



## Challenges in Contract Management

### **Auditor General's Review of the Corporate Real Estate Management Division**

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**AUDITOR  
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# Executive Summary

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**Review of CREM billing accuracy and contract management process to verify that invoice payments are appropriate**

We received an allegation that the Toronto Corporate Real Estate Management (CREM) Division (formerly Facilities Management) was paying inaccurate or inflated invoices. We conducted a review of billing accuracy and contract management processes.

While we did find some billing errors and invoice processing issues, intentional overbilling was not noted. We also identified areas of procurement and contract management processes for CREM to improve.

We note that CREM is transforming how it is managing vendors and is already moving forward on some invoice processing improvements. Our findings and recommendations will help CREM as it continues to improve how it procures services, manages contracts, and pays invoices going forward.

**The Auditor General's Office examined invoices between 2016 and 2020 to clarify billing issues**

The Auditor General's Office examined invoices between 2016 and 2020, including the time period around when the employee made the allegations about billing issues.

CREM processes approximately 40,000 invoices annually, so we also conducted high-level data analysis for transactions dated between 2013 and 2020 to supplement our sampling.

**We identified issues in 3 categories**

We identified issues in three categories:

- *Section A – Areas Where Billings were Inconsistent with Express Contract Terms*
- *Section B – Lack of Documentation Supporting Invoice Payments*
- *Section C – Other Contract Management Practices Requiring Continuous Improvement*

**Common Themes Report to the City identified similar issues**

Several issues identified in this report are not new. Some were included in the Auditor General’s October 2020 report “*Previous Audit Reports - Common Themes and Issues*” as systemic issues that have been discussed in past audit reports and affecting various City divisions:

- “ • *insufficient evidence of services being performed or concerns with the quality of work performed*
- *incorrect billing and payments compared to contracted pricing and terms*
- *need for continued improvement of contract change processes.*”

<https://www.torontoauditor.ca/report/previous-audit-reports-common-themes-and-issues/>

However, as noted throughout this report, and we have seen some evidence, that CREM is transforming how it is managing contracts and vendors. However, for the time period of our review, not all new processes were in place, so some of the issues identified in this report may have already been addressed by CREM.

**“Getting to the Root of the Issues” report identifies contract management practices that should be adopted by CREM**

We note that some of the recommendations in our past report like the Auditor General’s February 2021 report “*Getting to the Root of the Issues: A Follow-Up to the 2019 Tree Maintenance Services Audit*,” contain recommended practices that should be adopted by many City Divisions, including CREM.

<https://www.torontoauditor.ca/report/getting-to-the-root-of-the-issues-a-follow-up-to-the-2019-tree-maintenance-services-audit/>

Those practices relate to ensuring effective invoice verification, including obtaining records to support invoice payments and ways to improve outcomes. Three top themes from that report request the City staff:

**Effective invoice verification is key**

1. **Verify work prior to making payments** – including ensuring the vendor has the responsibility to bill correctly and confirming timely review of work the vendor has reported as completed against supporting evidence, followed by timely and immediate action to resolve discrepancies.

**Ensuring that proper records are obtained, reviewed, and retained is key**

2. **Know what records you need to retain in support of contract payments** – making sure the City has the documentation it needs now, should it need to quantify and recover funds for subsequently identified contract performance concerns in the future.

**Improving outcomes by understanding and addressing what's happening in the field**

3. **Understand what's actually happening in the field before determining how best to pursue contract remedies, for example by:**
  - **Adopting of reliable, valid, and robust sampling methodology** when reviewing documents and records for discrepancies.
  - **Directly observing people and processes in the field** to get a better sense of what the data is telling you
  - **Properly investigating exceptions**-corroborating explanations/justifications obtained from vendors.

**Recommendations to improve procurement and contract management**

Additional recommendations to address CREM's invoice payment and procurement practices include:

1. Improving the future procurement call/solicitation language to address gaps we identified in this report (as outlined in Exhibit 1)
2. Ensuring future procurement call/solicitation documents provide proper guidance on the approval process related to contract changes and ensuring that management retains support for the contract changes
3. Ensuring billings are in accordance with express terms of contracts and sufficient details are provided on the invoices
4. Ensuring CREM staff request supporting documentation to substantiate invoiced amounts before releasing payment
5. Developing a complete and up-to-date equipment inventory list
6. Ensuring preventive maintenance (PM) work is being completed and charged per the contract
7. Performing periodic invoice audits and consider adopting a robust statistical sampling method and using extrapolation to pursue recovery of overpayments on a timely basis.

**CREM has moved forward to transform contract management practices but there is more work to be done**

As noted above, CREM has been implementing new practices as it moves to transform invoice payment and contract management practices. While we note that CREM's transformation is not complete, we are satisfied that their efforts are heading in the right direction, and we have included in our detailed findings some examples where management has moved forward. The findings of this report will continue to be of great value as CREM completes this transformation.

**This is a review,  
not an audit**

The work performed in relation to this review does not constitute an audit conducted in accordance with Generally Accepted Government Auditing Standards (GAGAS). However, we believe we have performed sufficient work and gathered sufficient appropriate evidence to provide a reasonable basis for our findings, conclusions, and concerns.

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# Background – Invoice Payment and Contract Management

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**Our sample includes 55 invoices that an employee disputed between 2016 and 2018**

We reviewed samples of invoices relating to four RFQs involving multiple contracts<sup>1</sup> to assess if the billings were accurate. We also reviewed 55 invoices that an employee disputed as having invoicing and contract issues between 2016 and 2018.

**Over 250 invoices reviewed in detail by the Auditor General's Office through random and judgmental samples**

In total, we reviewed in detail over 250 invoices, then performed data analytics on approximately 1,500 additional invoices. These invoices cover the period of 2013 to 2020. The sample selection was not statistical. It was a combination of randomly selected and judgmental samples to better understand the billing and contracting issues plus an additional review of invoices to consider the issues raised by the employee.

