



Office of the Auditor General

Annual Report

**Tabled at Audit Committee
November 24, 2020**



Office of the Auditor General

November 24, 2020

Mayor, Members of Audit Committee and Council,

I am pleased to present the Annual Report of the Office of the Auditor General of the City of Ottawa.

Respectfully,

A handwritten signature in black ink that reads 'Ken Hughes'.

Ken Hughes

Auditor General



Staff of the Office of the Auditor General

Ken Hughes

Sonia Brennan

Ed Miner

Sarah Parr

Marlon Perez

Louise Proulx

Ines Santoro

Margaret Sue

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Overview of activities

In 2020, we completed audits and follow-ups that were in process at the end of 2019. We also began working on audits and follow-ups that had been previously approved by Council. Our Annual Report on the Fraud and Waste Hotline was presented to the Audit Committee in October 2020. In September 2020, we also presented follow-up reports to the Audit Committee.

Five new audits were completed since my last annual report in November 2019. These include:

- Audit of By-law and Regulatory Services – By-law Enforcement
- Audit of Facility Management
- Audit of Lansdowne Accounting/Waterfall
- Audit of Meridian Theatres @ Centrepointe and Shenkman Arts Centre
- Audit of Ottawa Light Rail Transit (OLRT) Stage 1 Contingency Fund

It should be emphasized that recommendations arising from audits represent the Auditor General's suggested course of action to resolve the issues identified; however, once these recommendations and management responses are approved, they become direction from Council. As such, progress in implementing these recommendations has been viewed as fulfilling Council's direction.

As audits are developed, depending on the nature of the findings, it may be more suitable to issue some related audit elements in separate reports; for example, less significant issues may also be addressed through the issuance of management letters provided directly to management. Since the last Annual Report, we have issued one management letter related to audits.

Fraud and Waste Hotline

The City's Fraud and Waste Hotline is an anonymous and confidential vehicle for City staff and the general public to report suspected fraud or waste. Our Office continues to be responsible for the administration of the City's Fraud and Waste Hotline, which is available for employees and the public as part of the City's Fraud and Waste Policy. Our Office reviews all cases submitted through the Hotline. The bulk of the investigations related to the reports are done by City management and reviewed by the Office of the Auditor General (OAG). The OAG resources required to support the Hotline is roughly one and a half Full Time Equivalent (FTE) or significantly higher at times due to higher case volume and the nature of cases. We will be issuing a full report of the Hotline's 2020 activity at a future Audit Committee meeting.

Tabling protocol

The Auditor General reports directly to Audit Committee, a standing committee of Council and reports annually on all audit reports completed during the course of the year. This is generally to be done in the fall, unless it is an election year, in which case the report would be deferred until after the new Council has completed budget deliberations for the year. In addition to presenting audit reports annually, we also present a report on the activity of the Fraud and Waste Hotline. This is generally done mid-year. Our Office also conducts follow-ups on previously completed audits. These follow-ups present an evaluation of management's progress in implementing previous audit recommendations. Follow-ups will be presented as they are completed, generally once or twice a year. This allows the Audit Committee to focus discussion on this significant activity.

The by-law governing the OAG can be found in Appendix A.

Budget

The annual budget for the Office of the Auditor General is in accordance with the budget strategy for the Term of Council. The 2020 budget for the City of Ottawa Auditor General's Office was \$2.1 million.

Executive summaries of each audit

As per protocol, the Auditor General is required to report on any audit recommendation where management and the OAG disagree. For this reporting period, there were no disagreements. The following section presents executive summaries for each of the following audits.

- Audit of By-law and Regulatory Services – By-law Enforcement
- Audit of Facility Management
- Audit of Lansdowne Accounting/Waterfall
- Audit of Meridian Theatres @ Centrepointe and Shenkman Arts Centre
- Audit of Ottawa Light Rail Transit (OLRT) Stage 1 Contingency Fund

Acknowledgement

We wish to express our appreciation for the cooperation and assistance afforded to the audit team by management.

Audit of By-law and Regulatory Services – By-law Enforcement

Purpose

The Audit of By-law and Regulatory Services – By-law Enforcement examined the effectiveness of processes and practices in place to support the delivery of consistent and efficient by-law enforcement activities. This included an examination of enforcement procedures and service standards, technology improvement projects, selected service requests and enforcement activities, as well as processes and practices related to training, health and safety, and time reporting. The Audit of By-law and Regulatory Services – By-law Enforcement was included in the 2019 Audit Work Plan of the Office of the Auditor General (OAG), approved by Council on April 24, 2019.

Background and rationale

The City's by-laws are enforced by By-law & Regulatory Services (BLRS), a service area within the Emergency & Protective Services Department. BLRS is responsible for the enforcement and administration of approximately 40 municipal by-laws and 6 Provincial Acts within the City of Ottawa that address a wide range of municipal community issues, including: parking, animal care, property standards, graffiti, fences, business and lottery licensing, smoke-free areas, as well as use and care of roads, parks and other facilities.

Except for parking, enforcement is based largely on a reactive approach, primarily in response to requests for service made to the City's 3-1-1 service centre. The enforcement officer responds to the call/complaint and takes the necessary action to enforce compliance with by-laws as required. City Councillors and their staff also submit service requests directly to BLRS management via phone or email.

A priority level is assigned by the dispatcher based on the nature of the call. Based on the 2018 Annual Report¹, BLRS responded to 87,056 requests for service in 2018. This

¹ Due to COVID-19 and the declared municipal emergency, BLRS' 2019 annual report was not available by the end of our audit fieldwork. Management plans to combine it with 2020 and present in 2021.

represents a 2.1% average annual increase in requests for service since 2011, including an increase of 8% in 2018.

Since by-law enforcement officers are expected to enforce some 40 municipal by-laws and respond to an increasing number of requests for service within set service standards, it was important to examine whether there are effective processes and practices in place to support consistent and efficient delivery of enforcement activities. The audit did not examine parking and licensing enforcement activities.

Findings

The key findings associated with the audit's objectives are as follows:

- 1. Enforcement procedures and service standards:** We found that BLRS has developed Standard Operating Procedures (SOPs) that provide enforcement and other instructions to by-law enforcement officers. The SOPs cover most of the activities that officers enforce daily. BLRS also has developed service standards which set target times to initially respond to a service request (i.e. contacting the person or organization making the request) and to resolve it. However, the service standards are not systematically included in the SOPs. Out of the 91 identified SOPs, 12 SOPs (13%) do not contain the applicable service standards for initial response, and none of 91 SOPs contain the service standard for resolving the request.
- 2. Monitoring performance against procedures and service standards:** We found that BLRS management monitors the performance of enforcement activities against service standards by preparing and reviewing monthly performance reports. However, we found that there is no set process in place and no clear expectations for supervisors in terms of how they should be using these reports to manage officers' performance. In addition, these performance reports do not provide sufficient information to assess whether by-law and property standards officers are enforcing in accordance with BLRS' operational procedures and service standards. As a result, supervisors do not use these reports to monitor the performance of enforcement activities.
- 3. Enforcement Activities in Response to Service Requests:** We reviewed a random selection of 30 service requests as well as 24 enforcement activities at two selected locations to assess whether service requests were responded to consistently and in accordance with procedures and service standards. When we compared enforcement actions taken to SOPs, we found that actions taken

complied with operational procedures in 27 of the 30 reviewed cases (90%). When we looked at compliance against service standards, we found that the initial response and resolution targets were met in 25 of the 30 reviewed cases (83%). This rate exceeds the 80% target set by BLRS management. Our review of enforcement activities at the two selected locations found seven times where progressive enforcement options were not applied (29%), and six times (25%) where the initial response and/or resolution took longer than the service standards.

4. **Management of technology risks:** We reviewed two technology projects that were initiated by BLRS to improve the effectiveness and efficiency of dispatch and service request management activities: Dispatch Modernization Project and a Client Relationship Management System Project. We found that BLRS successfully completed Phase 1 of the Dispatch Modernization Project by implementing GPS technology in all 84 by-law enforcement vehicles. However, Phase 2 of the project, which aims at using the GPS data to improve dispatch activities by assigning enforcement cases based on the officers' location, has been put on hold by BLRS management. Without implementation of Phase 2, BLRS will not achieve the intended benefits of its investment in the GPS technology. As for the Client Relationship Management System Project, we found that BLRS implemented the system in parking enforcement but has yet to define requirements to implement the system in by-law enforcement. As a result, once again the intended benefits, such as fuel cost savings, service optimization and improved client satisfaction, were not achieved.
5. **Identification of training needs:** We found that BLRS developed training manuals in 2016 for new by-law enforcement officers, as well as a series of health and safety training modules on various topics, such as the handling of wild animals and dangerous dogs. While training materials exist and are being used to deliver training to officers, we found that BLRS management does not have a formal and documented process to identify training requirements and develop and update training material. We also found that BLRS does not develop and maintain training plans for enforcement officers.
6. **Delivery of training:** We found that enforcement training is delivered to new by-law enforcement officers through a combination of classroom instruction, online learning, and ride-alongs. New by-law enforcement officers also go through a formal coaching program where experienced officers walk them through a series of modules and scenarios to prepare them to go into the field.

However, we found that that BLRS does not keep complete training attendance records and does not have a monitoring process to ensure that all required enforcement training has been taken.

