

APPENDIX 1

Procurement of 311 Toronto's Information Technology System – Lessons for Future Procurement Processes

June 13, 2012



Auditor General's Office

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EXECUTIVE SUMMARY

First 311 audit report was issued in November 2011

The Auditor General's 2011 Audit Work Plan included a review of 311 Toronto operations. An audit report entitled "311 Toronto – Full Potential for Improving Customer Service Has Yet To Be Realized" was presented at the November 23, 2011 Audit Committee meeting.

A second audit report focusing on IT procurement

When the 2011 audit was initiated there was no intention of conducting a review of the 311 procurement process. However, during the course of the 2011 audit, a number of issues pertaining to the initial procurement of an information technology (IT) solution for the 311 Contact Centre were identified. Rather than including these concerns in the 2011 report which focused on customer service and operational issues, it was determined that a separate report pertaining exclusively to the procurement process would be appropriate. The issues pertaining to the procurement process are the subject of this report.

This report is divided into two separate sections. The first section addresses the initial acquisition of the IT Solution for the 311 Contact Centre while the second section focuses on issues pertaining to additional costs incurred subsequent to the initial purchase.

(Executive Summary information in relation to the first section has been extracted from this report and presented in Confidential Attachment 1)

City incurred \$875,000 for acquiring additional IT services in 2009

In addition to the award of the \$20 million contract to BearingPoint, staff in 2010 authorized a total of \$875,000 to BearingPoint for additional services performed in 2009 as a result of the labour disruption and hiring slowdown. The additional \$875,000 was processed for payment as follows:

- \$475,000 as a contract increase to the original \$20 million contract, and
- \$400,000 as a sole-source Purchase Order separate from the contract.

Difficult to determine the reasonableness of the additional costs

In regard to the above payments, our review identified non-compliance with City purchasing policies. In addition, it was difficult to evaluate the reasonableness of these costs due to the absence of detailed records in support of the costs.

Lessons can help improve controls over future procurement processes

We appreciate that this audit was conducted a number of years subsequent to the implementation of 311. Nevertheless, issues identified in this report represent “lessons learned” and have relevance to any future major procurement process including IT acquisitions.

Finally, while the issues identified in this report arose specifically from our review of the 311 IT procurement, the lessons from the review may be beneficial to future planning and undertaking of procurement processes by other City divisions, as well as the City’s Agencies, Boards, Commissions and Corporations.

BACKGROUND

City launched 311 Toronto in September 2009

The City achieved a significant milestone in improving customer service when it launched 311 Toronto in September 2009. Located in the former Metro Hall Council Chamber, 311 Toronto Contact Center provides the public with one easy-to-remember phone number to obtain non-emergency City services and information 24 hours a day, seven days a week.

Costs for 311 were in the range of \$36 million

With capital costs totaling \$36.3 million and five years of planning and development since 2004, the City has invested significant financial and human resources in establishing 311 Toronto. A significant portion of 311 Toronto’s capital costs were for the procurement of an information technology (IT) solution for its Contact Centre.

Lessons learned have future relevance

The issues identified in this report occurred during the development phase of 311 Toronto between 2006 and 2009. Although this audit was conducted a number of years after the implementation of 311, the “lessons learned” from this particular IT acquisition have relevance to future procurement processes.

AUDIT OBJECTIVES, SCOPE AND METHODOLOGY

Findings relating to the IT purchase are provided in this report

The scope of our original 2011 review did not include a comprehensive review of 311 procurement practices. However, during the course of the 2011 review, we identified issues related to the acquisition of an IT solution for the 311 Contact Centre and the purchase of additional contract services between 2006 and 2009. Our findings pertaining to the IT procurement are provided in this report.

Findings were based on a wide range of audit work

Our findings were based on:

- A review of Request for Proposal documents and the proponents' Fee/Cost Proposals;
- A review of staff reports including confidential attachments to City Council, and related documents;
- A review of purchase request documents and related information;
- Interviews and discussions with staff involved in the 311 procurement process;
- A review of various literature pertaining to public sector procurement; and
- A review of Madame Justice Bellamy's report on the Toronto Computer Leasing and External Contracts Public Inquiries.

Compliance with generally accepted government auditing standards

We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

AUDIT RESULTS

This report is divided into two parts. Part A pertains to the award of the initial IT contract in 2006 and 2007. Part B contains information relating to the acquisition of additional IT services in 2009.

A. The Award of the 311 Information Technology Contract (information and audit recommendations contained in Confidential Attachment 1)

B. Additional Information Technology Services

BearingPoint was awarded the original \$20 million IT contract

In 2008, staff authorized a fixed price contract of approximately \$20 million with BearingPoint for the design and implementation of an IT Solution for the 311 contact centre. The award of the contract to BearingPoint was approved by City Council in September 2007.