**Contractual non-compliance in many areas**

Overall, from our examination, we identified issues relating to:

**A. Issues relating to payments inconsistent with the express terms of the contract**

1. Journeyman rates being billed for apprentice work
2. Subcontractor mark-ups negotiated after contract award and better controls needed
3. Incorrect mark-ups applied to materials
4. Preventative maintenance billing issues
5. Log book/service report discrepancy issues
6. Flat rate pricings not being used as often as expected
7. Incorrect optional renewal year rates applied
8. Holding vendors responsible for billings inaccuracies

**Staff processed payments before requesting vendors to substantiate billings**

**B. Invoices not properly verified before being paid**

1. Payments made without proper substantiation, including worksite logs, material trade invoices, equipment rental invoices, subcontractor bills
2. Materials purchased from related companies undisclosed

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<sup>1</sup> The contracts being referenced do not include contracts subject to the Construction Act, which have their own set of statutory requirements, particularly with respect to prompt payment and invoicing that wouldn't apply to these contracts. The recommendations contained in this report do not apply to contracts subject to the Construction Act, i.e. construction agreements and professional consulting services agreements.

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**Many contract management practices need improvement**

**C. Contract management practices need improvement**

1. Dispute resolution process needs improvement
2. Updated and comprehensive equipment inventory needed
3. Preventative maintenance (PM) costs are lower than target in RFQ
4. Lack of documentation for after-hours work
5. Separate work orders and billings for a series of inspections of identical equipment in one building or even one floor of a building
6. Undeclared subcontractor technicians or subcontractor work
7. Lack of process requiring vendors to provide estimates and obtain approval prior to proceeding with repairs

**Many of the billing and invoice disputes resulted from RFQ gaps**

Many of the above billing issues and invoice disputes resulted from deficiencies and gaps in the existing Request for Quotation (RFQ) procurement process. We have listed the issues discussed in this report with their corresponding RFQ deficiencies in the Exhibit 1.



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# Detailed Findings

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## A. Areas Where Billings were Inconsistent with Express Contract Terms

### A.1. Journeyman rates charged for apprentices

**Apprentices have many skill levels**

There are multiple skill levels of apprentices as they progress through their training to become a journeyman. Apprentices are paid a percentage of the journeyman rates based on a sliding scale system.

**Insufficient number of labour rates specified by the 4 RFQs we reviewed**

Three out of the four RFQs we reviewed included two rates for labour:

1. an apprentice rate and
2. a journeyman rate

And the fourth one only had one labour rate specified.

Per the RFQ bid submissions, apprentices are charged out at approximately \$35 per hour and the City pays approximately \$70 for journeymen, double the hourly rate of apprentices.

**Apprentices invoiced at journeyman rates**

From the invoices we reviewed we identified 45 invoices from three vendors where apprentices were identified as having done at least some of the work. In every case, the level of apprentice was not specified on the invoice and the apprentices were invoiced at full journeyman rates.

**The practice appears to have been ongoing for several contract terms**

When this issue was questioned by the employee, the vendor explained that the practice of charging the higher journeyman rates for apprentices has been going on for over ten years. The vendor responded in an email at the time to the employee that this practice was discussed with CREM and Purchasing & Materials Management Division (PMMD) in the past.

**Decisions were made by the City to allow apprentices to be charged at journeymen rates**

Subsequently the vendor provided us with an additional email supporting that decisions were made by the City to allow apprentices to be charged at journeymen rates.

**Another vendor referred to a similar verbal agreement with the City to charge apprentices at journeymen rates**

Another vendor also confirmed that this was the verbal agreement with the City and their invoices also charged apprentices at journeymen rate. The vendors were consistent in their explanations and identified names of retired CREM employees with whom the agreements were made.

**Contract change not documented in the procurement file or with Management**

We inquired with CREM and PMMD, but they could not locate a formal contract amendment documenting the agreement that apprentices could be paid at journeymen rates. Many current or recently retired CREM staff responsible for approving the invoices were not made aware of this historic agreement, and this has caused issues and invoice disputes with the vendors.

We believe the impact of this payment practice is significant and these kinds of informal arrangements need to be documented appropriately through a contract amendment process.

**Not all bidders may have known about this practice – this can create an unfair advantage of one vendor over another**

Also, when the City tendered maintenance contracts in 2015 and subsequently in 2018, this billing and payment practice was not clear and transparent for bidders since it appears that only the incumbents and some City staff were aware. This can create an unfair advantage of one vendor over another.

Making specifications clear is important to obtaining value for money and ensuring fairness in the procurement process.

**The City's Procurement Processes Policy specifically discourages material contract negotiations for RFQs as part of the procurement process**

The City's Procurement Processes Policy specifically discourages material contract negotiations for RFQs, **presumably to provide a fair playing field for all those bidding on the contracts:**

*7.3.2. Request for Quotations (RFQ)  
A request for quotations may be used to obtain goods and services (other than construction services) whenever the Division has pre-determined the required quantity and/or quality of the goods and services and the evaluation criteria to determine the best value is generally the lowest cost bid meeting technical specifications **without any material contract negotiations [emphasis added]**, subject to any other provisions of the Purchasing By-law and the Procurement Processes Policy.<sup>2</sup>*

While we understand parties are able to change the agreement during the life of the contract, material changes soon after award could give rise to potential concerns about a lack of fairness.