Conclusion

Overall, the audit found that the City has effective processes and practices in place related to by-law enforcement activities. There are policies, procedures, and service standards in place to support consistent delivery of enforcement activities. In addition, selected enforcement activities that we reviewed were generally performed in compliance with these policies, procedures, and service standards. However, we did identify opportunities to improve the consistency and efficiency of by-law enforcement activities.

Recommendations and responses

Recommendation #1

That the City develop a strategy to update, communicate and reinforce to enforcement staff its initial response and resolution service standards on an ongoing basis.

Management response:

Management agrees with this recommendation.

Service standards are reviewed on a monthly basis and Supervisors are provided with a list of Officers with open cases exceeding 30 days for resolution. Response and resolution targets will be added to the SOPs and will continue to be communicated to Officers. It should be noted that some types of service requests, such as zoning or property standards, can take longer than 30 days to resolve due to the Order to Comply and Notice of Violation processes, which are subject to legislated timelines and the potential for appeals. This work will be completed by the end of Q2 2021.

Recommendation #2

That the City define expectations for performance monitoring of enforcement activities, including use of performance reports.

Management response:

Management agrees with this recommendation.

While BLRS has performance reporting and other monitoring mechanisms in place, BLRS will establish and implement a formal process to define expectations for performance monitoring of enforcement activities. This will include scheduled reviews of performance reports and GPS data that will be documented and provided to Supervisors routinely. This work will be completed by the end of Q4 2021.

Recommendation #3

That the City implement its proposed GPS data retention plan.

Management response:

Management agrees with this recommendation and it has been implemented. GPS data is available and can be accessed by Management daily in a live application for one year and in accordance with the retention plan described in this audit report.

Recommendation #4

That the City develop and implement a plan to improve ongoing communication of SOPs and service standards to by-law officers and monitor the impact of the plan on service delivery.

Management response:

Management agrees with this recommendation.

BLRS will develop and implement a plan to improve ongoing communication of SOPs and service standards to By-law Officers and will monitor the impact of the plan on service delivery. There is currently a process in place where Supervisors review SOPs and track those reviews with their staff; however, BLRS will formalize this process into a documented plan. This work will be completed by the end of Q4 2021.

Recommendation #5

That the City develop a strategy to improve the timeliness of by-law enforcement including leveraging the use of technology to improve the efficiency of operations.

Management response:

Management agrees with this recommendation, and it has been implemented.

Leveraging technology to improve the timeliness of by-law enforcement is a priority for BLRS. Understanding that this work is on-going and will develop further as technology evolves and becomes available, BLRS has ensured that documents comprised in the City's existing project management framework contain a requirement for a scan and analysis of the available technologies to improve service delivery and efficiency of operations. This scan will be required for all significant projects internal to BLRS going forward, including the Dispatch Modernization Project and MAP replacement CRM. Once implemented, these projects will improve the timeliness of by-law enforcement.

Recommendation #6

That the City define its project requirements for implementation of the next phase of the Dispatch Modernization Project so that the planned efficiency of service delivery is achieved.

Management response:

Management agrees with this recommendation.

The Dispatch Modernization Project is currently underway. Work is being done by the Project Management Office and BLRS to finalize the current-state and future-state documentation, at which point the project requirements can be defined. This work will be completed by the end of Q2 2021.

Recommendation #7

That the City define its requirements and implement the CRM project within by-law enforcement should the expected benefits still warrant the investment.

Management response:

Management agrees with this recommendation.

This agile project is currently underway, with its requirements already established and defined, as an enterprise solution to replace the current MAP program. This project is expected to be completed in Q4 2022.

Recommendation #8

That the City establish a formal process for developing and updating enforcement and health and safety training curriculums.

Management response:

Management agrees with this recommendation.

Prior to January 2020, training was part of a larger portfolio that included Logistics and management of projects. Since that time, BLRS has established a resource responsible for training as part of their portfolio. Duties include: the review of training needs (Corporate and BLRS-specific), the coordination of delivery, and the maintenance of staff training records on an on-going basis. BLRS will establish a formal process to review and update training materials at pre-determined intervals as well as developing a formal training plan and curriculum. This work will be completed by the end of Q4 2021.

Recommendation #9

That the City maintain complete lists of required training, and records of courses and training taken by officers.

Management response:

Management agrees with this recommendation.

Further to the response provided for Recommendation 8, as part of the proposed training plan and curriculum, all records related to courses and training completed by BLRS staff is currently being inputted into the corporate employee enterprise software (SAP). This work will be completed by the end of Q2 2021.

Audit of Facility Management

In 2017, the Office of the Auditor General (OAG) conducted a risk assessment of the Recreation, Cultural and Facility Services (RCFS) Department in order to create a risk-based list of potential audits to complete over the next several years. As a result of the risk assessment, the OAG conducted an audit of the Facility Management (FM) function which extends beyond the RCFS Department to other departments/branches, for example, Planning Infrastructure and Economic Development, and the Environmental Services Division.

The City manages 1,073 city-owned facilities with over 13 million square feet, greater than \$3.4B in replacement value and an average age of approximately 40 years. In 2019, the City spent approximately \$154.3M in maintenance and operations and approximately \$40.7M in capital expenditures on its facilities¹.

FM is defined by the International Facility Management Association as “a profession that encompasses multiple disciplines to ensure functionality of the built environment by integrating people, place, process and technology.” For purposes of this audit, a facility is defined as: “the buildings and equipment attached to the building for the purposes of providing for a particular purpose”. The FM function typically includes:

- Facility planning;
- Engineering and construction interface;
- Corporate Real Estate interface;
- Procurement and contracts;
- Facility maintenance and repairs;
- Providing custodial services;
- Coordinating moves;
- Maintaining and upgrading building systems;
- Maintaining external grounds; and
- Providing client support.

Activities related to the facility management function are carried out by numerous organizational units across the City.

¹ Includes Ottawa Police Service and Ottawa Public Library facilities.

Conclusion

Facilities are crucial to the City's operations and delivery of programs and services and impact significantly on City budgets. The absence of planned, coordinated and funded FM will result in facility deterioration, program interruption, health and safety risk and excessive cost to the City. The audit observed that FM management practices require considerable improvement to ensure that facilities support, cost-effectively, City operations, programs and services, both in the short-term and long-term; that the condition of facilities are properly managed and municipal investments in facilities adequately preserved; and that the impact of facilities on City budgets are properly managed.

The implementation of the recommendations made in this report will help the City achieve these improvements through strengthening coordination and planning of the FM function; improving investment and funding practices impacting on facility condition and asset preservation; and providing effective oversight, risk management and stewardship over the management of facilities.

Findings

Facility condition

The audit expected to find complete information on the condition of City facilities and the amount of deferred maintenance (i.e. existing maintenance repairs and required capital renewal not undertaken in the facility when they should have been). The audit found that the City does not have full knowledge of the condition of its facilities and the amount of its deferred maintenance. Facility condition is not assessed on all assets, and where assessed, they have not been assessed on a timely and consistent basis with information that is complete and up-to-date.

Understanding the condition of facilities and managing deferred maintenance is important because City facilities are crucial to the operation of the programs and services of the City. Knowledge and communication of deferred maintenance is especially important as it identifies the work that needs to be undertaken in the facilities, priority of the work that needs to be done, when it needs to be undertaken and the approximate cost of the work to the City. A full understanding of the condition of facilities is necessary in order to determine the overall investment strategy for a facility.

Based on building condition data available-to-date, the audit noted that there are several key City buildings in reactive management and in a crisis state. The audit

calculated deferred maintenance on City-owned facilities to be approximately \$488M and calculated that capital maintenance and life-cycle requirements in City facilities are projected to increase to at least \$1.2B by 2030. This current and projected deferred maintenance is likely significantly understated as assessment of building conditions has not been fully updated and not all facilities have had assessments.

The audit also expected to find FM priorities fully linked to available funding. Analysis developed by the audit indicates that the City has continually underinvested in its facilities and that priorities outweigh available funding. For example, approximately 2,000 projects to replace components that are at, or nearing their end of life, at an estimated cost of \$147.5M, will be deferred in 2020 due to inadequate funding.

Deferring maintenance is a short-term solution with long-term consequences unless additional resources are provided. The usual impact with this approach is a growth in deferred maintenance costs. This is a well-known problem at the municipal level with the Federation of Canadian Municipalities reporting, as far back as in 2007, that deferred maintenance was growing faster than previously thought, repairs and replacement costs were skyrocketing and that municipal assets were reaching their breaking point. Other industry references also provide a strong indication that deferred maintenance continues to grow over time. Municipal governments have seen a 10-fold growth since 1985. Deferred maintenance has also become a strategic priority for Canadian universities and hospitals according to literature.

Without full knowledge and understanding of deferred maintenance and without strategies to address the shortfall in funding, deferred maintenance will increase, and facilities will eventually deteriorate to a point where repair, maintenance or renewal will no longer be enough to maintain facilities in operation. This will impact facility users and can result in facility closures, program interruption and possibly impact the health and safety of occupants in the facilities. This risk is evidenced through the number of unplanned projects that occur in City facilities. The audit observed that over the last 6 years, approximately half of the FM projects were unplanned (i.e. as a result of components failing in the facilities). Costs for unplanned or reactive maintenance and repair are typically higher than doing routine preventive maintenance due to overtime and other factors. Furthermore, according to industry-wide literature every \$1 deferred in maintenance costs \$4 of capital renewal needs in the future.

