

**4. OFFICE OF THE AUDITOR GENERAL (OAG) – ANNUAL REPORT AND
DETAILED AUDIT REPORTS**

**BUREAU DU VÉRIFICATEUR GÉNÉRAL (BVG) – RAPPORT ANNUEL ET
RAPPORTS DE VÉRIFICATION DÉTAILLÉS**

COMMITTEE RECOMMENDATION

That Council consider and approve the audit recommendations.

RECOMMANDATION DU COMITÉ

**Que le Conseil examine et approuve les recommandations des
vérifications.**

DOCUMENTATION/DOCUMENTATION

1. Auditor General's Report, dated 20 November 2017 (ACS2017-OAG BVG 0008)

Rapport du vérificateur général, daté le 20 novembre 2017 (ACS2017-OAG BVG 0008)

2. Extract of draft Minutes, Audit Committee, 30 November 2017

Extrait de l'ébauche du procès-verbal, Comité de la vérification, le 30 novembre 2017

3. Extract of draft Confidential Minutes, Audit Committee, 30 November 2017(to be distributed separately)

Extrait de l'ébauche du procès-verbal confidentiel, Comité de la vérification, le 30 novembre 2017 (à être distribuer séparément)

**Report to
Rapport au:**

**Audit Committee
Comité de la vérification
30 November 2017 / 30 novembre 2017**

**and Council
et au Conseil
13 December 2017 / 13 décembre 2017**

**Submitted on November 20, 2017
Soumis le 20 novembre 2017**

**Submitted by
Soumis par:
Ken Hughes, Auditor General / Vérificateur général**

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Ward: CITY WIDE / À L'ÉCHELLE DE LA VILLE File Number: ACS 2017-OAG-BVG-0008

SUBJECT: Office of the Auditor General (OAG) – Annual Report and detailed audit reports

OBJET: Bureau du vérificateur général (BVG) – Rapport annuel et rapports de vérification détaillés

REPORT RECOMMENDATION

That the Audit Committee receive the OAG's Annual Report and detailed audit reports on November 30, 2017 and recommend that Council consider and approve the audit recommendations.

RECOMMANDATION DU RAPPORT

Que le Comité de la vérification reçoive le Rapport annuel et les rapports de vérification détaillés du BVG le 30 novembre 2017 et recommande au Conseil d'examiner et d'approuver les recommandations des vérifications.

BACKGROUND

The Annual Report covers activities relating to the OAG's 2015, 2016 and 2017 audit work plans:

- Audit of Child Care Services
- Audit of Information Technology (IT) Remote Access
- Audit of the Management of the Lansdowne Contract
- Audit of the Regulatory Framework for Light Rail Transit
- Audit of Road Services Branch – Contract Management
- Report on the Audit of the Emergency Preparedness and Response for Health Services – Operational Review
- Review of the Management of Emergency Shelter Providers – Contract Management

DISCUSSION

In accordance with the Governance report approved by Council on December 10, 2014, the reports are being tabled with the Audit Committee, for referral to Council for approval of the audit recommendations.

The Annual Report summarizes the activities of the OAG and contains an executive summary for each audit. Detailed audit reports are available on the OAG website at ottawa.ca.

RURAL IMPLICATIONS

There are no rural implications associated with this report.

CONSULTATION

As this is considered an internal administrative matter, no public consultation was undertaken.

COMMENTS BY THE WARD COUNCILLOR(S)

This is a city-wide issue.

ADVISORY COMMITTEE(S) COMMENTS

This section does not apply, as this is a city-wide administrative report.

LEGAL IMPLICATIONS

There are no legal impediments to the Audit Committee and Council considering this report.

Specifically, with regards to the Audit of Information Technology (IT) Remote Access (the “IT Audit”), Legal Services and the Office of the Auditor General worked together to prepare a public version of the Executive Summary of this audit to be presented at the Audit Committee meeting. That Executive Summary does not include commentary which may put at risk the security of the property of the City. In doing so, the City Clerk and Solicitor, in consultation with the Auditor General and the City’s Meeting’s Investigator, has recommended that, should the Committee desire to meet in closed session to discuss the complete IT Audit, those matters would not be reported out. The comments set out below explain the underlying rationale for this recommended approach as it relates to an exception to the statutory rule that all meetings of municipal committee and councils should be open to the public, namely concerning the “security of the property” of the City, a statutory exemption for a closed meeting that has only rarely been used before by the City of Ottawa.