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<sup>2</sup> <https://www.toronto.ca/wp-content/uploads/2017/08/9587-Procurement-Processes-Policy-January-1-2017.pdf>

***“The whole point of the agreement is establishing the pricing. If we have this unspoken practice and not disclosed in the call document, it will impact the way vendors bid...”***

In our opinion, amending the price paid for apprentices in this case was not minor amendment – price is key to determining the winner of the RFQ. Key payment terms, such as paying apprentices journeyman rates need to be clearly defined in RFQ. A City Legal Services staff member noted that:

*“The whole point of the agreement is establishing the pricing. If we have this unspoken practice and not disclosed in the call document, it will impact the way vendors bid. We have all kinds of policies that speak to vendors bidding on one price and bill in another price. This kind of unspoken practice needs to be weeded out.”*

**Material changes must go through a contractual amendment**

Where there is a post procurement contract change such as allowing one vendor to charge journeyman rates for apprentices, the amendment should be through a formal contract change that forms part of the legal and procurement file.

**Past amendments should be incorporated into new procurements**

Furthermore, in future procurement calls and solicitations, if prior undocumented payment terms or contract amendments are going to apply to new procurements, management should consider incorporating those terms into the scope and specifications so that incumbents do not gain an unfair advantage when bidding on the work because they are aware of these informal agreements and payment practices.

**Recovery process underway from a third vendor based on CREM sample review**

While we were raising this issue about some vendors, CREM, through its improved vendor management and quality assurance practices, audited 88 invoices for a third vendor in June 2020. To our understanding, the City did not make verbal agreements with this vendor to allow it to charge journeymen rates for apprentices. CREM concluded in November 2020 that 24 invoices overbilled the City for apprentice work. CREM issued a non-conformance letter to the vendor in November 2020, and the vendor responded outlining corrective and preventive actions they would take and acknowledged that a credit will be issued.

**Vendor issued a \$8,181 credit to CREM based on its own invoice audit**

Due to this proactive work by CREM, and the vendor issued credit to the City in the amount of \$8,181, or just over 8.5 per cent of the total sampled invoiced amount of \$94,799.

**CREM should pursue recovery if there are overbillings**

CREM should consider conducting statistical sampling and pursue recovery if there are similar errors. Alternatively, when errors are identified, they may request the vendor to go through its records to identify overbilling in all invoices to the City.

**Auditor General's Office performed further review of the same vendor CREM audited**

**The vendor stated that they have implemented stronger processes to ensure overbilling will not occur in the future**

We reviewed 75 randomly selected invoices from the same vendor from November 2018 to December 2020 and found that 15 invoices overbilled the City for apprentice work. The overbilling amounted to \$8,963, or 3.3 per cent of the total invoiced amount of \$275,803, or 7.4 percent of the labour billing component of \$121,974. The vendor promptly responded to our questions and was very cooperative and forthcoming in acknowledging the error. The vendor confirmed the overbilling and offered to process a credit to the City in the amount we identified. The vendor also stated that they have implemented stronger contracting processes to help ensure these types of billing errors will not occur in the future.

**Recommendations:**

- 1. City Council request the Executive Director, Corporate Real Estate Management, in consultation with the City Solicitor, to identify and assess the recoverability of the Corporate Real Estate Management Division's current vendor billing of journeyman's rates for apprentice work for the City's maintenance contracts where apprentice work is involved.**
- 2. City Council request the Director, Internal Audit, in consultation with the City Manager, to report back to the Auditor General by mid-2022 on the degree of potential exposure across the City on the apprentice billing rate issue discussed in Section A.1. in Attachment 1 to this report and include proposed recommendations to address the exposure noted and the estimated financial impact.**
- 3. City Council request the Chief Procurement Officer, to ensure that, in procurements where hourly rates for apprentices are being sought as part of the procurement, the rates being requested from the suppliers are reflective of the different skill levels of apprentices that are applicable to that type of work and that suppliers are required to provide a list of journeymen and apprentices semi-annually to City divisions.**
- 4. City Council request the Executive Director, Corporate Real Estate Management, to ensure the following for procurements involving apprentice rates:**
  - a. vendor invoices or their supporting documentation clarify the following information relating to vendor technician(s) dispatched to repair or maintain City equipment, including:**
    - 1. full name(s);**
    - 2. certificate(s) of qualification(s); and**
    - 3. registration number(s) with the Ontario College of Trades; and**
  - b. the City is invoiced at the proper rates.**

## **A.2. Subcontractor mark-ups negotiated after contract award – better controls needed**

**Subcontractors were contemplated in the City's contracts**

The use of subcontractors by vendors was contemplated in all four RFQs we reviewed.

### *Sub-contractors*

*The Vendor shall be solely responsible for the payment of every sub-contractor employed, engaged, or retained by it for the purpose of assisting it in the performance of its obligations under the contract.*

**22 invoices from one vendor billed subcontractor mark-up fees of 15% or 20%**

We reviewed a sample of 75 invoices from one vendor and found that 22 invoices involved subcontractor work. The subcontractors were used for work for which the contract did not have a flat rate. Subcontractor charges ranged from \$300 to \$6,500 on each invoice and included a subcontractor mark-up of 15 or 20 per cent. Therefore, in all cases, the use of subcontractors has increased contract cost to the City.

**Rationale not documented, prior approval not required, mark-up not defined, a City vendor of record used as a subcontractor**

We noticed the following areas requiring improvement for this RFQ:

1. The rationale for using subcontractors was not always documented
2. Although the RFQ mentioned that subcontractors were to be approved, the vendor used subcontractors without apparent approval from the City. There is a risk that the vendor can use as many subcontractors as they want without the City's knowledge and potentially bypass the labour rate
3. The amount of the mark-up for subcontracted work was not defined in the RFQ
4. Another City vendor of record was allowed to be used as a subcontractor by this vendor and a mark-up was applied

**Controls required when using subcontractors**

The vendor won the RFQ, in part, because it bid lower hourly rates on the RFQ. If the vendor is now allowed to subcontract work indiscriminately then charge the City a mark-up the City may not be receiving the best value for money from the RFQ. Such a situation may incite the vendor to subcontract more than normal, possibly leading to the vendor becoming the City's intermediary. This could contribute to an overall escalation of costs for the City, if the proper controls and oversight are not in place. Such controls include ensuring that the use of subcontractors is preapproved and subcontractor mark-ups should only be allowed in specialized work outside the core scope of work identified within the contract as required by the City.