Coordination of FM

FM activities transcend across several management areas: facilities operations, maintenance, utilities, project delivery, quality assurance, risk, life-cycle renewal and real estate. Decisions regarding these management areas are interrelated and impact each other. The audit expected to find that facility management is coordinated across all City-wide facilities and across all stages of a facility's life-cycle and that the full range of FM activities and services are integrated and operate under a comprehensive City-wide strategic plan and vision. This expectation is underscored by the Comprehensive Asset Management (CAM) Policy of the City of Ottawa, approved by Council in 2012 which recognizes the importance of linking FM into all stages of the asset management life-cycle and applies to all physical assets of the City, including facilities. The audit found that compliance with the CAM Policy is not achieved as the FM function at the City is not coordinated and integrated across all phases of the assets' life-cycle.

The FM function, and the various groups that FM interact with, have undergone multiple reorganizations. The FM function went from a centralized function prior to 2009 to one that is highly decentralized and siloed in nature as a result of a number of successive reorganizations (2009, 2011, 2012, 2016, 2017 and 2019). As a result, there is no single group that is responsible and accountable for the facility and ensuring integration and cohesiveness. The current siloed approach to FM results in a lack of clarity in accountability for facilities, inefficiencies, increased costs, increased risk of asset failure and program interruptions and the City being unable to answer key questions about its facilities:

- What is the facility condition?
- Does the City need the facility; and, if so, for how long?
- What investments need to be made in the facility?
- How much money is needed?
- When does the investment need to be made?

The consequences in lack of coordination of the function can be seen by preliminary information obtained by the City that indicates that it is in contravention of the Ontario Building Code on 3 of its facilities putting occupant's health and safety at risk. One facility is significantly over-accommodated while 3 facilities have fewer washrooms than required. The overaccommodation in one facility was known as far back as 2013.

Integrated Planning Framework not in place

A key aspect of FM is understanding the short-term and long-term plans of the City and its programs and integrating that understanding into the short-term and long-term planning of facilities. The audit found that this integration of plans does not occur and that components of an integrated planning framework, throughout all levels of FM strategy, are missing or not fully developed. The audit expected to find program strategies that are clearly linked to FM requirements. The audit found that program strategies are not in place and there are no processes that link program strategies with FM strategies. The audit did not find strategic and tactical facilities plans and accommodations strategies in place to: provide direction; guide the FM practices and use of space within the facilities; provide a cohesive strategy to maintain facilities at a pre-defined level of performance, level of service; and meeting strategic objectives over the planning horizon.

The City does have a Comprehensive Asset Management (CAM) Framework in place, approved by Council in 2012, that encompasses facilities, along with all other assets. However, components of the Framework, including the strategic facilities plans and asset management plans have not yet been developed.

The lack of integrated planning adversely impacts on the City's ability to:

- Cost-effectively manage facilities;
- Optimize the FM portfolio;
- Effectively react to changes in demand and requirements (e.g. decrease in ice-time bookings);
- Make effective and fiscally responsible FM investment decisions;
- Articulate demand and enable FM to meet demand requirements in both the short-term and long-term;
- Articulate and prioritize FM activities that need to be undertaken; and
- Shift FM focus from reactive to proactive.

Roles and responsibilities and Service Levels

The audit found that roles and responsibilities are not clearly defined, communicated and understood as they relate to City-wide FM including interaction with Asset Management, Design and Construction, Quality Management and CREO and with respect to agreements with third parties. Gaps in roles and responsibilities can result in project risks, health and safety issues not being addressed, non-compliance with legislative requirements and increased liability to the City.

Service level agreements (SLAs) are an industry standard and a requirement of the City's Comprehensive Asset Management (CAM) Framework approved by Council in 2012. They are statements about quality, quantity, and timing relevant to end users and provide the basis for decisions on staffing levels, resourcing of services to be provided, staff training, and ultimately the cost of the service. The audit found that the City is not in compliance with the CAM Framework as SLAs and levels of service for FM are largely not in place for facilities. An absence of SLAs results in:

- The inability to properly resource the FM function to ensure appropriate staffing;
- Lack of clear roles and responsibilities and duplication and gaps in FM activities;
- Inconsistent service delivery resulting in overuse/underuse of FM resources;
- Inability to assess whether facilities are maintained at an acceptable and consistent standard;
- Increased cost of the service; and
- Inability to assess value-for-money received from FM services.

Strategy for delivery of the FM function

The audit expected to find that there is an appropriate allocation of inhouse and contracted resources and that the use of resources in FM is adequately planned. A key function of a service delivery plan or strategy is to allow planning of resources required to undertake routine services, projects, and emergency response. Reviews of resourcing requirements have been informal and conducted on an ad hoc or one-off basis, succession plans have not been completed and there has not been a review of the optimal model, including the possibility of outsourcing aspects of FM, for service delivery of the FM function and the resources required to deliver FM services. The lack of an FM resourcing strategy means that the City is unable to determine the optimal balance of inhouse vs. external resource utilization of FM resources. The consideration of outsourcing aspects of FM is an industry practice that has resulted in significant outsourcing arrangements to public organizations. At the municipal level, the audit noted that the cities of Toronto, Winnipeg, Brantford and Greater Sudbury all identified opportunities for significant increased cost-effectiveness through outsourcing.

Integration of repairs and capital requires improvement

The audit expected to find that facilities' capital activities are fully integrated with repairs and maintenance. This includes integration of systems and processes as well as the assessment of facility condition on all assets. The audit found that the overall level of integration between FM groups and Asset Management is not cost-effective in ensuring

appropriate integration between capital and repairs and maintenance activities and spending. The siloed nature of FM and life-cycle management was evident throughout the audit. The integration of facilities capital activities and repairs and maintenance is critical to ensuring that investments are aligned with priorities and to ensure cost-effective preservation of facilities. It is also necessary in order to reduce the risk of asset failure and program interruption.

Performance of facilities inadequately monitored, and risks not fully assessed

The audit expected to find performance information in place to permit management to exercise oversight and contribute effectively to FM decision making. The audit found that there is no formal performance management framework across the FM function that would permit management to properly exercise oversight over facilities and provide management with information required for decision-making and corrective action. Currently there is no department in the City that has information on how well all facilities owned by the City are maintained.

The management of risk is one of the key responsibilities of a facility manager. The audit expected to find that FM risks are identified, mitigated and monitored. The audit found that a comprehensive and detailed assessment of FM risks does not occur. The responsibility over the FM function being divided among a number of groups without an overall cohesive strategic FM focus results in an absence of a function-wide detailed risk assessment. By not conducting proper risk assessment, the risks of facility closures, health and safety issues, program interruptions are inadequately mitigated.

Potential Savings

Integration and centralization of the FM function along with a full review of the optimal model for service delivery would provide savings of resources through the best use of both internal and external resources. Outsourcing should be considered in strategic areas of FM at the City as there is potential for cost savings and enhanced service delivery.

The audit observed that significant investments have been made over the last 5 years in assets that have 5 years or less of remaining life and have identified the following additional work required to be performed:

- Project work has been identified by the City as required on 37 facilities where the value of the work exceeds the cost to replace the facility. The excess of project work over the cost of replacing the facilities is \$14M.
- Project work has been identified by the City in the amount of \$31.5M on 116 assets with zero remaining life.

While the above assets may be functional and justify significant investments, they may also represent areas of potential savings for the City. Savings that could be put towards overall municipal deficit. Strategies should be developed to realize savings and determine the level of funding that the City is willing to invest in facilities with little or no remaining life or facilities where the deferred maintenance is greater than replacement cost.

Benchmarking in FM is an aspect of performance measurement that ceased in 2016 at the City. The municipality used to conduct benchmarking of its facilities but found that there was difficulty in ensuring consistent data was being compared. Research by the Building Owners Management Association indicates that possible savings from benchmarking can be up to 3% of facility operating costs.

Recommendations

In order to address the various findings identified above, we propose that the City implement the following recommendations to enhance their current processes and practices and address areas of risk and gaps found during this Audit.

Audit objective 1: Assess the effectiveness of the coordination and resourcing of the Facility Management (FM) function

- Review the organizational and governance structure to ensure it supports an integrated City-wide facility management function;
- Identify and implement necessary actions to regain compliance with the Ontario Building code as it relates to the identified 3 facilities; and
- Undertake a service delivery review of the facility management function to identify cost-effectiveness.

Audit objective 2: Assess the adequacy of the FM planning framework

- Develop integrated management plans for the facility function.

Audit objective 3: Assess the controls that ensure operations and maintenance activities are prioritized and integrated with capital requirements

- Ensure that building condition assessments are completed on a timely basis;
- Develop strategies to manage the existing underfunding of assets, mitigate the impact of the existing underfunding; and
- Develop integrated systems that directly link life cycle, and facilities management repairs and maintenance.

Audit objective 4: Assess the controls over FM funding and budget management

- Identify O&M and capital requirements required for facilities, align budgets to O&M and Capital Requirements and develop strategies to address the shortfall in funding for facilities and resulting deferred maintenance; and
- Undertake a formal review of the optimal framework for ensuring the accountability in the use of facilities and office space.

Audit objective 5: Assess the controls that ensure the FM function is adequately supported by information, risk and performance management

- Develop and implement a strategy for the integration of facility management related systems;
- Implement a risk management framework that encompasses all aspects of the facilities management and takes a functional approach to risk management; and
- Implement a comprehensive performance measurement framework that encompasses all aspects of facilities management and is integrated with facility management decision-making.

City management response

Management agreed with all of the 34 audit recommendations.

For detailed management responses, including planned actions and target dates, see Appendix 2 of the detailed audit report.