In 2010 staff processed an amount of \$875,000 to BearingPoint in addition to the \$20 million original contract. We were advised that the additional costs were incurred due to the 2009 labour disruption and hiring slowdown, and were processed as follows:

Two separate procurement processes for the additional \$875,000

- \$475,000 as a contract amendment to the original \$20 million contract; and
- \$400,000 as a sole-source Purchase Order.

After reviewing the purchase documents and discussions with staff, we identified issues relating to the manner in which these additional costs were processed and approved, as well as the reasonableness of the costs. Issues identified are as follows:

(1) Information presented in purchase request documents was not clear

According to the City purchasing policy, a contract increase or a sole-source purchase exceeding \$500,000 must be approved by the appropriate Standing Committee and City Council upon reviewing a staff report. In reviewing the purchase request documents, we noted that similar reasons, scope of work, and time frame were used by staff to request both the \$475,000 contract increase as well as the \$400,000 sole-source purchase. Taken together these costs obviously exceeded the \$500,000 threshold requiring Standing Committee approval.

Both purchase requests cited similar reasons and scope of work for the additional contract services

Both purchase documents referred to the 2009 labour disruption and hiring slowdown as the cause of the additional services, and both documents indicated that the additional services consisted of IT sustainment tasks for maintaining 311 operations. Both purchase requests were submitted to PMMD for approval in early 2010.

It appears that the same additional services were requested via two different procurement processes, namely a contract amendment and a sole-source purchase each under the \$500,000 threshold for Standing Committee approval.

Staff clarified the differences of the two purchases

Although similar scope of work and timeframe were cited in both purchase request documents, staff explained that the two payments were for different types of IT services performed by BearingPoint staff during different periods of time in 2009. According to staff, the \$475,000 was for additional IT services incurred as a result of the 2009 labour disruption in June and July, whereas the \$400,000 was for additional IT services to sustain the Contact Centre operation after 311 was launched in September 2009.

Based on staff's clarification, the two purchases appeared to have been appropriately processed through a contract increase and a sole-source Purchase Order respectively. Nonetheless, staff should ensure information provided in purchase request documents is clear, complete, and accurate.

In spite of the similarities of the two purchase request documents, PMMD staff who were responsible for reviewing and processing the purchase requests did not question the information provided by staff.

Recommendation:

- 1. City Council request the Director, Purchasing and Materials Management Division, to review and enhance the existing Purchasing and Materials Management review process such that inaccurate or questionable information on purchase request documents is identified and addressed prior to approval of the purchase request documents.**

(2) Standing Committee approval was not sought for a purchase exceeding \$500,000

In February 2010 staff requested an increase of \$475,000 to the original \$20 million contract through a contract amendment process.

BearingPoint was to refund the City \$100,000 for shortening nine-month warranty service

The original \$20 million contract with BearingPoint included a one-year warranty service for Phase I and Phase II implementation. BearingPoint filed for bankruptcy in the U.S. in February 2009, but its Canadian operation continued and completed developing the IT solution for 311. Nevertheless, BearingPoint cancelled the last nine months of the Phase II warranty service and agreed to refund \$100,000 to the City. The refund amount was determined by staff to be reasonable compensation for the cancellation.

The additional BearingPoint services cost \$575,000

Instead of providing the City with a separate cheque for \$100,000, this amount was reflected in the contract increase of \$475,000. In actual fact, the contract increase amount was \$575,000 before the \$100,000 credit to the City.

From a practical perspective we have no issue of the way the transaction was handled by BearingPoint. Nevertheless the manner in which staff handled the process resulted in the normal approval process being circumvented.

No Standing Committee approval was sought for the \$575,000 additional cost

City purchasing policy requires that a contract increase exceeding \$500,000 must be approved by the appropriate Standing Committee and City Council upon reviewing a staff report. However, the “Purchase Order or Blanket Contract Amendment(s) Procedure” does not define whether the contract increase amount is before or after refunds or credits to the City. As a result, the PMMD staff who was aware of the \$100,000 deduction did not advise 311 staff to seek Standing Committee approval because the contract increase amount being processed was below \$500,000 after the credit.

In our view, the intent of the policy is to ensure any additional purchase of goods/services exceeding \$500,000 is brought to the attention of the Standing Committee. The amount should therefore pertain to the actual cost of the purchase, not the final net costs after deductions, refunds, or credits. To ensure consistent interpretation and application, this should be clearly defined in all relevant policies and procedures.

Recommendation:

2. City Council request the Director, Purchasing and Materials Management Division, to define in all pertinent purchasing policies and procedures that the purchase amount for contract increases and sole-source approvals refers to the gross cost to the City (excluding taxes), not net costs after deductions, refunds, or credits.

(3) Lack of documentation to verify the reasonableness of the additional \$575,000 contract services

According to staff, the \$575,000 worth of additional contract services by BearingPoint were incurred as a result of the 2009 labour disruption.