**Gaps in RFQ causes subcontractors to be used as work falling outside of defined scope of work in RFQ**

When we questioned the vendor as to why subcontractors were being used, the vendor explained that some of the work fell outside the scope of work. CREM management confirmed that there were gaps in the scope of work and as a result of the deficiencies and omissions in the RFQ, the vendor was asked to *“to carry out work that fell out of the contractor’s expertise...”*

**Subcontractor amendment negotiated between management and the vendor**

In relation to the mark-up, the use of subcontractors was contemplated in the contract, so the mark-up should have been established in 2018 when the contract was set-up. However, while the Auditor General’s review was ongoing and the subcontracting issue was being identified and discussed, a contract amendment was approved in November 2020 allowing for a 15 per cent mark-up on all subcontractor work billed from November 1, 2020 onward. It also allowed work prior to November 1, 2020 to be billed with a 20 per cent mark-up for subcontractors.

**Subcontracting is not an unforeseen issue and should have been addressed in current RFQ**

While we understand that situations can arise where subcontracting is needed, the use of apprentices (section A.1. in this report) and subcontractors (A.2. in this report) were neither unforeseen nor unexpected. Clear payment terms and approval controls should have been addressed in the RFQ to be fair to those considering placing a bid on the RFQ This is especially important where price is one of the primary determining factors of the winner of a bid.

**Recommendation for future procurements calls /solicitations**

If contractual changes are necessary, formal contract amendments or change orders in accordance with a change order process should be completed. In addition, contracts should specify who needs to sign-off on any further amendments or clarifications so that amendments are fair, documented and communicated appropriately to all parties. All amended terms in the agreement need to be considered when designing future procurement calls/solicitations.

**Recommendations:**

- 5. City Council request the Executive Director, Corporate Real Estate Management, to ensure that all future procurement calls/solicitations include a requirement on the appropriate process for contract amendments, including proper authorization, documentation, and ensuring amended contracts are centrally stored.**
- 6. City Council request the Executive Director, Corporate Real Estate Management, to ensure vendors obtain pre-approvals for using subcontractors, bill accurately and declare such usage on the invoices/service reports.**

### **A.3. Incorrect mark-ups applied to materials**

#### **Incorrect mark-up rate applied to materials**

For the four RFQs we reviewed, in general, some mark-up is allowed when billing for materials. However, we found two instances where the vendor appears to be incorrectly billing mark-up charges. In these cases, 15 per cent was being billed instead of 10 per cent. Small amounts appear to have been overpaid in error. This is indicative that closer attention is needed in the invoice payment process and something for CREM to be aware of when designing their processes.

### **A.4. Preventative maintenance billing issues**

#### **Incorrect preventative maintenance billings were noted**

We also noted incidences where it appeared that vendors billed the City for PM on the incorrect amount of equipment or billed PMs with incorrect rates.

#### **Recurring preventative maintenance billings for equipment that didn't exist at one location**

##### **I. City invoiced for PMs for excess equipment**

One vendor billed a standard PM rate for 17 exhaust fans, 11 unit heaters and 2 tube heater. The City's equipment count was different, so we inquired with the vendor on the discrepancy. The vendor advised that their *"staff billed what we had on file for this location, unfortunately it was inaccurate."* The vendor provided a list of equipment showing only 14 exhaust fans, 9 unit heaters, and 1 tube heater on site. Since preventative maintenance occurs in a recurring cycle, we noted that CREM staff authorized and paid for a total of 10 PM invoices for this location. Six of the 10 invoices included billings for equipment that did not exist.

#### **Recurring PM billings using incorrect rate**

##### **II. Incorrect PM rate billed**

Another vendor billed the City a flat fee of \$170 per PM at one location instead of the \$120 PM flat rate listed in the RFQ. This mistake carried on for 14 invoices involving 30 PMs for this location. CREM authorized all 14 invoices for payment without ever questioning the invoices. The total overbilling for this address is \$1,500 before tax. The vendor confirmed that these were billing errors and noted a credit should be issued which CREM will pursue.

### **A.5. Log book/service report discrepancy issues**

#### **Discrepancies between log books and service reports**

We wanted to compare site log books with service reports to help verify whether vendor staff were indeed at the site as invoiced. We requested management to provide site log book records for 29 invoices/locations. We only received log books for 13 locations. Seven out of the 13 log books did not have any visits recorded for the vendors on the days that work was supposed to have taken place. For the other six locations, only partial records were provided.

**No invoice reviewed had a complete match to the log books**

It is important to request building logs to confirm the actual time the vendor staff were on-site and compare that information to the service report. We found that no invoice had a complete match of the sign in and out time with the log book. Two invoices which we matched to log books showed that vendors appeared to have charged up to 1.75 hours more time on the service reports than the time noted in the log books.

**Discrepancies are too dated to determine the reason**

The reason for the discrepancy was not noted on the service report and we could not identify why there was a difference in hours. The vendors when questioned also could not specify why there was a discrepancy as it was too long after the work had been completed when the Auditor General's Office raised the question. This demonstrates the importance of questioning invoices in a timely manner.

### **A.6. Flat rate pricing not used as often as expected**

**City billed for time and materials rather than flat rate**

Proponents bid a flat rate for several pieces of work listed in the RFQs. We found several instances where the flat rate listed in the RFQ was not used. We selected a few of these to consider why time and materials were charged, rather than the flat rate.