Audit of Lansdowne Accounting/Waterfall

Introduction

The Audit of Lansdowne Accounting/Waterfall was included in the 2019 work plan of the Office of the Auditor General (OAG) approved by City Council.

To provide clarity and avoid any confusion within this report, the Lansdowne Master General Partnership (LMGP) will be referred to as LMGP/OSEG and any references to Ottawa Sports Entertainment Group will be identified by the acronym OSEG.

Purpose

The Audit of Lansdowne Accounting/Waterfall assessed whether the City's internal accounting processes for the Waterfall agreement between the City of Ottawa (City) and Ottawa Sports and Entertainment Group (OSEG) are designed and operating effectively and that all components of the City's equity contributions or return on equity are accurately recorded in the Waterfall Distribution System (Waterfall) in accordance with the Master Limited Partnership Agreement.

Background and rationale

In October 2012, the City entered into an agreement to form a Public Private Partnership (P3) with OSEG to transform Lansdowne Park¹.

The Lansdowne Partnership Plan (LPP) is based on a 30-year closed financial system that captures contributions (i.e. equity) and capital costs and cash flows from operations. Net cashflows from the closed system are to be distributed to the City and OSEG based on a waterfall of priorities as set out in the Master Limited Partnership Agreement, which expires on December 31, 2044. At that time, the responsibility for the stadium and parking structure will be transferred back to the City.

The Waterfall consists of six (6) levels of distribution that represent the order in which positive cash flows will be distributed. Distributions cannot be made until the previous level's distribution requirements have been fulfilled (i.e. Distributions to Level 2, OSEG Return on Equity, cannot be made until all required Level 1, Additions to the Lifecycle Fund, distributions have been completed). The Table below outlines the six (6) levels.

¹ Master Limited Partnership Agreement, October 2012

Where the City and OSEG are represented in the same level, positive cash flows are distributed equally to each partner.

Table 1: Lansdowne Master Limited Partnership Waterfall Distribution Structure

Level	Description	Definition
1	Additions to the Lifecycle Fund	Distributions made to the Lifecycle Fund to be used to maintain the assets (e.g. Retail, Stadium and Parking components).
2	OSEG Return on Equity	Distributions to OSEG for interest earned/accrued on their Equity contributions at a rate of 8% per year on a cumulative basis.
	City of Ottawa Return on Funding Equity	Distributions to the City for interest earned/accrued on the City's Funding Equity (i.e. \$0) at a rate of 8% per year on a cumulative basis.
3	OSEG Return of Additional Equity	Distributions to OSEG for the return of Additional Equity.
4	OSEG Return of Equity	Distributions to OSEG for the return of their Minimum Equity (i.e. \$30M).
	City of Ottawa Return of Equity	Distributions to the City for the return of its Funding Equity (i.e. \$0).
5	City of Ottawa Return on Deemed Equity	Distributions to the City for interest earned/accrued on the City's Deemed Equity Contributions at a rate of 8% per year on a cumulative basis. City Deemed Equity is equal to the Retail Value (i.e. value of the retail component lands).
6	OSEG Residual Share	The balance of the available Net Cash Flow from the Total Project, excluding the Urban Park, will be distributed to OSEG and the City in equal shares.
	City of Ottawa Residual Share	

As part of the LPP, in order to limit the legal liability of the City and OSEG, the Lansdowne Master Limited Partnership (LMLP) was created in which the City and OSEG are equal limited partners and the Lansdowne Master GP Inc. (LMGP) is the general partner. LMLP owns 99.99% of each of the Component Limited Partnerships (i.e. Lansdowne Stadium Limited Partnership (LSLP), Lansdowne Retail Limited Partnership (LRLP), Ottawa 67's Limited Partnership and Ottawa RedBlacks Limited Partnership). Each subsidiary is also managed and operated by a General Partner. The

Limited Partnerships were formed under the laws of the Province of Manitoba, where the City and OSEG, as Limited Partners, are afforded greater limited liability protection. The following diagram shows the legal and ownership structure of the Lansdowne Master Limited Partnership.

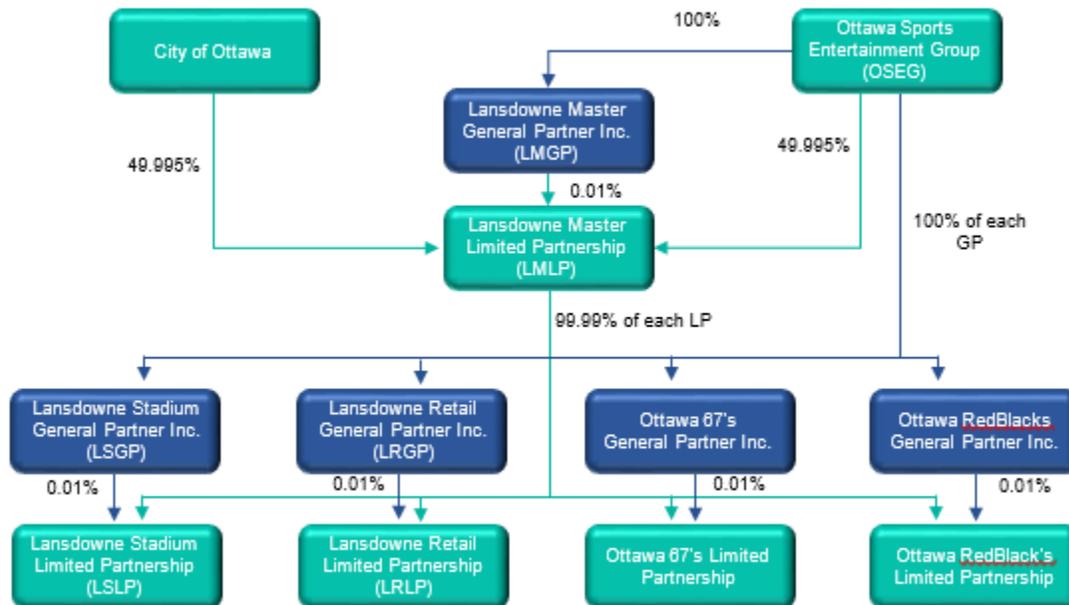


Figure 1: Lansdowne Master Limited Partnership Legal Structure

While OSEG and the City have equal interests in the LMLP, their respective returns from the partnership are provided through the Waterfall. The relative priorities set out in the waterfall system are the product of negotiations between the City and OSEG and were intended to produce balance between contributions made to the LPP and responsibilities assumed. Both OSEG and the City have been committed to the ongoing operations of LMLP as per the agreement and as a partnership – collaborating, resolving disputes and making joint decisions to ensure both partners mutually benefit.

Findings

The Audit focused on five (5) key objectives. The key findings related to each Audit Objective are summarized below:

Audit objective 1: Business planning, risk management and performance measurement and reporting:

It was found that the City has in place a process to monitor the Business Planning activities of the LMLP, through the review of annually updated Pro Forma Financial Statements, that a Risk Register has been developed to monitor the City's perceived risks and that the Performance Measurement and Reporting processes are demonstrated through detailed annual reporting of recent performance to senior management and Council.

While the City provided evidence to support each of these processes, it was found that opportunities exist to improve on the overall effectiveness of these activities. Improving the effectiveness of the City's monitoring process will help the City manage their risks more effectively and ensure that the Waterfall Distribution System accurately reflects the City's forecasted return on investment (ROI).

Audit objective 2: City accounting of equity and return on equity:

We found that the City's assessment of their equity position in LMLP against the Public Sector Accounting Standards (PSAS) was thorough and complete. The City's Financial Statement Auditors confirmed that the City's accounting of their equity position in LMLP is properly represented in the City's Financial Statements.

Audit objective 3: OSEG's accounting for their share of equity and return on equity:

Based on the rigorous audit procedures performed, it is our opinion that there is an overstatement of OSEG's Additional Equity Account in the amount of \$6.5M. In other words, OSEG continued to earn/accrue interest, at a rate of 8% per annum, on the \$6.5M extra in the Additional Equity Account. This translates to OSEG earning/accruing additional interest above what was agreed to in the settlement approved by Council, in the Return on Equity Account at a rate of \$520,000 per year (i.e. \$6.5M x 8%) or potentially \$14M over the remainder of the life the partnership.

This overstatement was created in 2015 when OSEG did not follow the structure of the settlement agreement, but instead only transferred \$17.0M from the Additional Equity Account (Interest bearing at 8%) and the remaining \$6.5M from the Return on Equity Account (non-interest bearing) to a Commercial Loan secured by the City when Council approved a \$23.5M settlement for the repair of the steel corrosion in the roof of TD Place. The settlement permitted OSEG to transfer \$23.5M from the Additional Equity Account to a Commercial Loan, secured by the City². Although there is currently no cash outflow consequence to this error, this remains uncorrected in the waterfall forecasts. The longer the errors remain uncorrected, the higher the risk that documentation and support for accuracy is unavailable.

Based on one interpretation of Sections 4.2 and 4.3 of the Master Partnership Agreement, it was also found that interest on OSEG's Minimum Equity for the years 2012 and 2013 were overstated by a total of \$944,022 (i.e. \$314,674 in 2012 and \$629,348 in 2013). This error remains uncorrected.

Upon reconciling the Net Cash Flow calculations, which are a key input for the Waterfall, we found that the method used to calculate Net Cash Flows by OSEG is in accordance with the agreements. However, it was not possible to assess whether the amounts were classified correctly based on the documentation provided. Some minor variances in the Net Cash Flow amounts were found upon conducting a reconciliation exercise between the Audited Consolidated Financial Statements and the Waterfall system which would have a minimal impact on the net cashflow calculation.

