had adopted a procedure to ensure that their employees who carry out security activities hold agent licences, as required by the Act.

#### Le Sud-Ouest Borough

According to managers we contacted at the Direction des services administratifs, they were not familiar with the *Private Security Act*. According to information obtained from the manager of the Direction des services administratifs, who had recently been appointed to the position at the time of our audit, no such procedure has been conducted within the borough since the Act came into force in 2010. However, he mentioned that he was planning to conduct an official procedure in order to ensure that the Act was being enforced for all the borough's administrative units. In our opinion, such a procedure should be carried out and validated by

the Bureau de la sécurité privée in order to ensure that the act is enforced and that all the jobs concerned are examined.

### **Saint-Laurent Borough**

Our audit showed that such a procedure was carried out in 2011 within the prescribed time after the Act came into force. According to the documents outlining this procedure, all the borough's activities that were likely to be affected by the Act were checked. The documents examined describe various jobs analyzed, including trades practised by blue-collar employees such as locksmithing and employees working on security systems. Outside expertise, in the form of the Bureau de la sécurité privée, was enlisted to help with the analysis of employee activity.

At the time of our audit, the Urban Security Patrol manager had put in place another procedure, but only for employees working at the dispatch centre. We think that such a procedure should be carried out for all employees, not just one group, and that it should be initiated and carried out by the same administrative unit so that the employee activity analysis is consistent. In addition, it is important that the results of the analysis be reviewed every year, in case changes are made to jobs, in order to ensure that the Act is applied to all the borough's employees.

### **L'Île-Bizard–Sainte-Geneviève Borough**

According to people we met with or contacted, a procedure was carried out for all the borough's employees in 2010. However, we were unable to track down any documents attesting to this procedure. Since then, no other procedure was followed to ensure that the borough is always compliant with the Act. As a result, we have no evidence that an official job analysis procedure was carried out for the borough. We think that an official review procedure should be conducted, and that it should be documented to reflect compliance with the *Private Security Act*.

We also think that a job analysis should be performed every year, in case employee activities change, in order to ensure that the Act is applied to all the borough's employees.

#### 4.3.1.B. Recommendation

We recommend that the Direction des services administratifs of Le Sud-Ouest borough and the Direction d'arrondissement of L'Île-Bizard–Sainte-Geneviève borough conduct a job analysis to determine whether employees need to hold an agent licence in order to perform their duties and take any necessary steps to ensure compliance with the *Private Security Act*.

#### Business units' responses:

##### LE SUD-OUEST BOROUGH

[TRANSLATION] We will compile a complete inventory of positions that are likely to be associated directly or indirectly with private security. (**Planned completion: October 2014**)

##### L'ÎLE-BIZARD–SAINTE-GENEVIÈVE BOROUGH

[TRANSLATION] A job analysis will be conducted to determine whether employees are required to hold an agent licence to perform their duties, and any necessary steps will be taken to comply with the *Private Security Act*. (**Planned completion: December 2014**)

#### 4.3.1.C. Recommendation

We recommend that the Direction des services administratifs of Le Sud-Ouest borough, the Direction des services administratifs et du greffe of Saint-Laurent borough and the Direction d'arrondissement of L'Île-Bizard–Sainte-Geneviève borough conduct an annual review of the results of the job analysis to determine whether employees need to hold an agent licence to perform their duties and take any necessary steps to ensure compliance with the *Private Security Act*.

#### Business units' responses:

##### LE SUD-OUEST BOROUGH

[TRANSLATION] At the beginning of every year, every position that has been created during the previous year will be checked to determine whether it has any connection to the *Private Security Act*. (**Planned completion: January of each year**)

##### SAINT-LAURENT BOROUGH

[TRANSLATION] This review will take place at the time of the annual workforce planning that is carried out as part of the annual budget process. (**Planned completion: June of each year**)

**L'ÎLE-BIZARD–SAINTE-GENEVIÈVE BOROUGH**

[TRANSLATION] *An annual review of job analysis results will be conducted. (Planned completion: each year, effective as of February 2015)*

### 4.3.2. Tender Documents

#### 4.3.2.A. Background and Findings

At this stage of our audit, we wanted to know whether, in the context of calls for tenders launched to obtain services involving private security activities, the tender documents contained clauses on the obligation to comply with the *Private Security Act* and its regulations, particularly the obligation to hold the agent licence required under the Act.