**Contracted to do inspections at \$60 each and invoiced for \$106 to \$116 each**

In one example, a vendor bid a flat rate of \$60 on the RFQ to inspect each eyewash station but that flat rate was never used. Instead the vendor charged the City for time and materials. There were 422 invoices for eyewash station inspections totaling over \$49,000 all on a labour basis (hourly rate x hours). For the majority of the invoices (357 invoices), the vendor charged the City 1.5 hours in labour for each inspection or between \$106 and \$116 per eye wash station inspection rather than the \$60 per eye wash station inspection quoted in the contract, resulting in total billing difference of over \$21,000 for the 422 invoices.

**Standard and /or level of work expected lacking from the RFQ for this flat rate item**

When we made inquiries with the vendor, the vendor provided an email confirming that the City requested that the eyewash station be inspected to a certain standard – a standard that was not included in the original RFQ and required more work. The additional work resulted in the vendor charging on a time and materials basis, and therefore this was not considered an overbilling. In future procurements, the City needs to include in the RFQs the standards the vendors should meet to complete the work so that it receives the best price.

**Contracted to replace eyewash stations for \$600 each and invoiced for an average of \$3,282 for each installation**

Similarly, a flat rate of \$600 was the bid to replace eyewash stations and again that amount was never used for billing. Instead, the City paid on a time and materials basis on 178 invoices for eyewash station installations totaling approximately \$617,000.



**Various situations could have existed requiring extra work above the basic flat rate installation but supporting documentation not obtained/retained**

We reviewed 20 invoices and found that on average, each eyewash station installation costed the City \$3,282 - much higher than the quoted \$600 and a difference in costs to the City between \$328,000 and \$498,000. It might be that adjustments to the facilities may have been required to install the eye wash station which is over and above the basic installation, but supporting documentation was not obtained or retained to support any additional billings beyond the flat rate quoted.

**Clarification required in future procurement documents**

When we asked the vendor why they were not billing according to the quoted flat rate for eyewash station installation, the vendor commented in April 2021 that:

*"The unit rate is for the specific model or item listed only ...if the model is changed than the price would change...The unit rate price does not include for us to go to a site and figure out what we need, then try to match that to unit rate prices. The travel time and effort are not covered into this process... The installation of the eyewash would be the unit rate price, if it matches the model and the number in the tender document, and we were told to utilize the unit rate and supply that item prior to attending to site."*

However, there is no make/model information in either the original RFQ documents or vendors' RFQ submission. Again, future procurement documents need more clarity. For example, it could indicate that a certain model and unit is to be used unless otherwise specified.

**Procurement process may not have yielded the best value for the City**

In total we reviewed all 422 invoices for eye wash station inspections and 178 invoices for eye wash station installations and found that none of the invoices used the flat rates quoted.

If the City awarded contracts partially based on flat-rate quoted by vendors but did not use any of the flat rates we examined, then it is questionable if the procurement process had yielded the best value for the City.

**Vendor response to flat rate pricing versus time and materials**

When a CREM staff asked why the flat rate was not being used, the vendor replied:

*"... in order to utilize the unit rate pricing calls must be called in and the city must provide the part numbers and description of work so that we can schedule within a reasonable time frame generally under five days and not be called in as emergencies".*

**Restrictions are not described in the RFQ**

The Auditor General's Office could not find the above prerequisite requirements in the contract. Further, it would mean that building supervisors would need to visit each site to diagnose the problem, including possibly taking apart the equipment and then providing the part number prior to dispatching vendors to the sites for repairs.

**City should clarify what each flat rate quote entails**

If this is not what the City intended, the City should clarify what each flat rate quote entails, including service standards and the make/model of the fixtures covered by the flat rate in the procurement documents.

### **A.7. Incorrect optional renewal year rates applied**

**Incorrect labour rates charged for renewal years**

One vendor frequently billed incorrect labour rates for the optional renewal years. Although the value of the incorrect labour amount was not significant for each invoice, there was a high frequency of the errors, signaling that City staff were not scrutinizing invoices and correcting billing patterns with vendors.

**Consider billing accuracy when evaluating vendor performance**

CREM management informed us that they recently provided building supervisors with a quick reference sheet and a contractor portal that contains important contract terms to assist them in reviewing invoices. To deter billing errors, CREM management should consider billing accuracy as part the criteria for evaluating vendor performance.

### **A.8. Holding vendors responsible for billings inaccuracies**

When vendors and management do not take the time to ensure invoices are contractually compliant, errors can go undetected. It takes the City considerable time and effort to identify billing inaccuracies.

**Supervisors and managers did not appear to scrutinize invoices as they should**

Supervisors and managers did not appear to scrutinize invoices as they should. CREM management advised us that they are in the process of shifting this culture and are implementing processes to ensure there is a thorough review and validation, as well as quality assurance practices to ensure adherence to these new processes.

**Vendors should be accountable for inaccurate billings**

In the Auditor General's February 2021 report "*Getting to the Root of the Issues*"<sup>3</sup>, we noted that it is the vendor's responsibility to ensure the billings are accurate. Billing accuracy should be part of the performance evaluation of all contactors. This should include ensuring that the vendor has billed correctly by conducting a timely review of work the vendor has reported as completed against supporting evidence and the invoice, followed by timely and immediate action to resolve discrepancies. When conducting invoice audits, CREM may consider adopting a reliable, valid, and robust sampling methodology and using extrapolation, where appropriate, to pursue recovery of overpayments resulting from on-going billing errors on a timely basis. In addition, the City may also consider charging vendors an administrative fee to recover cost from vendors when they do not bill properly.