Any discrepancies in calculations and reported numbers could be areas of concern for the City, as these calculations could result in subsequent distributions being misallocated. Misallocations could have a trickle-down effect and could impact future distributions and interest calculations (i.e. Return on Equity) for the City within the Waterfall.

Audit objective 4: City monitoring and oversight of Waterfall Distribution System:

We found that the City has established processes and controls to actively monitor interest calculations and distributions. However, the City has only completed one (1) detailed analysis of the Waterfall since operations began in 2014 (Specified procedures

² Finance and Economic Development Committee Meeting, December 1st, 2015

completed by a third-party accounting firm in April 2020), which illustrates some limitations in the City's oversight and monitoring practices.

While this process does ensure the City is aware and monitoring the reported financial results and proposed budgets, it was found that the City is not directly involved in the annual approval process relating to the contribution of Additional Equity by OSEG although there is no requirement to do so in the agreement.

Given the City's limited involvement in the approval process, our findings in relation to Audit Objective 3 and the materiality of the Waterfall balances relating to OSEG's Additional Equity (i.e. \$96.76M current, \$105.26M forecasted) and Return on Additional Equity (i.e. \$23.29M Accrued to Date, \$238.83M forecasted), it is important for the City's Monitoring and Oversight Processes to be comprehensive to ensure that the Waterfall fairly represents the projected returns on investment for both partners. Unnecessary or misallocated contributions to OSEG's Additional Equity Account have a significant impact on the long-term forecasts for OSEG's Return on Additional Equity. Both of these categories of equity are higher ranked (i.e. Level 3 and Level 2 respectively) in the Waterfall Distribution Structure than the City's first opportunity to receive returns on their equity (i.e. Level 5).

Audit objective 5: City monitoring of non-arm's length³, revenue and expense transactions:

The City has implemented a process for a general review of the non-arm's length transactions as part of the year-end review process, however this verification is a high-level reasonability check of year-over-year changes in the Related Parties' amounts. A detailed transactional level analysis was started in 2018 and performed by a third-party accounting firm as part of a Specified Procedures engagement of the 2012-2017 waterfall calculations. This engagement resulting in no material findings. The scope of this audit covered the period from 2012-2019 and given the overlapping years, we focused the majority of our analysis on non-arm's length transactions that occurred during the 2018-2019 period. While the specified procedures engagement only looked at expenditures greater than \$1M, our sampling methodology did not include a minimum dollar amount. Given the direct impact that these transactions have on cash flows and

³ Non-arm's Length Transactions are transactions between two (2) or more entities where the entities have a mutual interest and/or may mutually benefit from a business transaction. As such, the business entities may not/cannot act independently.

the waterfall distribution system (i.e. the City's Return on Investment), a detailed analysis should be done at a minimum every three (3) years to ensure appropriate monitoring and oversight is performed.

We found no material variances in the dollar amounts of the non-arm's length transactions tested. However, the validity of these transactions could not be assessed for 62% (e.g. 8/13) of transactions, valued at \$10,987,534.33, due to limitations and gaps in the supporting documentation made available to the auditors.

There is a lack of formal guidance with respect to the treatment of non-arm's length transactions and OSEG's tendency to exclude detailed descriptions for entries in their financial system amplifies the challenges relating to clearly understanding and reconciling the non-arm's length transactions. Given the volume and materiality of the non-arm's length transactions and their potential impact on cash flows, it is important for the City to ensure that these transactions are being managed and reported upon fairly and accurately in LMLP's financial systems and that they are reviewed annually.

Conclusion

Although it was found that the City has established some processes to actively monitor and validate financial results, calculations of interest, OSEG's additions to equity and distributions of equity, some opportunities for improvement were identified. Our findings relating to OSEG's recordkeeping and Waterfall Distribution reporting activities further highlight the need for increased levels of examination and analysis in the City's monitoring and validation practices.

The partnership has a multitude of extensive and complex agreements, which outlines how the partnership should be operated and governed, while also protecting the partners' interests and limiting exposure to liability. Although these agreements and the partnership structure protect the City from significant liability risks (i.e. protection from creditors), the City is nonetheless faced with certain risks relating to their obligations under the agreements, financial performance and stability and ultimate dissolution of the partnership. More robust monitoring and validation processes would help reduce City risks relating to satisfying their contractual obligations under the LPP agreement(s) and help to ensure that the City's forecasted returns are accurately reported in the Waterfall and to Council.

In the current environment (i.e. the Retail and Restaurant Industry crippled by COVID-19 restrictions, the 2020 CFL season cancelled, the remainder of 2019-2020 OHL

season cancelled, the status of 2020-2021 season unclear and fan attendance unknown), LMLP's revenue forecasts could be dramatically impacted for the foreseeable future. If these revised forecasts project significant negative cash flows, there is a risk that OSEG may be unwilling or unable to meet their contractual obligations of contributing the required equity to address negative cash flows and sustain operations. In this event, the partnership could be dissolved and all of the responsibility for the operations and maintenance of the City's assets (i.e. Stadium, Parking Garage and Retail) would revert back to the City. The current operating and maintenance costs for these facilities are significantly greater than the \$3.8M in operating costs that the City had been paying prior to the LMLP and is avoiding through the LPP agreement. Consequently, this could result in an unexpected funding pressure for the City (i.e. before the planned end to the Partnership in 2044).

The following recommendations have been made to assist the City with establishing more robust monitoring and validation processes to provide the City with an increased level of visibility and understanding of LMLP's ongoing operations and financial performance and their immediate and long-term impacts on the City's forecasted return on equity and their operational responsibilities relating to the Stadium, Parking Garage and Retail space.

Recommendations

In order to address the various findings identified above, we propose that the City implement the following recommendations to enhance their current processes and practices and address areas of risk and gaps found during this Audit.

Audit objective 1: Business planning, risk management and performance measurement and reporting:

It is recommended that the City enhance and optimize their annual and quarterly financial results review and monitoring processes to include the following:

- Increase the level of detail in the City's annual analyses to a level sufficient to identify and assess material variance at the account level and that they work with OSEG to include notes in the pro forma financial forecasts and Waterfall Schedule indicating the basis of allocation and assumptions used in the forecast. This would also ensure that Council is provided with a greater level of detail and assurance on the reported pro forma financial forecasts and the associated medium and long-term outlooks.

- The validation that key sections, within the LMLP financial statements, are accounted for properly and in agreement with the Agreement terms (e.g. Net Cash Flow, Additional Equity contributions, Return on Equity, Non-Arm's Length Transactions are calculated in accordance with the agreement).
- An independent validation of the pro forma financial forecasts as of 2020 and use the results of this analysis to compare against the Original and/or Updated pro forma Financial Forecasts to identify the variances between the 2010 and/or 2015 forecasts and today's current state.
- As part of the monitoring activities, that are aligned with the review processes, develop and implement enhanced controls to ensure the review process is followed consistently and develop comprehensive templates to document and track high risk areas such as additional equity, operating revenues, operating costs and Lifecycle spending year-over-year.

These processes should be documented through a standardized process, reported on in a consistent manner, reviewed by a second employee and finally approved by the City Treasurer's office and filed with the audited Financial Statements.

Audit objective 2: City accounting, equity and return on equity:

It is recommended that the City perform an annual review of the forecasts for the related municipal taxes to ensure that sufficient funding is available to service the City's debenture funding requirements in order to satisfy their obligation under the LPP agreement. Where deficits in funding are forecasted, the City should document this finding and ensure that the appropriate organizations (i.e. City Treasurer's Office) is made aware that alternate sources of funding may be required.

Audit objective 3: OSEG's accounting for their share of equity and return on equity:

It is recommended that the City complete a more detailed review of the additional equity contributions and repayments received from and made to OSEG. The impact on the Waterfall resulting from changes to the additional equity amounts can be significant. The City should feel confident that the additional equity contributions and repayments are being made in a fiscally responsible manner and in accordance with the LPP agreements.

Additionally, the City should work with OSEG to ensure that the calculations of interest are reconciled, and that the Waterfall and the Statement of Cash Flows accurately reflect the appropriate calculations for interest/Return on Equity.

The City should also request a monthly breakdown of actual Net Cash Flow results from OSEG as part of their year-end financial package and conduct a detailed variance analysis of the monthly breakdown against the reported amounts in the Statement of Cash Flows. Should any material variances be found, the City should request additional commentary and supporting documentation from OSEG to support and explain the variance(s).

Audit objective 4: City monitoring and oversight of Waterfall Distribution System:

It is recommended that the City request that OSEG provide a detailed breakdown of the interest calculation process and use this documentation to conduct an independent reconciliation on an annual basis of the interest calculations performed by OSEG in the closed Waterfall system.

It is recommended that the City validate that the agreed upon Deemed Equity amount of \$23.75M is accurately reflected in the Waterfall and that the City work with OSEG to re-establish the Retail Value of the Land as of February 2020 and update the Waterfall accordingly. The City should also ensure that the Retail Value of the Land is re-established every five (5) years thereafter (i.e. February 2025, 2030, 2035 etc.) in accordance with Section 4.4(b) of the Master Limited Partnership Agreement.