When a contract is awarded by a borough involving agents who work for a private security firm, both the firm and the agents themselves are responsible for ensuring that they hold agent licences. However, we believe that in order to avoid any lawsuit or claim that might be launched in connection with an incident involving a security guard who does not hold the required licence, the tender documents should specify the requirement of compliance with the provisions of the *Private Security Act*, particularly those governing the holding of an agent licence.

For Le Sud-Ouest borough, according to the manager of the Direction des services administratifs, no contract was concluded with private security firms. Security activities for the borough are essentially carried out by the Division de la sécurité of the Direction des immeubles, which reports to the SCARM.

In Saint-Laurent and L'Île-Bizard–Sainte-Geneviève boroughs, contracts are concluded with private security firms. Our audit revealed that tender documents contain clauses requiring firms to comply with the *Private Security Act* and to ensure that their employees hold the permit required under the Act. This is a sound management practice which, in our opinion, helps reduce the risks of having recourse to employees who cannot perform their duties adequately, which could adversely affect these boroughs.

### 4.3.3. Staff Information and Training Measures

#### 4.3.3.A. Background and Findings

As has already been noted, for the three boroughs selected, the *Private Security Act* is enforced mainly by business units in charge of human resources, and it is therefore mainly this administrative unit's employees who must be familiar with this Act in order to enforce it

in a compliant manner. Moreover, for the city's boroughs, enforcing the act essentially means requiring that employees who carry out security activities hold an agent licence. However, since some concepts are not defined in the Act, they call for principles of legal interpretation. Accordingly, an ability to enforce the Act in a compliant manner requires a good knowledge of these legal provisions.

In the case of Le Sud-Ouest borough, interviews conducted during our audit showed that managers at the Direction des services administratifs were not familiar with the Act. In fact, according to the managers we contacted, they were not aware of the existence of this Act. Accordingly, we believe that it is important that the people responsible for enforcing the Act make sure that they are thoroughly familiar with it and that training and information needs are defined, including with respect to the employees and resources concerned, training and information measures, frequency of training and refresher training.

In Saint-Laurent borough, managers contacted the Bureau de la sécurité privée to ensure that the Act is enforced, making use of outside resources to ensure that the Act was properly understood. This is a sound management practice in our opinion. However, enforcement of the Act must be verified every year, and since this Act, like any other act, is subject to amendments, we feel it is appropriate that those responsible for enforcing it make sure they define training and information needs.

In L'Île-Bizard–Sainte-Geneviève borough, even though an unofficial procedure had been carried out to ensure the Act was enforced, according to information obtained from the person contacted, we have no evidence that staff are thoroughly familiar with the Act, since no report was produced under this procedure. For the same reasons outlined above in the case of Saint-Laurent borough, we think that the person responsible for enforcing the Act should ensure that training and information needs are defined for the purpose of enforcing it.

Finally, as mentioned in Section 4.1.2., the SAJEF provides legislative oversight, and for this purpose produces an inventory of laws and by-laws and sends it to the boroughs affected by them. We noted that this inventory, issued by the SAJEF, and which we obtained from borough registry officers, does not include the *Private Security Act*. This situation explains the fact that staff of Le Sud-Ouest borough are not familiar with this Act. We think that the SAJEF should include this Act in the inventory of laws and by-laws that they send to boroughs.

#### 4.3.3.B. Recommendation

We recommend that the Direction des services administratifs of Le Sud-Ouest borough, the Direction des services administratifs et du greffe of Saint-Laurent borough and the Direction d'arrondissement of L'Île-Bizard–Sainte-Geneviève borough define their training and information needs concerning the *Private Security Act* so that they can enforce this Act to ensure compliance with it.

#### Business units' responses:

##### LE SUD-OUEST BOROUGH

*[TRANSLATION]* We will review the Private Security Act and its implications so that we can inform the various parties involved of the mechanisms to be implemented and the risks involved. **(Planned completion: December 2014)**

##### SAINT-LAURENT BOROUGH

*[TRANSLATION]* If, as the result of the job analysis, jobs are identified for which an agent licence is required, the employees concerned will be notified of this as promptly as possible so that procedures for training them can be established. **(Planned completion: June of each year)**

##### L'ÎLE-BIZARD–SAINTE-GENEVIÈVE BOROUGH

*[TRANSLATION]* A checklist will be prepared to determine whether the Private Security Act applies to new positions. **(Planned completion: December 2014)**

#### 4.3.3.C. Recommendation

We recommend that the Service des affaires juridiques take the necessary steps to include the *Private Security Act* in the inventory of laws and by-laws it sends to boroughs so that the boroughs will have complete information on the laws to be enforced.