**Recommendations:**

- 7. City Council request the Executive Director, Corporate Real Estate Management, to direct staff to verify that payment for services is consistent with the express terms of contracts.**
- 8. City Council request the Executive Director, Corporate Real Estate Management, to ensure that, where applicable, vendors include full equipment details such as capacity information on the invoices and ensure supervisors verify the rates and the number of equipment serviced before approving the invoices.**
- 9. City Council request the Executive Director, Corporate Real Estate Management, to ensure that procurement documents include clear and detailed scope of work and performance expectations for flat rate items, including checklists to perform the work, makes/models of fixtures to be installed, minimum maintenance standards that the work must meet, and/or any other relevant requirement, wherever applicable, to avoid invoice disputes.**
- 10. City Council request the Executive Director, Corporate Real Estate Management, to consider adding billing accuracy to the vendor performance evaluation criteria and charging administrative fees to the vendor where there are billing errors.**
- 11. City Council request the Executive Director, Corporate Real Estate Management, to consider utilizing a statistical sampling method to systematically validate vendor billings and where appropriate extrapolate to pursue a recovery for the City.**

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<sup>3</sup> <https://www.torontoauditor.ca/report/getting-to-the-root-of-the-issues-a-follow-up-to-the-2019-tree-maintenance-services-audit/>

## B. Lack of Documentation Supporting Invoice Payments

### B.1. Unsubstantiated materials, equipment rental, subcontractor billings

#### Challenges getting documentation

The Auditor General's Office had challenges obtaining back-up documentation for invoices to support materials purchased from suppliers to complete work for the City.

#### Material costs should be substantiated

RFQ wording specifies that vendors:

*"must be prepared to provide the **City proof of "trade cost"**[emphasis added] within five (5) business days, from request...and that failure to comply ... will provide cause for the City to terminate the Contract with the successful Bidder."*

Trade cost is defined as actual cost, after deducting various discounts in the RFQ.

#### CREM staff did not request any back-up for the materials, equipment rentals, and subcontractor work

The Auditor General's Office reviewed 50 invoices and found that CREM staff did not request any back-up for the materials, equipment rentals, and subcontractor work contained in the invoices. Apparently, building supervisors generally accept the amounts charged for these items.

#### Vendors trusted by CREM staff who review invoices and approve payment

When asked if they requested support for charges for material, one experienced building manager told us:

*"Not very often, the City rarely asked for such things. We are going to start asking for more. We had this in our contract for years. It was just not something at the forefront. There is an element of trust with the vendors since we have worked with them for years. ... It is not a common practice to challenge the vendor for proof of payments for their materials. It is not mandatory. The contract states, "The city may request..."*

#### Many costs not supported

For the sample we reviewed, the City could not locate much of the supporting documentation. Missing documents included:

- supporting documentation for materials used by the vendor, equipment rentals, subcontractor charges, estimates and quotes, vendor technician qualification level
- logs that verify that vendors are onsite to conduct work and how long they were on site for
- missing information of the capacity of the equipment worked on by the vendor, making it difficult to assess whether the billed PM rates were accurate
- cost breakdowns for labour/material components of the estimates provided

**CREM staff did not substantiate costs invoiced by vendors**

For instance:

- 20 out of the 50 invoices reviewed contained a total of 43 individual materials costing from \$600 to \$7,500. CREM staff did not request vendors to substantiate any of these costs.
- 22 out of 75 (29 per cent) invoices reviewed involved subcontractor charges and ranged from \$300 to \$6,500. CREM staff did not request vendors to substantiate any of these costs.

**The review of back-up can identify errors**

Review of supporting documentation can help identify billing errors. For example, in one case, a vendor billed the City \$9,266 for removing an old pair of residential capacity washer and dryer and installing a new set. The vendor quoted \$4,660 for removal the existing washer and dryer and supplying of a 5.5 cu.ft Whirlpool Top Load Washer and a 7.4 cu.ft. Whirlpool dryer, in addition to other material and labour cost.

**City overbilled by a minimum of \$1,300 for the work of replacing a pair of washer and dryer of residential capacity**

The retail price for these pair of Whirlpool washer and dryer are in the range of \$2,200. The vendor also charged an additional \$1,125 for installation, which included labour hours for three technicians and \$110 for two 4 feet long and 3/4" in diameter braided hoses.

When the Auditor General's Office questioned the vendor, the vendor agreed that the \$4,660 should have included the labour and hoses and \$1,125 was accidentally overbilled. The vendor will be issuing a credit to the City.

**Recommendation:**

**12. City Council request the Executive Director, Corporate Real Estate Management, to ensure that supervisors request vendors to substantiate invoiced amounts that reach a certain threshold with supporting documentation before providing approval, with such supporting documentation to include but not be limited to:**

- a. service reports;
- b. material receipts;
- c. equipment rental receipts; and
- d. subcontractor receipts.

**B.2. Vendor materials purchases from related company undisclosed**

**Materials appear to be purchased from a related company**

In one case the employee noticed that a vendor billed for materials at a higher cost than they would have expected. When they requested back-up receipts the vendor produced a receipt from a related company, a company that was apparently operated by a family member. The material's mark-up was billed on top of that. The related company appears to have been a major supplier of plumbing materials to the vendor.

**Difficult to challenge pricing from the related company due to a combination of reasons**

However, there is nothing in the contract precluding the supplying of parts or materials from a related company, and it is difficult to challenge pricing because the trade cost can be different for different suppliers and prices can fluctuate, depending on supply and demand.

**Consider the due diligence required when approving invoices that are time and materials based for the Centre of Excellence in contract management**

While we recognize that current processes now require estimates / quotes for jobs over \$750, and this may protect against any concerns that material or job prices are too high, the City may benefit by having greater transparency when vendors obtain materials from related companies for billings based on time and materials. Going forward, as the City is developing its Centre of Excellence in contract management, we recommend that they consider assisting Divisions in understanding the level of due diligence necessary prior to approving invoices that are time and material based. Where costs appear to be too high it may be worth obtaining additional documentation. Such due diligence should consider the relationship between the contractor and supplier where appropriate.