Audit objective 5: City monitoring of non-arm's length, revenue and expense transactions:

It is recommended that the City enhance their current monitoring process of non-arm's length transactions and establish predetermined material amounts that trigger further investigation should any material differences be found during the year-end review process. This process should be documented, have identified a responsible party, an accountable reviewer and approver and the results of the review should be documented and filed in a standard template. The results and recommendations following the review should be communicated to OSEG and any areas of deemed concern should be highlighted and errors should be corrected within predetermined timelines defined by the City. Moreover, the City should conduct a second and final review of these areas of concern the following year to ensure any outstanding risks to the City have been effectively mitigated and issues addressed.

As part of this process, the City should also assess the validity of a sample of related party transactions on an annual basis. This will ensure the City is consistently up to date on these transactions at the detailed level and address any issues quickly and efficiently to ensure there are no longer-term impacts on the distributions and pro forma.

City management response

Management agreed with all of the audit's recommendations.

For detailed management responses, including planned actions and target dates, see Appendix 3 in the detailed audit report.

Audit of Meridian Theatres @ CentrepoinTE and Shenkman Arts Centre

Purpose

The Audit of Meridian Theatres @ CentrepoinTE (MTAC) and Shenkman Arts Centre (Shenkman) examined whether each facility's finances, human resources and operations are effectively managed and whether they deliver arts programming that is aligned with their mandates and City cultural plans and priorities.

Background and rationale

The City of Ottawa operates two theatre facilities: Meridian Theatres @ CentrepoinTE and Shenkman Arts Centre. Both are part of the City's Recreation, Cultural and Facility Services (RCFS) Department. This audit was to provide assurance that governance and oversight mechanisms were established and functioning, theatre assets were safeguarded and that both facilities were appropriately staffed and managed effectively.

Meridian Theatres @ CentrepoinTE

Meridian Theatres @ CentrepoinTE (formerly "CentrepoinTE Theatre" and "CentrepoinTE Theatres") is a municipally owned and operated facility at Ben Franklin Place in Nepean. It includes a 954-seat Mainstage and a Studio Theatre seating between 199 – 234 commemoratively named "Les Lye Studio Theatre" in 2019.

The theatre currently operates under the following mandate, established by the former City of Nepean in 1987:

- Enhance public awareness of the performing arts through innovative and stimulating programming;
- Encourage community involvement and participation by utilizing volunteers, seeking private and corporate sponsorship and offering education programs;
- Enlighten and entertain the community through the sponsorship and presentation of professional artists and attractions;
- Provide space for rental and use by local artists and performing groups, both amateur and professional, non-profit charitable societies, entrepreneurs and commercial organizations based in Nepean and entrepreneurs and commercial organizations in general;

- Encourage and develop artistic talent in the City of Nepean and to provide exposure for that talent by providing space at a subsidized rate to local arts organizations;
- Encourage the use of the facility by non-profit and charitable organizations for the benefit of the community; and
- Encourage commercial use of the facility to help subsidize the rental of the theatre by local arts organizations and charitable groups.

The City of Ottawa assumed ownership of the theatre as a result of amalgamation in 2001.

Shenkman Arts Centre

A public-private partnership (P3) strategy for an arts facility in Ottawa's east-end was approved by Council in 2005. Following the search for a private sector partner, Orleans Town Centre Partnership (OTCP)¹ was selected and the City entered into an agreement with OTCP in 2007. OTCP is responsible for the design, construction, maintenance, and ownership of the Shenkman Arts Centre.

The Shenkman Arts Centre opened in Orleans in 2009 and is home to five resident arts partners and a resident dance company. The Centre has a performing arts hall (500-seat Harold Shenkman Hall), a studio theatre (162-seat Richcraft Theatre), a municipal art gallery and purpose-built studios for dance, music, pottery, theatre and visual arts. The Centre's strategic plan includes the vision: "By 2020, Shenkman Arts Centre will be a place where the combined efforts of a growing number of partners will enrich the cultural and artistic experiences of a broader spectrum of Orleans and the city at large."

Findings

The audit focused on the eight areas identified below. The key findings associated with each area are as follows.

- **Governance and Oversight:** MTAC's mandate has remained unchanged since it was defined by the former City of Nepean in 1987 and it has no strategic plan. We found that the financial performance of MTAC and Shenkman is monitored on a regular basis. Despite this, MTAC has experienced significant budget overruns in 2016, 2017, 2018 and 2019. Operational performance of MTAC and Shenkman is

¹ OTCP is led by Forum Leasehold Partners Inc., Aecon Buildings, Lalande + Doyle Architects, and Brookfield Global Integrated Solutions (BGIS, formerly Johnson Controls / BJC).

not reported on a regular basis and there are no performance targets for either theatre.

- **Safeguarding of Theatre Assets:** We found that neither MTAC nor Shenkman had implemented all the recommendations from cash compliance reviews conducted in 2018 and 2019. We found that MTAC and Shenkman's fixed assets are properly maintained, controlled and monitored to prevent damage, loss and/or theft, however staff have a limited understanding of the applicable policy requirements concerning tangible capital assets and the disposal of capital assets.
- **Human Resources:** We found that MTAC and Shenkman face challenges in retaining part-time staff and recruiting staff with required technical skillsets. We also noted that formal succession plans have not been established for key positions at either facility.
- **Settlements:** Financial settlements are prepared for performers as set out in their respective contracts. We reviewed a sample of 24 settlements processed by MTAC and Shenkman. We identified discrepancies between contracts and settlements, incorrect applications of rates, unexplained and potentially unauthorized waivers of fees and payments exceeding delegated authorities. We also noted that the rates that the theatres are charging for certain unionized resources do not allow the City to recover their full costs.
- **Agreements:** We reviewed a sample of 23 performers' contracts signed by MTAC and Shenkman staff. Seven contracts from MTAC were not signed in compliance with delegated authorities. In addition, although agreement templates are generally reviewed by the City's Legal Department on an annual basis, contracts for some shows do not undergo this review.
- **Public-Private Partnership (P3):** Property management services at Shenkman Arts Centre are provided by Brookfield Global Integrated Solutions, under the Arts Centre Property Management Agreement. We found that most of the agreement's requirements are being met, however other requirements, particularly those related to reporting, are not.
- **Programming:** We found that MTAC and Shenkman have begun documenting a framework to guide programming decision-making, however it remains in draft form. Neither facility is conducting outreach activities such as patron surveys and their use of analytics to identify local interests and preferences is limited.
- **Marketing, Communications and Sponsorship:** We found that roles and responsibilities of Marketing and Communications Unit (MCU) staff, Sponsorship

and Advertising Branch staff and theatre staff were not consistently understood and agreed upon. We reviewed the City's sponsorship agreement with Meridian Credit Union and found that the City was yet to fulfill all of its obligations under this agreement.

Conclusion

Overall, we found that staff at MTAC and Shenkman were committed to the theatres. However, changes to their strategic and operational activities are required to allow each theatre to reach its full potential. MTAC's mandate needs to be updated to guide decisions related to its finances and its programming. The establishment of performance objectives for both theatres would enable staff and volunteers to focus their efforts and management to monitor their progress. Furthermore, action should be taken to enhance controls over cash and other assets and improve the effectiveness of the theatres' operational processes.

Recommendations and responses

Recommendation #1

That the City:

- Update MTAC's mandate to align with City cultural plans and policies and RCFS objectives;
- Develop and approve a strategic plan for MTAC, including strategic objectives; and
- Prepare MTAC Strategic Plan Annual Reports that include information on achievement of strategic objectives and planned activities related to strategic objectives.

Management response:

Management agrees with this recommendation.

RCFS will develop a strategic plan for MTAC, to include a renewed mandate and strategic objectives by Q4 2022. Following the development of the strategic plan, MTAC will prepare a Strategic Plan Annual Report that will include information on achievement of the strategic objectives and planned activities relating to those objectives by Q1 2024.

Recommendation #2

That the City establish performance objectives for MTAC and Shenkman which are monitored and reported on to City management.

Management response:

Management agrees with this recommendation.

Theatre staff and RCFS Business Support Services (BSS) staff will develop performance objectives for MTAC and Shenkman by Q2 2023. Once developed the performance objectives will be approved by the Director, Community Recreation and Cultural Programs. The performance objectives will be monitored and reported to the RCFS General Manager and Director, Community Recreation and Cultural Programs on an annual basis.

Recommendation #3

That the City ensure that MTAC deposits are prepared in a secure environment with restricted access.

Management response:

Management agrees with this recommendation.

Theatre and Facility Services staff have created a secure counting room with limited access as recommended in the 2019 cash handling compliance report. Work was completed in Q3 2020. The room is ready for use when the theatres resume full operation.

Recommendation #4

That the City ensure that MTAC and Shenkman implement the recommendations identified in the cash compliance reviews conducted in June 2018 and February 2019 respectively.

Management response:

Management agrees with this recommendation, and it has been implemented.

Recommendation #5

That the City follow its processes for the disposal of capital assets, including the management of tangible capital assets, at MTAC and Shenkman.

Management response:

Management agrees with this recommendation.

The Portfolio Managers for MTAC and Shenkman will work with Supply Management and Financial Services to ensure that corporate processes for disposing of capital assets, including managing Tangible Capital Assets are followed, by Q4 2020.

Recommendation #6

That the City:

- Identify the MTAC and Shenkman roles for which succession plans are required;
- Identify and assess potential successors for these roles; and
- Identify and implement development activities as required.

Management response:

Management agrees with this recommendation.

The Program Manager, Cultural and Heritage Programs and Spaces, will work with the Portfolio Managers at MTAC and Shenkman to identify succession requirements, to identify skill sets required for succession, and to identify roles that may require external recruitment due to specific and technical skill sets required, by Q4 2021. The MTAC and Shenkman Portfolio Managers will continue to identify developmental activities and implement them as part of ongoing and annual performance development discussions.