#### Business unit's response:

*[TRANSLATION]* The Private Security Act was added to the inventory list of laws and by-laws on April 30, 2014.

An update of the inventory of laws and by-laws, specifically including the addition of this Act, was emailed to borough secretaries on May 1, 2014, by the Service des affaires juridiques – Direction des affaires civiles. In addition to this inventory, a list of laws and by-laws that were added or amended since the last mail-out was attached to the email that was sent. **(Completed)**

## 4.4. Accountability Mechanisms

### 4.4.A. Background and Findings

Accountability reporting is part of sound management practices; not only does it provide managers with information to assist them in their decision-making, it also makes these managers accountable for the decisions made. At the municipal level, these decisions are very often related to the enforcement of municipal, provincial and federal laws and by-laws, since they regulate a very large part of boroughs' activities.

As discussed earlier, in 2011 the city manager adopted an administrative framework on compliance with laws and by-laws, which became applicable to the boroughs under the *Charter of Ville de Montréal* when he declared compliance with laws and by-laws a strategic issue. Under this administrative framework, all borough directors must submit a certificate of compliance to the city manager every year attesting that, to the best of their knowledge, their boroughs have taken every reasonable measure to ensure compliance with the laws and by-laws governing their areas of responsibility. In short, this certificate attests that all the borough's administrative units are compliant with the laws and by-laws. The guidelines and orientations of the administrative framework are designed specifically to make borough directors accountable for all actions taken within their business units. The production and submission of this certificate of compliance constitutes accountability reporting to the city manager on compliance with laws and by-laws. The city manager can then rely on all these certificates to assert that business units within the city have taken every reasonable measure to ensure compliance with laws and by-laws.

In our opinion, in order to follow the guidelines and orientations of the administrative framework described above so that the officer responsible for signing the certificate of compliance can assess the extent to which the borough's administrative units have taken reasonable measures and implemented monitoring mechanisms to ensure compliance with laws and by-laws, the officer must be able to rely on accountability reporting that provides this assurance. In fact, the officer responsible for signing the certificate of compliance must be able to rely on reports so that he or she can attest that the borough's directorates, divisions and sections have taken reasonable measures to ensure compliance with the laws and by-laws.

At this stage, our audit therefore consisted in assessing the extent to which accountability reports on compliance with laws and by-laws are produced by each borough's administrative units so that the officer responsible can produce a certificate of compliance and attest that the borough has taken reasonable measures to comply with laws and by-laws. This accountability reporting can concern, for example, monitoring of the enforcement of a law or



by-law, situations involving non-compliance with laws and by-laws or assessments of whether an activity performed was in compliance with a law or by-law.

Moreover, our audit revealed that, with respect to by-laws on the contribution for parks, activity reports are generally produced every year for the DAUSE of Le Sud-Ouest and Saint-Laurent boroughs. According to information obtained, such reports are not produced in the case of the Direction des travaux publics, de l'ingénierie et de l'aménagement urbain of L'Île-Bizard–Sainte-Geneviève borough. However, the reports produced basically show the number of files involving subdivision or building permit applications, the number of files involving contributions for parks and the amount obtained for contributions for parks for the year. According to the documents and information obtained, for the three business units audited, we found no evidence that accountability reports on compliance with laws and by-laws on the contribution for parks are produced and submitted to the officer responsible for signing the certificate of compliance with laws and by-laws and forwarding it to the city manager.

Nor did we find any evidence that administrative units responsible for enforcing the *Regulation respecting the hours of driving and rest of heavy vehicle drivers* produce and submit accountability reports or follow-up reports on this Regulation or on compliance with this Regulation to the manager responsible for signing the certificate of compliance with laws and by-laws and forwarding it to the city manager.

Lastly, on the subject of compliance with laws and by-laws, our audit revealed that in 2011, a manager of the Direction des services administratifs et du greffe sent a memo to the attention of the director of Saint-Laurent borough on compliance with the *Private Security Act*. According to this memo, an analysis was conducted on the impact of the Act on the borough's employees, and no employees were found to be covered by the Act. In our opinion, this is a sound accountability practice in the area of compliance with laws and by-laws. However, according to the documents and information obtained, this accountability reporting was carried out only in 2011; since then, the Act may have become applicable to employees as a result of changes in the job structure.