**Recommendation:**

**13. City Council request the Chief Procurement Officer, in consultation with the City Solicitor and the Director, Internal Audit, when developing the Centre of Excellence in Contract Management, to provide guidance to City divisions on what due diligence should be considered before approving time and materials invoices where costs appear to be high, with such due diligence to consider, where appropriate, the relationship between a contractor and a supplier.**

**B.3. Invoice processed without worksites logs**

**Log books should record workers on site**

During the investigative review, it was necessary to determine if workers were on site when vendor invoices indicated work was being done. To accomplish this, we turned to individual site security log books and planners. Log books help document when vendors are working onsite.

**An email from CREM Management reminded staff to validate vendor services in 2018**

On August 31, 2018, CREM management sent out an email to staff with the subject line reading as “*Due Diligence to Validate Services.*” This email stated that:

*“Where possible, vendor staff should be signing in and out using the City’s contractor log books [emphasis added]. We will continue our efforts to implement log books at all locations managed by Facilities Management.”*

**Log books have not been provided and/or signed**

Our review indicates that despite this email, log books have not been provided and/or signed.

**Not all invoices were supported by log book entries**

To help confirm the information in the service reports, the Auditor General's Office requested log books related to 29 sample invoices. Management provided 13 log books and four daily planners or notebooks in lieu of log books.

- 10 invoices had no log books for their site
- 2 sites had log books that were blank
- Of the 13 log books provided,
  - 7 did not record any visits by the vendors on the day when work was supposed to have taken place
  - 6 provided partial evidence that vendors were working onsite no log book completely matched the invoiced hours.

**Supervisors not reviewing log book entries when approving vendor billings**

With the limited information provided, it was evident that supervisors neither request nor review log books as part of their regular invoice review and approval process.

**Discrepancies found between in and out times documented in service reports and those in log books**

Reviewing invoices against log book records is a necessary step to confirm the work was done and the hourly billings are accurate. Our comparison of the in and out times documented in service reports to those documented in the log books, revealed discrepancies that should have been followed up. This was discussed in Section A.5.

**Monitoring vendor technicians through the efficient use of log books or modern technology is required**

In order to ensure City worksites are secure and the City is receiving value for their contract payments, a system needs to be set up to monitor vendors working on site. Vendors need to be monitored through the efficient use of log books and modern technology.

**CREM implementing enhancements to validate site visits**

Management acknowledges the issue and improvements are already under way. Management noted that in the future vendors will need to scan equipment barcodes when they attend City sites, where applicable. In addition, the City will require the vendor to log time and attendance and other work order details through a Computerized Maintenance Management System and the City's contractor status portal while on site. These requirements have been included in the new RFP issued in November 2020 for HVAC services. In addition, CREM is looking to standardize, to the extent possible, the approach to implementing and utilizing technology to validate vendors' work duration at City sites across its portfolio on contracted services.

**Recommendation:**

- 14. City Council request the Executive Director, Corporate Real Estate Management, to ensure that technology is used to validate service time billed by vendors.**

## C. Other Contract Management Practices Requiring Continuous Improvement

We also observed numerous additional opportunities to improve the future procurement calls and solicitations which are discussed below.

### C.1. Dispute resolution process needs improvement

#### The dispute resolution process had issues

Throughout this review we identified several areas where there were billing disputes. We learned that in the past it was up to CREM supervisors to resolve billing disputes and at times the situation escalated to the point that vendors stopped communicating with certain City staff.

#### New process is more robust

Progress has been made in this area. Per our discussion with CREM management and observation during the review, a shift in culture and dispute resolution seems to be taking place.

CREM management advised us that “whereas disputed invoices seemed to just sit and linger” in the past, issues are now being forwarded to its vendor management group for resolution “instead of leaving it to the facility operational staff” to resolve.

#### Recommendation:

**15. City Council request the Executive Director, Corporate Real Estate Management, to formalize the invoice dispute resolution process and ensure that both billing disputes and resolution are documented.**

### C.2. Updated and comprehensive equipment inventory needed

#### Auditor General report recommended an equipment inventory in 2005

In 2005, the Auditor General Office issued a report entitled "*Maintenance and Administrative Control Review – Facilities and Real Estate*"<sup>4</sup>. The report identified that a complete list of building equipment such as boilers requiring regular preventative maintenance servicing and a history of regulatory inspections and warranties was not available. A recommendation was made to ensure all necessary building information is incorporated into the SAP Plant Maintenance and Asset Management Modules to assist in maintenance planning and repair decisions and provide a record of regulatory inspections.

This recommendation has not been fully implemented at the time of this report.

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<sup>4</sup> <https://www.torontoauditor.ca/report/maintenance-and-administrative-controls-review-facilities-and-real-estate/>



**Duplicated listing of equipment resulted in billing disputes**

The Auditor General's Office identified equipment was listed multiple times on the RFQ resulting in billing disputes. For example, at least 23 pieces of equipment was listed twice or three times in one RFQ.

The vendor billings were consistent with the RFQ. The RFQ lists the equipment more than once and the equipment was billed for consistently with the RFQ.

**Duplicated listing of equipment in one RFQ resulted in invoice dispute**

A vendor explained that they split prices between two RFQ items. For example, if a PM for an identical piece of equipment is listed twice in the RFQ for \$120 each, the vendor then charged \$240 for two of the same items listed, instead of \$120 for just one. Although \$120 is in line with the vendor's PM quote for other similar equipment and therefore price splitting does not appear to be the case, the City is not able to argue otherwise because the same equipment is listed more than once in the RFQ.

This led to our question of who is responsible to maintain the up-to-date equipment list?

