

## **Audit of Winter Road Maintenance Program - Update on Contract Terms**

**Date:** June 22, 2021

**To:** Audit Committee

**From:** General Manager, Transportation Services, City Solicitor, Legal Services

**Wards:** All

### **REASON FOR CONFIDENTIAL INFORMATION**

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The Confidential Attachment to this report contains advice which is subject to solicitor-client privilege.

### **SUMMARY**

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City Council adopted a recommendation on October 27, 28 and 30, 2020 requesting the General Manager, Transportation Services, in consultation with the City Solicitor and the Auditor General, to report to the Audit Committee in the second quarter of 2021 on the approach to take on the definition and charging of standby payments for the remainder (two years) of the current contract cycle. City Council also requested a report on the prospect of recovery of overpayments to the winter maintenance vendors for either performance issues or reconciliation gaps with GPS records, on the terms and conditions of the contract, on the prospect of recovery of overpayments in prior years with respect to standby pay and on the implementation of terms and conditions in the contracts on a go forward basis. This report responds to these requests.

### **RECOMMENDATIONS**

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The General Manager, Transportation Services and City Solicitor recommend that:

1. City Council direct that the confidential information contained in Confidential Attachment 1 remain confidential in its entirety, as it contains advice which is subject to solicitor-client privilege.

## **FINANCIAL IMPACT**

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There are no current or future year financial impacts arising from the recommendations contained in this report.

## **DECISION HISTORY**

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On October 27, 28 and 30, 2020 City Council requested the General Manager, Transportation Services, to consult with Legal Services in relation to the approach to take on the definition and charging of standby payments for the remainder (two years) of the current contract cycle. Furthermore, City Council requested the General Manager, Transportation Services, in consultation with the City Solicitor and the Auditor General, to report to the Audit Committee in the second quarter of 2021 [instead of to the November 19, 2020 Audit Committee meeting as previously requested by the Committee], on the prospect of recovery of overpayments to the winter maintenance vendors for either performance issues or reconciliation gaps with GPS records, on the terms and conditions of the contract, and the prospect of recovery of overpayments in prior years with respect to standby pay and on the implementation of terms and conditions in the contracts on a go forward basis.

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2020.AU6.2>

On October 23, 2020, the General Manager, Transportation Services, was requested in consultation with the City Solicitor and the Auditor General, to report to the Audit Committee in the second quarter of 2021 [instead of to the November 19, 2020 Audit Committee meeting as previously requested by the Audit Committee], to take on the definition and charging of standby payments for the remainder (two years) of the current contract and on the prospect of recovery of overpayments to the winter maintenance vendors for either performance issues or reconciliation gaps with GPS records, on the terms and conditions of the contract, and the prospect of recovery of overpayments in prior years with respect to standby pay and on the implementation of terms and conditions in the contracts on a go forward basis.

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2020.AU6.2>

## **COMMENTS**

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City Council on October 27, 2020 adopted with amendments the recommendations as contained in the Audit of Winter Road Maintenance Program - Phase One: Leveraging Technology and Improving Design and Management of Contracts to Achieve Service Level Outcomes. There were 27 recommendations from Audit Committee and five additional motions adopted by City Council. The following provides updates on recommendation 20 and recommendation 31, as amended by Council which requested

the General Manager, Transportation Services to report back by Q2 2021 to the Audit Committee. .

### **Recommendation 20**

City Council requested the General Manager, Transportation Services, to consult with Legal Services in relation to the approach to take on the definition and charging of standby payments for the remainder (two years) of the current contract cycle.

As a result of those consultations, Transportation Services has continued its practice of paying standby rates and operating rates for eligible equipment for the 2020-2021 winter season and intends to do so for the final remaining year of the contracts.

Please refer to Confidential Attachment 1 for the legal advice respecting this matter.

### **Recommendation 31, as Amended**

City Council requested the General Manager, Transportation Services, in consultation with the City Solicitor and the Auditor General, to report to the Audit Committee in the second quarter of 2021 on the prospect of recovery of overpayments to the winter maintenance vendors for either performance issues or reconciliation gaps with GPS records, on the terms and conditions of the contract, and the prospect of recovery of overpayments in prior years with respect to standby pay and on the implementation of terms and conditions in the contracts on a go forward basis.

These issues are also addressed in the Confidential Attachment.

With respect to the issue of the implementation of terms and conditions to address these issues on a go forward basis, Transportation Services is in the process of completing a Request for Proposal (RFP) for the next round of winter maintenance services contracts. This RFP will award 11 performance-based contracts focused on quality performance with incentives and disincentives for awarded contractors. These contracts also leverage technology using GPS, to automate processes, verify payment and manage equipment during winter events.

The recommendations from the Auditor General's report previously adopted by Council have been incorporated into the RFP, which was tendered on May 7, 2021, and is now in the evaluation stage. It is anticipated the resulting contracts will be awarded this fall.

## **CONTACT**

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## **SIGNATURE**

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Barbara Gray  
General Manager, Transportation Services

Wendy Walberg  
City Solicitor, Legal Services

## **ATTACHMENTS**

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Confidential Attachment 1 - Legal Advice