In the case of Le Sud-Ouest and L'Île-Bizard–Sainte-Geneviève boroughs, we did not find evidence that accountability reporting on compliance with laws and by-laws had been carried out concerning enforcement of the *Private Security Act*.

During our examination of compliance with the laws and by-laws selected and monitoring mechanisms established to ensure compliance, our audit revealed several cases of non-compliance that entailed major risks. We found that business units had poor knowledge of a

law or by-law that should have been enforced, and that they lacked expertise and knowledge concerning other laws and by-laws they are responsible for enforcing. Our audit also showed that monitoring mechanisms were lacking and needed to be established in order to ensure compliance with the laws and by-laws.

Our audit of the laws and by-laws we selected showed that the business units audited are not in a position of control with respect to compliance with laws and by-laws, since they do not take every necessary measure to comply with laws and by-laws.

Accordingly, we believe it is both necessary and important that there be monitoring of the enforcement of the laws and by-laws governing the areas of responsibility of administrative units within boroughs. We also believe that monitoring, when it is included in an accountability report, even a concise one, could prove advantageous because it could provide an account of the situation on compliance with laws and by-laws. At the same time, it would provide the manager responsible with the necessary assurance of the extent of this compliance with the laws and by-laws when the certificate of compliance is produced. The production of reports, even concise ones, would also make the organization aware of the non-compliance situations detected and of the importance of taking corrective action to reduce the risks associated with these non-compliances with laws and by-laws.

In our opinion, it is essential that the certificates of compliance, which are signed by the managers responsible and forwarded every year to the city manager, reflect the fact that, to the best of their knowledge, the boroughs really have taken reasonable measures to ensure compliance with the laws and by-laws governing their areas of responsibility.

For this reason, we think it is essential that borough directors be able to sign these certificates by relying on measurable data and facts that provide proof that, to the best of their knowledge, the administrative units really are taking these reasonable steps, failing which the certificate of compliance cannot have the value that it is supposed to have.

#### **4.4.B. Recommendation**

**We recommend that Le Sud-Ouest, Saint-Laurent and L'Île-Bizard–Sainte-Geneviève boroughs establish regular accountability reporting mechanisms so that all administrative unit managers can attest that they have taken every reasonable measure to ensure compliance with laws and by-laws in performing the activities that concern them, thereby assuring the borough director, who signs the certificate of compliance submitted every year to the city manager, that the borough is in compliance with the applicable laws and by-laws.**

**Business units' responses:****LE SUD-OUEST BOROUGH**

*[TRANSLATION] At the beginning of every year, the Direction des services administratifs and managers will be sent a reminder to inform us of the actions that were taken during the year to ensure compliance with all the laws and by-laws that govern us. (Planned completion: every year in February 2015)*

**SAINT-LAURENT BOROUGH**

*[TRANSLATION] Regular accountability reporting mechanisms will be maintained so that all administrative unit managers can attest that in carrying out their activities they have taken every reasonable measure to ensure compliance with laws and by-laws. (Planned completion: ongoing, May 2014)*

**L'ÎLE-BIZARD–SAINTE-GENEVIÈVE BOROUGH**

*[TRANSLATION] On a quarterly basis, directors must attest that, to the best of their knowledge, they have taken reasonable measures to comply with the laws and by-laws that govern their areas of responsibility. If applicable, they will also produce a report on new measures that were implemented to reduce potential non-compliance risks. (Planned completion: June 2014)*

**5. General Conclusion**

As of 2011, it has been mandatory for boroughs to adhere to an administrative framework on compliance with laws and by-laws. Nonetheless, our audit revealed the existence of several non-compliances with laws and by-laws for the three boroughs audited, Le Sud-Ouest, Saint-Laurent and L'Île-Bizard–Sainte-Geneviève.

First, we examined the *Act respecting land use planning and development* (ALUPD) and the boroughs' by-laws on the contribution for parks, playgrounds and natural areas. These by-laws enable the boroughs to claim a contribution for parks when an applicant applies for a subdivision permit application (cadastral operation) or building permit. The contribution for parks can be made in the form of a land transfer or cash payment, or both at once, when specified by the associated by-law.