Recommendation #7

That the City ensure that:

- The settlement process (e.g. required steps, approvals etc.) is documented and available to staff preparing and reviewing settlements; and
- A sample of completed settlements are periodically reviewed by a Program Analyst or Portfolio Manager not involved in the settlement to ensure that discrepancies, errors and instances of non-compliance with City policies are identified.

Management response:

Management agrees with this recommendation.

Theatre staff and RCFS BSS staff will document and refine, where required, the existing settlement process. Formal direction will be provided to all staff who are preparing and reviewing settlements, to use this process by the end of Q1 2021. Beginning in Q2 2021, a sample of the settlements will be reviewed by the Theatre Program Analyst or the Portfolio Manager at the theatre not owning the settlement on a bi-annual basis in Q2 and Q4. These reviews will identify discrepancies, errors, and instances of non-compliance with policy.

Recommendation #8

That the City ensure that agreements with performers are signed in accordance with delegated authorities.

Management response:

Management agrees with this recommendation, and it has been implemented.

Recommendation #9

That the City have a sample of agreements for “presents” shows periodically reviewed by Legal Services and that guidance for Portfolio Managers related to these agreements is updated accordingly.

Management response:

Management agrees with this recommendation.

The Portfolio Managers at MTAC and Shenkman will send a sample of artist agreements for shows presented by the City for review by Legal Services in Q4 2020, and then annually in Q3 starting in 2021. Theatre staff will also continue to work with Legal Services on an as needed basis during the year to clarify new provisions that may arise as part of negotiations with artists. Legal Services will provide guidance to the Portfolio Managers and the Program Manager, Cultural and Heritage Programs and Services, so that the agreements are updated as necessary.

Recommendation #10

That the City:

- Meet with the sublandlord (OTCP Arts Centre Limited Partnership) and the property manager (BGIS) on at least an annual basis; and
- Receive, retain and review all mandatory reporting and take action as applicable.

Management response:

Management agrees with this recommendation.

The City meets regularly with BGIS and will extend the invitation to meet with OTCP Arts Centre Limited Partnership on an annual basis beginning in Q1 2021. The RCFS BSS will support Shenkman to ensure that all reporting is received, retained and reviewed in accordance with the P3 agreement.

Recommendation #11

That the City:

- Fully implement the decision-making process for the “presents” series and assess proposed programming against its requirements; and
- Undertake research activities to better understand the interests of theatre patrons and the public at large, including surveys and demographic analysis.

Management response:

Management agrees with this recommendation.

The Portfolio Managers at MTAC and Shenkman will fully implement the decision-making process for the shows that the City presents by Q1 2021 and document the assessment of proposed programming against its requirements.

The RCFS Marketing and Communications Unit (MCU) and BSS unit will perform audience research that will include surveys and demographic analysis of the interests of theatre patrons and the public at large and, provide relevant data to the MTAC and Shenkman Portfolio Managers on an annual basis beginning in Q4 2021.

Recommendation #12

That the City clarify and document roles and responsibilities for marketing, communications and sponsorship activities related to MTAC and Shenkman.

Management response:

Management agrees with this recommendation.

The Program Manager, Marketing and Communications Unit and the Partnership Manager, Corporate Advertising, Sponsorship, and Donations, in collaboration with the Program Manager, Cultural and Heritage Programs and Spaces, will clarify and document the roles and responsibilities as they relate to marketing, communications, and sponsorship activities for MTAC and Shenkman by Q3 2021.

Recommendation #13

That the City continue to work with Meridian Credit Union to implement the requirements of the sponsorship agreement between the City and Meridian.

Management response:

Management agrees with this recommendation.

The Sponsorship and Advertising branch continues to work with Meridian Credit Union through a documented Naming Rights and Ancillary Benefits summary. Each contractual obligation and benefit are reviewed annually and repurposed when the asset cannot be executed in exchange for equal value of the benefit outlined in the agreement.

Recommendation #14

That the City:

- Conduct a benchmarking exercise to determine how much other similar theatres in other municipalities spend on marketing and communications activities; and
- Document rationale for maintaining the current level of funding or modifying the level of funding based on the results of the benchmarking exercise and other relevant factors.

Management response:

Management agrees with this recommendation.

The Marketing and Communications Unit will undertake a benchmarking exercise to identify the marketing and communication activities of other municipal theatres. The results of this research will provide rationale for either maintaining current levels of funding or modifying them. This research will be done by Q4 2021.

Audit of Ottawa Light Rail Transit (OLRT) Stage 1 Contingency Fund

This audit examined the operating and governance activities involved in reviewing, approving and processing draw requests related to the Ottawa Light Rail Transit (OLRT) Stage 1 Contingency Fund (“Contingency Fund”). This audit was intended to give City Council reasonable assurance that the Contingency Fund was used for the purposes approved by City Council.

In December 2012, a \$100M multi-project contingency fund was approved by City Council to cover possible cost changes associated with the OLRT Project (\$2.13B), the Highway 417 Widening Project (\$226M) and the OLRT Transition (\$63M). The City Treasurer was delegated the authority to approve draws with respect to the Contingency Fund while the City Manager and the Deputy City Manager, Planning and Infrastructure were delegated the authority to approve program changes to other aspects of the OLRT project that required funding from the Contingency Fund such as integrated station entrances or property settlements.

Conclusion

The Contingency Fund was used for its approved purpose. We found adequate processes in place to review, approve and monitor the expenditure of these funds. However, we found that the criteria for changes which require the consent of the Mayor and Ward Councillor were broadly defined. Consent may not have been obtained in a consistent manner so that similar situations may have been handled differently. There is an opportunity to clarify these criteria in the delivery of the Stage 2 Project.

Findings

Our audit focused on three key objectives related to the Contingency Fund: obtaining appropriate approvals, the use of funds for Council approved purposes and spending within approved limits.

Every Contingency Draw Approval¹ (CDA) we examined was reviewed and approved by all members of the Contingency Management Committee (CMC). The CMC included

¹ CDA is a form submitted to the CMC for funding request against the Contingency Fund.

the City Treasurer or the properly delegated Deputy City Treasurer for each CDA. As the Treasurer was delegated the authority to approve draws, we found that appropriate approvals were obtained for draws against the Contingency Fund.

Based on the December 11, 2013 Confederation Line Delegated Authority Council Approval, draws related to significant changes to Council approved OLRT project designs also require consent from the Mayor and Ward Councillor. Two of our sample draws were clearly related to significant changes in project design and we found that the required consents were obtained. We found however that the definition of what constitutes a significant change in design was not adequately defined. As such, there was a risk of inconsistent application of this requirement.

We reviewed billing statements and agreements for each CDA we tested and we found that information supported the CDA descriptions that the CMC had approved. These CDAs all pertained to unforeseen cost changes or property settlements. As the purpose of the Contingency Fund was to address unforeseen cost changes associated with property and utility relocation matters during the OLRT construction, we concluded that the use of funds was consistent with the Council approved purposes.

Lastly, we found that actual spending for each CDA sample we tested was within the approved limit. As of the end of our testing in May 2020, the total amount spent (\$88.6M) and the total funding commitment (\$99.9M) did not exceed the \$100M Contingency Fund limit. Based on the status of the Stage 1 Project and the information known at the time of the audit, City staff informed us that they were not expecting further additional funding requirements from the Contingency Fund.

Recommendation

Although appropriate approvals were obtained for draws against the Contingency Fund, a significant change to the design was not defined and documented. Additional guidance defining significant changes to the approved designs should be provided, if the same process is to be implemented for Stage 2.

City management response

Management agreed with the audit's recommendation.

For the detailed management response, including planned actions and target dates, see Appendix 3 in the detailed audit report.

Appendix A – By-law No. 2013-375 and No. 2015-11

A by-law of the City of Ottawa to establish the position and duties of Auditor General of the City of Ottawa, including statutory powers, and to repeal By-law No. 2009-323.

The Council of the City of Ottawa enacts as follows:

DEFINITIONS

1. In this by-law, “Auditor General” means the Auditor General of the City of Ottawa.

ESTABLISHMENT OF THE POSITION OF AUDITOR GENERAL

2. The position of Auditor General for the City of Ottawa is hereby established for the purposes of Part V.1 of the Municipal Act, 2001, S.O. 2001, c.25, as amended, with the statutory duties and functions as set out in Part V.1 of the Municipal Act, 2001, S.O. 2001, c.25, as amended, and in this by-law.

APPOINTMENT OF AUDITOR GENERAL

3. (1) City Council shall by-by-law appoint a person to the position of Auditor General for a non-renewable term to be determined by Council, and shall specify the terms and conditions of such appointment.

(2) The current Auditor General of the City of Ottawa is appointed as the Auditor General of the City of Ottawa for a fixed term of seven (7) years, which shall commence on December 15, 2013, and shall continue until December 31, 2020, unless terminated earlier by Council.

(3) The appointment of a person to the position of Auditor General may be made, suspended or revoked only by a two-thirds majority vote of all members of City Council.

(4) The Auditor General must be designated in Ontario as a chartered accountant, a certified general accountant, or a certified management accountant.

ACCOUNTABILITY

4. The Auditor General is independent of the City administration.
5. The Auditor General shall report to City Council, or to a Committee of Council as may be directed by City Council.

