



MEMO / NOTE DE SERVICE

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TO: Chair and Members of the Finance and Corporate Services Committee

DESTINATAIRE : Présidence et membres du Comité des finances et des services organisationnels

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FILE NUMBER: ACS2023-CMR-OCM-0006

SUBJECT: Update on the City of Ottawa's response to the proceedings of the Public Order Emergency Commission

OBJET : Le point sur la réponse de la Ville d'Ottawa aux délibérations de la Commission sur l'état d'urgence

PURPOSE

This memorandum provides a final update regarding City staff's work to respond to the proceedings (i.e., summonses and other procedural requests) of the Public Order Emergency Commission, which was the mandatory public inquiry called after the federal government invoked the *Emergencies Act* in response to self-named Freedom Convoy protests in a number of locations across Canada in early 2022, including the City of Ottawa.

While the Ottawa Police Service (OPS) was the lead agency for the response to the convoy protest in Ottawa, the City of Ottawa supported the police-led response efforts and was among more than 20 parties with standing at the Commission prior to its completion. The Commission released its final report on February 17, 2023, following a process that included obtaining information and documents from various parties, conducting informal and formal interviews, and holding public meetings and hearings.

Similar to other parties, the City of Ottawa produced documents, provided witnesses and prepared information for the Commission. These activities were facilitated through a dedicated staff team that worked with external legal counsel, as described in the Update on the Public Order Emergency Commission ([ACS2023-CMR-OCM-0001](#)), which Council considered on February 22, 2023, and serves as a the formal City record of its participation.

As the Public Order Emergency Commission's activities are now complete and the staff team has closed out its work related to responding to the Commission, this memorandum includes information regarding the following matters:

- A Records Management Plan established to document the records management approach and processes implemented by the inquiry response team, and the long-term records management strategy for related records;
- Measures implemented to provide the City's Office of the Auditor General (OAG) with ongoing access to information should it conduct any future review(s) relating to the convoy protests, further to the audits referenced below; and
- The City's final costs related to responding to the Public Order Emergency Commission.

As noted above, the City's Auditor General has conducted various reviews relating to the convoy protest in Ottawa. These include the Audit of the City of Ottawa's Response to the Convoy Protest ([ACS2023-OAG-BVG-0001](#)), which was considered by Council on February 22, 2023, and includes management responses to the Auditor General's recommendations. On February 22, 2023, Council also received reports from the Auditor General regarding audits of the OPS response to the convoy protest, including audits relating to The Role of the Ottawa Police Services Board and Collaboration with the City of Ottawa ([ACS2023-OAG-BVG-0002](#))

It should be noted that Emergency and Protective Services and Legal Services staff are reviewing the Public Order Emergency Commission's final report and incorporating any relevant findings into the management actions identified in the Auditor General's report.

BACKGROUND

Self-named Freedom Convoy participants began to arrive in the City of Ottawa on January 28, 2022, before beginning a prolonged occupation of the downtown core to protest actions taken by the federal government. Other protests took place at various locations across Canada, including at the Ambassador Bridge in Windsor, Ontario, and in Coutts, Alberta.

On February 14, 2022, the federal government declared a public order emergency under the *Emergencies Act*. In Ottawa, a large public order operation, led by the Ottawa Police Service (OPS) with support from the Royal Canadian Mounted Police, the Ontario Provincial Police and police from across the country, cleared the downtown occupation between February 18 and 21, 2022. The federal emergency declaration was revoked on February 23, 2022.

Under Subsection 63(1) of the *Emergencies Act*, a mandatory inquiry must be held following the invocation (and subsequent expiration or revocation) of a declaration of emergency, as follows:

63 (1) The Governor in Council shall, within sixty days after the expiration or revocation of a declaration of emergency, cause an inquiry to be held into the circumstances that led to the declaration being issued and the measures taken for dealing with the emergency.

Subsection 63(2) of the statute further provides that a report of the inquiry "shall be laid before each House of Parliament within three hundred and sixty days after the expiration or revocation of the declaration of emergency."

On April 25, 2022, the Prime Minister announced the establishment of the Public Order Emergency Commission as the independent federal public inquiry to fulfill the above-noted requirement. The Commission, led by the Honourable Paul S. Rouleau, assessed the circumstances that led to the declaration of a public order emergency, and the appropriateness and effectiveness of the measures selected by the government to deal with the situation. Among other things, [Order in Council 2022-392](#), which established the Commission, specifically directed the Commissioner to examine issues with respect to:

- a) the evolution and goals of the convoy and blockades, their leadership, organization and participants;

- b) the impact of domestic and foreign funding, including crowdsourcing platforms;
- c) the impact, role and sources of misinformation and disinformation, including the use of social media;
- d) the impact of the blockades, including their economic impact; and
- e) the efforts of police and other responders prior to and after the declaration.

In the months after the Commission was established, it received thousands of documents, reports, presentations and other submissions from members of the public, witnesses and parties to the proceedings. Evidence was also provided during public hearings and a policy phase. The public hearings prior to the policy phase were held in Ottawa between October 13, 2022, and November 25, 2022. Testimony was heard from more than 75 witnesses, including protest participants; law enforcement representatives; federal, provincial, and municipal government officials; and people, businesses and organizations affected by the protests.

The City's response to the Public Order Emergency Commission proceedings

As noted above, the OPS was the lead agency for the response to the convoy protest in Ottawa. The City of Ottawa supported the police-led response efforts and has participated in various reviews of the convoy protests, including the Public Order Emergency Commission.