For different aspects of the contribution for parks, we noted several instances of non-compliance with the ALUPD and by-laws, including:

- Improper enforcement of applicable by-laws, with the result that boroughs do not correctly invoice the amounts provided for in regulations;

- Poor knowledge of the *By-law concerning the issue of certain building permits (02-065)*, which has been in force since 2002 or after, depending on the date on which the cadastral renewal was completed by the Québec government, depriving boroughs of revenue to which they are entitled;
- An erroneous application of exemptions and conditions associated with the claim of the contribution for parks, leading to the risk of invoicing for the wrong amount for the contribution;
- Missing or incomplete registers of previous contributions, making it impossible for boroughs to ensure that a payment has already been made;
- Errors in the value assessment for the contribution for parks, which can lead to financial losses for the boroughs;
- One borough council did not exercise its choice of accepting the contribution for parks in cash or in the form of a land transfer, so that it was not possible to provide official proof that the payment method was actually the one claimed;
- Permits were issued before the contribution for parks was paid, a practice that puts the borough at risk for losing revenue if the applicant does not pay.

Our audit showed that these non-compliances came about because the people assigned to these activities lacked the expertise, knowledge and methodological tools, such as procedural guides, to enforce regulations. Moreover, we observed serious deficiencies in permit file reviews by officers in charge concerning enforcement of by-laws on the contribution for parks. In our opinion, a lack of documentation in files, especially concerning the processing of the contribution for parks, hinders the review process. We feel that the context in which the contribution for parks is processed is not favourable to detecting non-compliance situations, which would allow corrective action to be taken before it is too late.

Finally, we noted that the poor knowledge of the *By-law concerning the issue of certain building permits (02-065)* on the part of the three boroughs audited applied to other boroughs as well, also depriving them of contributions for parks to which they are entitled. As mentioned above, this by-law has been in force since 2002 or as of the cadastral renewal, depending on the borough concerned.

Second, we examined the *Regulation respecting the hours of driving and rest of heavy vehicle drivers*. Its purpose is to regulate the hours of driving and rest of heavy vehicle drivers, primarily by prescribing a maximum number of hours of driving and work, both for a single day and for a work cycle, and by prescribing that daily logs or registers be kept so that there is a record of drivers' activities. We also observed non-compliances with various aspects of this by-law in the boroughs audited:

- Lists of heavy vehicles that are incomplete, out of date, and do not promote the establishment of mechanisms to monitor and check hours of driving and rest of employees who use these vehicles;
- Heavy vehicle drivers who fail to comply with the rules for maximum hours of driving and minimum hours of rest, thereby running risks of facing fines, having accidents involving injuries and causing financial losses for the city;
- Registers not kept, so that information required under the by-law is missing, making it difficult to monitor hours of driving and rest of heavy vehicle drivers.

Enforcement of this by-law is of concern to us, because the non-compliances observed are caused partly by a lack of employee training on enforcement of the Regulation and partly by the fact that managers of different administrative units do not have proper tools for monitoring hours of driving, work and rest. In this context, managers would be unable to detect non-compliance situations for the employees they supervise, which puts them at risk for facing fines as well as having accidents.

Third, we examined the *Private Security Act*. This law addresses the requirement that individuals who carry out security activities hold an agent licence. Among these activities are security guarding, investigation, locksmithing and areas of activity related to electronic security systems. Our audit revealed the following non-compliances:

- Poor knowledge of the law, even though it came into force in 2010, such that the employees concerned run the risk of not carrying out their duties in accordance with the requirement of holding an agent licence and the risk of facing fines;
- The lack of evidence that the procedure is revised every year to determine which employees are required to hold an agent licence, which poses the risk that new agent licences are needed without the borough requesting them.

Non-compliances were identified as a result of our examination of the enforcement of the laws and by-laws covered by our audit, resulting in risks. We therefore think that boroughs must strive to implement monitoring mechanisms that assure them that the laws and by-laws governing their areas of responsibility are enforced in a compliant manner. If such efforts are not made, we think the risks stemming from non-compliance are considerable. In the case of contributions for parks especially, the financial losses involved in terms of lost revenue for the borough can amount to hundreds of thousands of dollars for a single permit file. Moreover, still on the subject of enforcement of this regulation, the numerous non-compliance situations and internal monitoring deficiencies observed leave a cloud of suspicion that deliberate misappropriation of funds may be involved, both for permit files in which a contribution for parks was claimed and those for which a contribution was not claimed.