RESPONSIBILITIES

AUDITS

6. (1) Subject to and in accordance with the provisions of this By-law, the Auditor General shall be responsible for assisting City Council in holding itself and its administrators accountable for the quality of stewardship over public funds and for the achievement of value for money in municipal operations.

(2) Despite subsection (1), the responsibilities of the Auditor General shall not include the matters described in clauses 296(1)(a) and (b) of the *Municipal Act, 2001*, S.O. 2001, c.25, as amended.

(3) The Auditor General shall be responsible for carrying out financial (excluding attest), compliance, and performance audits of:
 - (a) all programs, activities and functions of all City departments and agencies, and of the offices of the Mayor and Members of Council;
 - (b) local boards of the City as defined in Part V.1 of the *Municipal Act, 2001*, S.O. 2001, c.25, as amended, and as may be further prescribed in Schedule “A” to this by-law;
 - (c) municipally-controlled corporations as defined in the *Municipal Act, 2001*, S.O. 2001, c.25, as amended, and as may be further prescribed in Schedule “B” to this by-law;
 - (d) grant recipients as defined in Part V.1 of the *Municipal Act, 2001*, S.O. 2001, c.25, as amended; and,
 - (e) any other agencies, boards, commissions and corporations as Council may from time to time create or identify.

(4) At the request of Council or a board of directors, the Auditor General may conduct financial (excluding attest), compliance and performance audits of autonomous organizations that have an agreement with the City that contains provisions for an audit by the City.

(5) The audit work plan shall be approved by Council. Approved audits shall be conducted at such time and to the extent that the Auditor General considers appropriate, and the Auditor General shall establish such protocols and procedures that are necessary for the conduct of such audits, consistent with the *City of Ottawa Audit Standards* (modified from the Standards for the Professional Practice of Auditing), as approved by Council on June 13, 2012.

(6) The Auditor General shall not call into question or review the merits of the policies and objectives of Council.

INVESTIGATIONS OF FRAUD, MISAPPROPRIATION AND OTHER SIMILAR IRREGULARITIES

7. The Auditor General shall be responsible for the administration of the Fraud and Waste Hotline relating to any suspected acts of fraud, theft, misappropriation or other similar irregularity in accordance with the Corporate Policy on Fraud and Other Similar Irregularities as approved by City Council, and the Auditor General shall establish such protocols and procedures that are necessary for the conduct of such investigations.

DUTY TO FURNISH INFORMATION

8. In accordance with subsection 223.20(1) of the *Municipal Act, 2001*, S.O. 2001, c.25, as amended, the City, the local boards referred to in Schedule “A”, the municipally-controlled corporations referred to in Schedule “B”, and the grant recipients shall give the Auditor General such information regarding their powers, duties, activities, organization financial transaction and methods of business as the Auditor General believes to be necessary to conduct his or her duties under this by-law.

ACCESS TO INFORMATION

9. In accordance with subsection 223.20(2) of the *Municipal Act, 2001*, S.O. 2001, c.25, as amended, the Auditor General is entitled to have free access to all books, accounts, financial records, electronic data processing records, reports, files and all other papers, things, or property belonging to, or used by the City, a local board referred to in Schedule “A”, a municipally-controlled corporation referred to in Schedule “B”, or a grant-recipient, as the case may be, that the Auditor General believes to be necessary to perform his or her duties under this by-law.

NO WAIVER OF PRIVILEGE

10. A disclosure to the Auditor General under Sections 8 or 9 does not constitute a waiver of solicitor-client privilege, litigation privilege, or settlement privilege.

ANNUAL AUDIT PLAN

11. (1) In each year subsequent to the year of appointment, the Auditor General shall submit an annual audit plan for the next following year to City Council for information by December 31st of each year.
- (2) The Auditor General may, at his or her discretion, prepare a longer term audit plan for submission to City Council.
- (3) No deletions or amendments to the annual audit plan shall be made except by the Auditor General.
- (4) Despite subsection (3), the Auditor General may, if requested by City Council or a board of directors, audit and report on additional matters.

REPORTING

12. (1) No later than December 31st of the next year following the tabling of the audit plan prescribed in subsection 11(1), the Auditor General shall provide to City Council a Notice of Tabling of the Annual Report.
- (2) The Auditor General may, as directed by Council or at his or her discretion, report on a more frequent basis to City Council or any Committee thereof.

OFFICE OF THE AUDITOR GENERAL

13. (1) The Auditor General is authorized to establish an Office of the Auditor General including a managerial hierarchy and administrative policies and procedures.
- (2) The Auditor General is authorized to appoint, promote, demote, suspend and dismiss, subject to any applicable personnel policies adopted by Council, all employees of the Office of the Auditor General.
- (3) The Auditor General is authorized to review the performance of personnel within the Office of the Auditor General subject to any personnel policies applicable to the employees of the City.
- (4) The Auditor General is authorized to retain the services of any individual or corporation for the purposes related to the operation of the Office of the Auditor General and to execute all agreements and contracts required for the provision of such services subject to the provisions of the City's Purchasing By-law.

ANNUAL BUDGET

14. (1) The annual budget of the Office of the Auditor General shall be in accordance with the budget strategy for the Term of Council.
- (2) Requests by City Council or a board of directors pursuant to subsection 11(4) shall be subject to the provision of appropriate funding.

DUTY OF CONFIDENTIALITY

15. The Auditor General and any person acting under his or her instructions shall be subject to the duty of confidentiality provided in Section 223.22 of the *Municipal Act, 2001*, S.O. 2001, c.25, as amended.

IMMUNITY FROM TESTIMONY

16. Neither the Auditor General nor any person acting under the instructions of the Auditor General is a competent or compellable witness in a civil proceeding in connection with anything done under Part V.1 of the *Municipal Act, 2001*, S.O. 2001, c.25, as amended, or of this by-law.

REPEAL

17. By-law Number 2009-323 of the City of Ottawa entitled “A by-law of the City of Ottawa to establish the position and duties of the Auditor General of the City of Ottawa and to repeal By-law No. 2005-84”, as amended, is repealed.

ENACTED and PASSED this 11th day of December, 2013.

CITY CLERK

MAYOR

SCHEDULE “A”

Local Boards

1. City of Ottawa Superannuation Fund
2. Cumberland Village Heritage Museum Board
3. Nepean Museum Board
4. Ottawa Municipal Campsite Authority
5. Pineview Municipal Golf Club Board of Management
6. CARP Airport Authority (formerly the West Carleton Airport Authority)
7. Crime Prevention Ottawa
8. Property Standards Committee
9. Bank Street B.I.A.
10. Barrhaven BIA
11. Byward Market
12. B.I.A. Carp Village B.I.A.
13. Glebe B.I.A.
14. Heart of Orleans B.I.A.
15. Manotick B.I.A.
16. Preston Street B.I.A.
17. Downtown Rideau Improvement Area B.I.A.
18. Somerset Chinatown B.I.A.
19. Somerset Village B.I.A.
20. Sparks Street Mall Authority / Sparks Street Mall B.I.A.
21. Vanier B.I.A.
22. Wellington West B.I.A.
23. Westboro B.I.A.

SCHEDULE “B”

Municipally-Controlled Corporations

1. Hydro Ottawa Holding Inc./Société de portefeuille d’Hydro Ottawa inc.
2. Ottawa Community Housing Corporation/Société de Logement Communautaire d’Ottawa

BY-LAW NO. 2013 - 375

-0-

A by-law of the City of Ottawa to establish the position and duties of Auditor General of the City of Ottawa, including statutory powers, and to repeal By-law No. 2009-323.

-0-

Enacted by City Council at its meeting of December 11, 2013.

-0-

LEGAL SERVICES

VB: G04-01-STAT AG

COUNCIL AUTHORITY:

City Council – October 23, 2013 Motion 63/3

BY-LAW NO. 2015-11

A by-law of the City of Ottawa to amend by-law No. 2013-375 of the City of Ottawa to establish the position and duties of the Auditor General of the City of Ottawa, including statutory powers.

The Council of the City of Ottawa enacts as follows:

1. Subsection 3(4) of By-law No. 2013-375 entitled “A by-law of the City of Ottawa to establish the position and duties of Auditor General of the City of Ottawa, including statutory powers, and to repeal By-law No. 2009-323” is repealed and the following subsection (4) is substituted in its place:

The Auditor General must be designated in Ontario as a chartered professional accountant (formerly known as chartered accountant, a certified general accountant, or a certified management accountant).

2. Subsection 12(1) of said By-law No. 2013-375 is repealed and the following subsection (1) is substituted in its place:

No later than December 31st of the next year following the tabling of the audit plan prescribed in subsection 11(1), the Auditor General shall provide to City Council a Notice of Tabling of the Annual Report, except in an election year when timelines for the Auditor General’s Annual Report will be determined by the Auditor General, in consultation with the Mayor and the Chair of the Audit Committee, and may be tabled after December 31st of the next year following the tabling of the audit plan.

ENACTED AND PASSED this 28th day of January 2015.

CITY CLERK

MAYOR



BY-LAW NO. 2015- 11

-0-

A by-law of the City of Ottawa to amend By-law No. 2013-375 of the City of Ottawa to establish the position and duties of the Auditor General of the City of Ottawa, including statutory powers.

-0-

Enacted by City Council at its meeting of January 28, 2015

-0-

LEGAL SERVICES

G04-01 STAT AG

Council Authority:

City Council December 3, 2014

Agenda Item 1&

Delegation of Authority By-law

(2014-435), Schedule “A”, s.63