Management decision to continue the \$20 million contract work during labour disruption

During the 2009 labour disruption, 311 was at the “soft launch” stage when calls to various City call centers were automatically routed to 311, but the 311 telephone number was not publicized. Management staff decided to continue the \$20 million contract work by BearingPoint during the labour disruption to avoid a delay in publicly launching the 311 services. Part of the contract included training and knowledge transfer to City staff.

City staff were not available during the labour disruption

While BearingPoint staff continued their contract work during the labour disruption, City IT project staff were not available to work with the contract staff and to learn from them to allow for “knowledge transfer”. According to staff, this necessitated BearingPoint staff working extra hours during the labour disruption to perform tasks that were normally done by City IT staff, as well as immediately after the labour disruption to train City IT staff.

Staff did not establish labour rates or track hours of additional services

It is normal practice to require contract staff to complete daily timesheets detailing the hours and types of service provided. However, staff did not establish hourly rates prior to acquiring the additional contract services during the labour disruption, nor did staff track or document the hours of the additional services. Staff indicated that none of these steps were necessary because the additional services were acquired based on a fixed price agreement.

No contractual agreement or other document on the \$575,000 fixed price agreement

There was no contractual agreement between BearingPoint and the City regarding the additional \$575,000. The only documents on file were a payment request from BearingPoint dated February 2010 and the City’s request for contract increase also dated February 2010. Staff were unable to provide other documents demonstrating that a fixed price contract was established.

Staff should have tracked and documented the hours of additional contract services

The original \$20 million contract with BearingPoint was a fixed price agreement, and consequently there was no need for City staff to track or monitor the contractor’s hours of service. The additional services rendered by BearingPoint as a result of the 2009 labour disruption were not acquired within a fixed price agreement and staff should have tracked and documented the hours of the additional contract services. The need for tracking and documenting hours of contract service is fundamental to contract management.

Without any City record on the additional contract hours, we were not able to determine whether the \$575,000 additional costs accurately reflected the work rendered and thus represented value for money.

Recommendation:

- 3. City Council request the City Manager, in consultation with the Director, Purchasing and Material Management Division, to take necessary steps to ensure that, where a contract service is not acquired under a fixed price agreement, the unit pricing, labour rates, and estimated labour hours are established prior to commencing the contract services, and the hours of contract services are tracked and documented.**

(4) Delay in seeking approval for a sole-source Purchase Order

Staff submitted a sole-source Purchase Order for \$400,000 in March 2010

Aside from the \$575,000 additional cost, staff in March 2010 requested \$400,000 in additional payments to BearingPoint for acquiring IT services to sustain the Contact Centre due to the City hiring slowdown. The purchase request was processed through a sole-source Purchase Order.

City policy requires sole-source purchases are approved by PMMD prior to commencing the work

To ensure sole-source purchases are made with valid reasons and the City is obtaining the best possible price, the City's policy on sole source or non-competitive procurement requires that:

“ Goods must not be ordered and services must not be provided until the Sole-Source Request Form is approved by PMMD and the client, ..., except where the goods and services are required as a result of an emergency.”

In the March 2010 request document, staff indicated that *“the work was started and completed prior to receiving the sole-source approval”* due to an urgent need for maintaining 311 operations during labour disruption and hiring slowdown.

A seven month delay in submitting the sole-source purchase request

While certain processing delays during the labour disruption might be unavoidable, this particular sole-source request was made in March 2010, more than seven months after the commencement of the additional IT sustainment services. The prolonged delay in submitting the purchase request is not in compliance with the City purchasing policy.

Recommendation:

- 4. City Council request the Director, Purchasing and Materials Management Division to take the necessary steps to ensure that divisions comply with the City purchasing policies regarding the timely submission of sole-source purchase requests for approval by the Purchasing and Materials Management Division.**

Audit recommendations may have relevance to other City entities

While the issues identified in this report arose specifically from our review of the 311 IT procurement, the lessons from the review will have relevance to future planning and undertaking of procurement processes by other City divisions, as well as the City's Agencies, Boards, Commissions and Corporations.

Recommendation:

- 5. City Council request the City Manager to forward the recommendations contained in the audit report entitled "Procurement of 311 Toronto's Information Technology System – Lessons for Future Procurement Processes" to the City's major Agencies, Boards, Commissions, and Corporations, for consideration in future procurement processes.**

CONCLUSION

The issues highlighted in this report related to the process to procure an IT solution for the 311 Contact Center. We appreciate that the procurement process occurred a number of years ago, but the lessons learned from this procurement and the recommendations in this report will be beneficial to future procurement processes.

While the issues identified in this report arose specifically from our review of the 311 IT procurement, the lessons from the review will have relevance to future planning and undertaking of procurement processes by other City divisions, as well as the City's Agencies, Boards, Commissions and Corporations.

***Report contains
15
recommendations
to improve
controls over
procurement
processes***

The complete audit report, which consists of both confidential and public information, contains 15 recommendations with the objective of improving controls and procedures in procurement processes. Five recommendations are contained in Appendix 1. The other 10 recommendations are contained in the confidential attachment.