We recognize that it is possible to establish monitoring mechanisms, provided that boroughs are familiar with the laws and by-laws they must enforce. The purpose of the inventory of laws and by-laws that the Service des affaires juridiques et de l'évaluation foncière (SAJEF) prepares for them is to achieve this very objective. However, to achieve it, it must be complete, and boroughs must use it. Our audit uncovered deficiencies in this area.

Finally, it should be recalled that when the administrative framework on compliance with laws and by-laws was adopted in 2011, the city manager declared that compliance with laws and by-laws is a strategic issue. In our opinion, as a result of this declaration, compliance with laws and by-laws took on particular importance. That is precisely the reason why all borough directors must provide certificates of compliance under this administrative framework. In order for such certificates to assume their full value and provide assurance that, in the conducting of municipal activities, every reasonable measure has been taken to ensure compliance with all laws and by-laws, it is essential that the procedure for providing such assurance be properly regulated.

Therefore, it is not enough that borough directors sign a declaration and assert that they have taken reasonable measures to ensure compliance with laws and by-laws. They must also demonstrate that accountability mechanisms have been established within boroughs so that each manager under their responsibility can provide the assurance of actual compliance with the laws and by-laws that regulate their areas of activity.

## 6. Appendices

### 6.1. Enforcement of By-laws Governing the Contribution for Parks

**Table A – Sample of Files Selected**

Investigation file No.	Permit category		Year permit issued	Contribution for parks	Exemptions		Register of previous contributions	Assessment of contribution		Choice approved by the BC <sup>[a]</sup>	Contribution paid before permit issued
	Subdivision	Building		Amount	Compliance	Evidence in file	Evidence of check	Calculation compliant	Evidence in file	Compliance	
<b>Le Sud-Ouest borough</b>											
1		X	2012	Yes – \$16,308	N/A	N/A	Yes, partial	Yes	Yes	Yes	Yes
2	X		2012	Yes – \$59,000	N/A	N/A	Yes, partial	No	Yes	Yes	Yes
3	X		2011	Yes – \$134,420	N/A	N/A	Yes, partial	Yes	Yes	Yes	Yes
4	X		2013	No	Yes	Yes	N/A	N/A	N/A	N/A	N/A
5		X	2013	No	Yes	No	N/A	N/A	N/A	N/A	N/A
6		X	2011	No	Yes	No	N/A	N/A	N/A	N/A	N/A
<b>Saint-Laurent borough</b>											
7		X	2013	No	Yes	No	N/A	N/A	N/A	N/A	N/A
8		X	2011	Yes, but not invoiced	N/A	N/A	Yes	No	Yes	No	No
9	X		2011	No, already paid	N/A	N/A	Yes, partial	N/A	N/A	N/A	N/A
10	X		2013	No	No	No	N/A	N/A	N/A	N/A	N/A
11		X	2013	Yes – \$209,590	N/A	N/A	Yes	No	Yes	No	Yes
12	X		2012	Yes – \$144,000	N/A	N/A	Yes	No	Yes	No	No
<b>L'île-Bizard–Sainte-Geneviève borough</b>											
13	X		2012	Yes – \$47,500	Yes	No	No	Yes	No, summary only	Yes	Yes
14		X	2012	No	No	No	N/A	N/A	N/A	N/A	N/A
15	X		2011	No, land already transferred	N/A	N/A	No	N/A	N/A	N/A	N/A
16		X	2013	Yes – \$17,944	No	No	No	Yes	Yes	Yes	Yes
17	X		2012	No, land already transferred	N/A	N/A	Yes, partial	N/A	N/A	N/A	N/A
18		X	2011	No, land already transferred	N/A	N/A	Yes, partial	N/A	N/A	N/A	N/A

<sup>[a]</sup> Borough council.

## 6.2. Certificate of Compliance with Laws and By-laws [TRANSLATION]

To the city manager:

We have taken every reasonable measure to ensure that, to the best of our knowledge, [XX borough] is in compliance with the laws and by-laws that govern its areas of responsibility.

The activities in question are:

1. Following up on legislative and regulatory amendments affecting the borough's area of jurisdiction.
2. Implementing the necessary measures to inform employees who enforce those laws and by-laws as part of their activities.
3. Updating the assessment of the level of risk associated with non-compliance with laws and by-laws.

This attestation satisfies the accountability reporting requirements set out in administrative framework C-OG-DG-P-11-002.

Signed: \_\_\_\_\_

Borough director

Date: \_\_\_\_\_

Source: Appendix 1 of administrative framework C-OG-DG-P-11-002.