The so-called ‘open meetings’ rule, whereby “all meetings” of municipal councils and local boards “shall be open to the public” was enacted in the 2006 amendments to the *Municipal Act, 2001*. In addition, Subsection 239(2) of those revisions set out a number of discretionary provisions that would enable a municipal council or local board to pass a motion and move into closed session (i.e. *in camera*) to discuss certain matters, one of which is “the security of the property” of the municipality. This same exception is reiterated in Subsection 13(1)(a) of the City’s *Procedure By-law*.

With respect to the “security of the property” exception by which a municipal council or local board may consider a matter *in camera*, it is important to note that the phrase “security of the property of the municipality” has not been expressly defined in Subsection 239(2)(a) of the *Municipal Act, 2001*. That said, both the Ontario Ombudsman and the Local Authorities Services Ltd. (LAS), the Closed Meeting Investigator Program that is available via the Association of Municipalities of Ontario, have issued a number of closed meeting reports that set out the application of this provision. In addition, both of these interpretations are based upon earlier decisions of the Information and Privacy Commissioner of Ontario (“IPC”). In a 2009 decision involving the *City of Toronto*, the IPC reviewed the phrase, “security of the property” in the context of the *Municipal Freedom of Information and Protection of Privacy Act* and concluded as follows:

In my view, ‘security of the property of the municipality’ should be interpreted in accordance with its plain meaning, which is the protection of property from physical loss or damage (such as vandalism or theft) and the protection of public safety in relation to the property.

In a further IPC report involving the *City of Toronto* in 2011, it was determined that the word “property” in the phrase “security of the property” could include both corporeal (having a physical or tangible existence like land) or incorporeal (something that is intangible or not physical, such as a legal right) matters. This analysis has been summarized in the 2013 edition of the LAS document, *What You Need to Know About: Closed Meetings* in the following manner:

Property includes not only the physical assets of the municipality but also some of its financial records and intellectual property. Security of information and records, both in hard copy and electronic, are included in this exception.

In addition, the IPC noted that in order to establish that the security of the property exception applies, the municipality must show that it owns the property and that the subject matter being considered at the closed meeting is “security” in the sense of “taking measures to prevent loss or damage to that property”. In this same vein, the Ombudsman’s *Sunshine Law Handbook* (3rd edition) states that ‘security of the property’ includes:

Discussions relating to the protection of property from physical loss or damage and the protection of public safety in relation to this property.

In light of the above-noted cases and comments, it is suggested that, in order for a municipality to rely upon the “security of the property” exemption to hold a closed meeting, it must be able to establish that:

1. It owns the corporeal or incorporeal property identified; and
2. The consideration of the matter at the meeting is, in fact, the security of that property, including taking the appropriate measures to prevent the loss of, or damage to, that property.

After consulting with the various officers noted above, I am of the view that the discretionary exception to the open meeting rule for the ‘security of the property’ would meet that two-part test and apply with regards to the Committee considering the IT Audit. In respect of the first point, the ‘property’ of the City in this instance is the City’s IT network infrastructure, which is a valuable tangible asset, as well as the volumes of data maintained within, or accessible through, the IT network, which might be considered as a valuable intangible asset. Turning to the second point, the IT Audit includes discussion of the various controls and measures that are aimed at securing the City’s IT network from outside attack and intrusion attempts and thus preventing damage to the IT network infrastructure and/or the loss or corruption of the data accessible through it.

RISK MANAGEMENT IMPLICATIONS

There are no risk management implications associated with this report.

FINANCIAL IMPLICATIONS

There are no financial implications associated with the approval of the report recommendations.

ACCESSIBILITY IMPACTS

There are no accessibility impacts associated with this report.

TERM OF COUNCIL PRIORITIES

The recommendations in the OAG’s Annual Report support the Term of Council priorities (GP2) “Apply management controls to achieve Council’s priorities”.

SUPPORTING DOCUMENTATION

On November 30, 2017, the following report will be tabled at Audit Committee and will be on file with the City Clerk:

- Office of the Auditor General: Annual Report, Tabled at Audit Committee – November 30, 2017
- Bureau du vérificateur général : Rapport annuel, déposé devant le Comité de la vérification – Le 30 novembre 2017

Detailed audit reports will also be on file with the City Clerk and available on the Auditor General's website at ottawa.ca.

Executive summaries of the reports will be issued separately at the Audit Committee meeting, and portions of the Audit of Information Technology (IT) Remote Access report will be discussed in camera.

DISPOSITION

The Office of the Auditor General will proceed according to the direction of the Audit Committee and Council in considering this report.