

<p>4. OFFICE OF THE AUDITOR GENERAL – REPORT ON AUDIT FOLLOW-UPS</p> <p>BUREAU DE LA VÉRIFICATRICE GÉNÉRALE – RAPPORT SUR LES SUIVIS DE LA VÉRIFICATION</p>

COMMITTEE RECOMMENDATION

That Council receive the Report on Audit Follow-up Procedures and detailed audit follow-up reports.

RECOMMANDATION DU COMITÉ

Que le Conseil prenne connaissance du Rapport sur les procédures de suivi de vérifications et les rapports détaillés connexes.

DOCUMENTATION/DOCUMENTATION

1. Auditor General's report, dated April 16, 2021 (ACS2021-OAG-BVG-004)
Rapport de la Vérificatrice générale, daté le 16 avril 2021 (ACS2021-OAG-BVG-004)
2. Extract of draft Minutes, Audit Committee - April 27, 2021.
Extrait de l'ébauche du procès-verbal, Comité de la vérification, le 27 avril 2021.
3. Extract of draft In Camera Minutes, Audit Committee, 27 April 2021. (held on file with the City Clerk)
Extrait de l'ébauche du procès-verbal à huis clôt, Comité de la vérification, le 27 avril 2021 (conservé dans les dossiers du greffier municipal)

**Report to
Rapport au:**

**Audit Committee
Comité de la vérification
27 April 2021 / 27 avril 2020**

**and Council
et au Conseil
12 May 2021 / 12 mai 2021**

**Submitted on April 16, 2021
Soumis le 16 avril 2021**

**Submitted by
Soumis par:
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Ward: CITY WIDE / À L'ÉCHELLE DE LA VILLE File Number: ACS2021-OAG-BVG-004

SUBJECT: Office of the Auditor General – Report on Audit Follow-ups

OBJET: Bureau de la vérificatrice générale – Rapport sur les suivis de la vérification

REPORT RECOMMENDATION

That the Audit Committee recommend Council receive the Report on Audit Follow-up Procedures and detailed audit follow-up reports.

RECOMMANDATION DU RAPPORT

Que le Comité de la vérification recommande au Conseil de prendre connaissance du Rapport sur les procédures de suivi de vérifications et les rapports détaillés connexes.

BACKGROUND

The Office of the Auditor General conducts audit follow-ups two to three years after an audit is complete to afford management time to implement the recommendations. A follow-up may be conducted sooner if corrective action is complete. Follow-ups are part of a complete audit process and are conducted to ensure the required measures, as promised by management and approved by Council, have been effectively implemented.

DISCUSSION

The follow-ups contained in this report are:

- Follow-up to the 2011 Audit of the Human Resources Master Plan (Previous follow-up completed in 2015)
- Follow-up to the 2015 Audit of IT Risk Management (Previous follow-up completed in 2019)
- Follow-up to the 2015 Audit of Information Technology Security Incident Handling and Response (Previous follow-up completed in 2019, result on completion only – follow-up to be presented in-camera)
- Follow-up to the 2015 Follow-up Audit of IT Governance (Previous follow-up completed in 2019)
- Follow-up to the 2017 Audit of Information Technology (IT) Remote Access
- Follow-up to the 2017 Audit of the Regulatory Framework for Light Rail Transit
- Follow-up to the 2017 Audit of Social Housing Registry
- Follow-up to the 2018 Review of the City's Practices for the Procurement of Commercial Vehicles

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.

Parts of the Follow-up to the 2015 Audit of IT Security Incident Handling and Response report and Follow-up to the 2017 Audit of Information Technology (IT) Remote Access report are to be presented to the Committee in closed session and are not to be reported out. The comments set out below explain the underlying rationale for this recommended approach as it relates to the “security of the property” of the City.

The ‘open meetings’ rule under the *Municipal Act, 2001* provides that “all meetings” of municipal councils and local boards “shall be open to the public”, however subsection 239(2) sets out a number of discretionary provisions that enable a municipal council or local board to pass a motion and move into closed session (i.e. *in camera*) to discuss certain matters. Subsection 239(2)(a) stipulates that a meeting or part of a meeting may be closed to the public if the subject matter being considered is “the security of the property of the municipality or local board” and this and other exemptions are reiterated in Section 13 of the City’s *Procedure By-law*.

The Follow-up to the 2015 Audit of IT Security Incident Handling and Response report was originally received and carried by Council on December 9, 2015, following a highly publicized breach of the City of Ottawa’s website in November 2014. The message that

appeared on the website in November 2014 read, “You have been hacked” along with the following lines: “We can destroy everything, this is a flex of our power. Please, test us.” As such, the Follow-up to the 2015 Audit of IT Security Incident Handling and Response seeks to address “specific matters surrounding [this] cyber security event”. In keeping with the approach adopted in the original Audit report, parts may therefore be presented *in-camera* should the Committee decide to move into closed session.

As one of the discretionary reasons for a municipal council or local board to 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 the *Municipal Act, 2001*. That said, both the Provincial Ombudsman, who is the Meetings Investigator for over 200 municipalities, the Local Authorities Services Ltd. (LAS), and 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 discretionary exception provision. It may be noted that 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 of the municipality” 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 later 2011 report involving the City of Toronto, the IPC 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 entitled, *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 has 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.

Taken together, the above-noted cases and comments suggest that, in order for a municipality to rely upon the “security of the property” exemption to hold a closed meeting, the municipality 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.

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’s consideration of parts of the Follow-up Audit. The ‘property’ of the City in this instance includes its website, being a valuable tangible asset and certain matters described within parts of the Follow-up Audit including technical security controls that are measures aimed at preventing loss or damage to this City property.

Finally, it should be noted that some of the data currently held on the City’s IT infrastructure includes personal information and personal health information that is regulated under the Provincial *Municipal Freedom of Information and Protection of Privacy Act* and the *Personal Health Information Protection Act, 2004*. Similarly, the City’s IT infrastructure contains the personal information of OC Transpo employees, which is also governed by the Federal *Personal Information Protection and Electronic Documents Act*. The above statutes require that such information be secured and protected against unauthorized access, use, and disclosure, as the case may be. Therefore, holding portions of the Audit Committee meeting *in camera* may be viewed as a reasonable step to prevent any breaches of these statutes as well.

RISK MANAGEMENT IMPLICATIONS

There are no risk management implications associated with this report.

FINANCIAL IMPLICATIONS

There are no financial implications associated with this report.

ACCESSIBILITY IMPACTS

There are no accessibility impacts associated with this report.

TERM OF COUNCIL PRIORITIES

This report supports the Term of Council Priority related to Governance, Planning and Decision Making.

SUPPORTING DOCUMENTATION

Document 1 - Office of the Auditor General: Report on Audit Follow-up Procedures

Document 1 - Bureau de la vérificatrice générale : Rapport sur les procédures de suivi de vérifications

DISPOSITION

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