The City's public inquiry response staff team, which was already engaged in the response to the provincial Ottawa Light Rail Transit Public Inquiry, undertook the work of responding to the Commission, using a similar structure and led by the Corporate Public Policy Advisor in the City Manager's Office and the City Solicitor. External counsel, Gowling WLG, were engaged by the City Solicitor on June 3, 2022.

For the purposes of the federal inquiry, the seven-member staff public inquiry response team was led by the Corporate Public Policy Advisor in the City Manager's Office and the City Solicitor. The team included staff from Legal Services, Information Technology Services, the Information Management Branch, Emergency and Protective Services, Economic Development Services, and the Office of the City Clerk.

As this was only the second time the City had been a party to a public inquiry and there was a likely need to prepare for rapid response to new and unforeseen situations, an Advisory Committee composed of the City Solicitor, the City Clerk, the Chief Procurement Officer and the Associate General Manager of Emergency and Protective Services was in place to provide advice and recommendations for such unknowns. An Executive Steering Committee consisting of the City Manager; the Director, City Manager's Office; and the General Manager of Emergency and Protective Services would make final decisions where required, understanding that there would be no

discretion with respect to responding to the inquiry and there was expected to be a requirement for strict confidentiality in accordance with the undertakings.

The full scope of staff's work in responding to the Commission is set out in the Update on the Public Order Emergency Commission ([ACS2023-CMR-OCM-0001](#)) and includes as follows:

- Preliminary work in early 2022 to understand jurisdictional matters and the overall process, and to collect and preserve anticipated documentation that would be required to respond to the eventual inquiry as well as any work undertaken by the Auditor General.
- Establishing an online repository in March 2022 to house relevant documents for review by external legal counsel, once retained, and subsequent production to the Commission/Auditor General as deemed relevant.
- Preliminary document collection, beginning the first week of April 2022, with an initial focus on readily available items that staff understood would be relevant, such as Council and Committee minutes and reports; documents previously released in response to requests under the *Municipal Freedom of Information and Protection of Privacy Act*; memoranda and updates to City Council; Emergency Management governance framework and plans; Emergency Operations Centre and Emergency Operations Control Group agendas, minutes, reports, updates and action logs; and all public information materials.
- Responding to Commission summonses and requests, including an initial summons issued to the City on July 13, 2022, for production of documents from 10 elected officials and City staff.
- Assisting with providing more than 30,000 records from the City to the Commission through external legal counsel.
- Providing the Office of the Auditor General with access to the City's internal document repositories used to coordinate the response to the Commission.

In addition to the work of the staff team, external counsel were responsible for work such as:

- Establishing processes and protocols with the Commission's counsel;
- Providing document, management, storage and transfer services;
- Coordinating the City's response to all summonses received by City officials and staff, using the file exchange protocol established by the Commission;
- Submitting several key documents to the Commission, including an institutional report, timeline of events and closing submissions; and
- Supporting City witnesses called by the Commission, among other things.

On February 22, 2023, Council considered the above-noted staff report. The report noted that, “Staff will review the Public Order Emergency Commission’s final report once it is released. Any findings and recommendations of the Commission with implications for the City will be assessed and considered in the context of the Auditor General’s recommendations and management responses, and staff will provide further updates to Council as necessary.”

DISCUSSION

The staff public inquiry response team closed out its work on the Public Order Emergency Commission following the completion of the public inquiry proceedings and the release of the Commission’s final report. As described below, staff established a Records Management Plan that sets out the records management approach and processes used by the response team, and the long-term records management strategy for related records. The closeout process also included the implementation of measures to ensure that the Office of the Auditor General (OAG) has ongoing access to information that may be required for any further reviews. In addition, accounting matters were finalized. Information is provided below regarding the City’s costs to respond to the Commission proceedings.

Records Management Plan

Staff established a Records Management Plan for the Public Order Emergency Commission that sets out the records management approach and processes implemented by the response team, and the long-term records management strategy for related records.

With respect to records retention, the Records Management Plan provides that records of the City’s response to the Public Order Emergency Commission will be retained permanently for the following reasons:

- This inquiry is the first federal public inquiry in the City’s history and the records of the City’s response have historical value for future generations;
- The records have enduring business value. The records management approach was successfully used for the Ottawa Light Rail Transit (OLRT) Public Inquiry and may be reused for similar inquiries/investigations in the future; and
- The retention period for Public Order Emergency Commission records should be the same as for records related to “Actual Emergencies” as classified under the Corporate Records Retention Scheme.

Ensuring access to documents for the Office of the Auditor General

As noted above, and similar to the approach taken with respect to the OLRT Public Inquiry, the OAG received access to internal SharePoint sites being used by the public inquiry response team.

The OAG was advised of the Records Management Plan described above. City staff retained all records provided to the Public Order Emergency Commission in accordance with all relevant policies, procedures and legislation as identified in the plan. Records produced for external counsel were retained in the same manner.

These records are available for review by the OAG as required for any future audits. It should be noted that the OAG has access to all City documents produced, including those documents not provided to the Commission due to privilege.

City costs relating to the Public Order Emergency Commission

The City spent approximately \$950,000 to respond to the Public Order Emergency Commission, which includes legal fees, database and file transfer services, and minor administrative costs related to document production. This expenditure has been funded through the tax stabilization reserve.

CONCLUSION

The City of Ottawa's response to the proceedings of the Public Order Emergency Commission is now complete and the staff public inquiry response team has closed out its work on the public inquiry.

Emergency and Protective Services and Legal Services staff are reviewing the Public Order Emergency Commission's final report and incorporating any relevant findings into the management actions identified in the Auditor General's report.

Original signed by

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