**City currently relies on vendors to create and maintain an up-to-date inventory list for each facility/location and for all equipment serviced**

The RFQ requires that vendors create and maintain an up-to-date inventory list for each facility/location, including make, model and serial number for any/all equipment serviced. For example, an RFQ clause states that:

*The Contractor shall create, maintain and keep up-to-date a Microsoft Excel-compatible spreadsheet detailing full name plate information for each facility/location, including: type of boiler, input BTU, make, model, and serial number for any/all equipment serviced. The Contractor shall submit this to the applicable Operations Supervisor(s) within the first ten (10) months of the Contract. The Contractor must submit an up-to-date inventory quarterly thereafter.*

and that:

*On the first service visit, the Contractor shall create, maintain and keep up-to-date a Microsoft Excel-compatible spreadsheet detailing for each facility/location: type of equipment, make, model, and serial number for any/all equipment serviced. The Contractor shall submit this to the applicable Operations Supervisor within the first year of the Contract.*

**Up-to-date equipment lists were not retained**

However, when we searched for these documents, we were told that City staff have not followed up to ensure that up-to-date spreadsheets are maintained and provided to the City.

**Addressing recommendations in Auditor General's 2005 report would have helped avoid this situation**

If the Auditor General's Office recommendation from 2005 had been addressed, issues of this nature could have been avoided.

**The inventory listing should be complete in Q4 2021**

Management informed us that they awarded a contract on September 12, 2019 to an organization to provide an inventory and tagging of specific equipment located in 392 City buildings. According to CREM staff, the asset tagging project is expected to complete in Q4 2021. This will assist with ensuring that vendors are only bidding on and invoicing once for PM for the same piece of equipment. It will also help address the Auditor General's 2005 recommendation.

**Recommendation:**

- 16. City Council request the Executive Director, Corporate Real Estate Management, to develop and maintain a comprehensive and up-to-date equipment inventory list, including but not limited to, where applicable:**
- a. capacity;
  - b. make;
  - c. model; and
  - d. serial number of the equipment.

**C.3. Preventative maintenance (PM) costs are lower than target in RFQ**

**Analysis shows that vendors diverted flat rate billings to time and material billings and only a fraction of the targeted PMs were performed**

We analyzed three RFQs that had two components: a labour rate component and a flat rate component for PM work or standard service items. We then compared the actual spending on PM and on demand work to the target values of three RFQs and found that there are significant discrepancies between targeted RFQ values and actual spending by component.

We noted that actual billings in flat-rate PM work accounted for only a fraction of the targeted PM values and that time and material billings accounted for the rest. Further, flat rates quoted for PM work or standard service items were often not used. Finally, some standard service items were never used.

**On demand work accounted for 154% of the targeted amount in the RFQ in prior plumbing maintenance contract**

For example, for one RFQ, we noted that flat rate billings accounted for only 14 per cent of targeted PM value whereas the time and material (T + M) billings for on-demand work accounted for 154 per cent of the targeted value for demand maintenance.

**PM was underspent by 71% versus the target amount**

For another RFQ, the overall contract was underspent by 38 per cent but the underspending in PM portion was more pronounced. The estimated actual spending on PM was only 29 per cent of the target value or underspent by 71 per cent.

**Regular review of the ratio between planned preventative maintenance work and time and materials work should be performed**

There can be several reasons for these discrepancies. As noted above in section A.6., circumstances changed such that the flat rate billing was no longer being used. However, CREM should be regularly reviewing the ratio between planned PM work and time and materials work and analyzing why the ratio is out of balance, which flat rate items are not be utilized and why.

It may be that some PM is not getting done, or that the flat rates PM categories listed in the RFQ are not being used and that time and materials is being charged instead. It is important that management understand the reason for the variances to help ensure that PM is being done, to help manage operations and prepare for future RFQs.

**PM doesn't pay as well as breakdown repairs**

One experienced manager told us:

*"If vendors priced preventive maintenance at exceptional low value with a view of getting the contract, and that preventative maintenance does not happen or becomes a priority, then the breakdown repairs goes up exponentially."*

**Barcoding will support confirmation that PM is being performed**

Once the City has fully implemented barcoding the equipment, it will help confirm that PM is being done. This notwithstanding, management will need to analyze why the expected usage of flat rate items does not equal to estimated usage at the time of the RFQ, and why time and materials is being used more often.

**Vendor to explain deficiencies found during preventative maintenance**

For example, even though RFQs require repair recommendations arising from PM visits to:

*"not be performed unless authorized by a Manager or his /her approved designate under a separate work order issued by the City"*

We still found PM and deficiency correction work that were billed together so the time and materials category may have been used more often.

**New process initiated in 2019 require staff to raise a separate work order to address deficiencies identified while performing preventative maintenance**

CREM advises that they initiated a new process in April 2019 whereby staff are required to raise a separate work orders for vendors to address deficiencies identified while performing PM. The new process requires separate billings for PM work and for deficiency correction work. However, culture change takes time and we have not verified whether the issue has been completely fixed.

**Recommendation:**

- 17. City Council request the Executive Director, Corporate Real Estate Management, to develop a Preventive Maintenance plan for equipment that require regular maintenance, and to ensure such work is being completed and tracked in a timely manner.**

#### **C.4. Lack of documentation for after-hours work**

**Some overtime charged lacked notes documenting that it was necessary**

A vendor billed the City overtime when it appears that overtime may have been questionable or at a minimum did not contain a documented reason why it is needed. RFQs specify that after-hours work must be authorized by City Building Supervisors:

*“All work performed shall be scheduled during the City’s regular scheduling working hours **unless mutually agreed upon by the Contractor and the appropriate building representative [emphasis added].”***

**Less than half of the sampled invoices with overtime had documented evidence that overtime was warranted**

Some overtime is understandable where work was deemed urgent, or the work needed to be carried out in after-work hours, or otherwise specifically approved by building supervisors. We sampled 75 invoices from a vendor and found 22 out of the 75 invoices involved overtime hours. Only nine out of the 22 were either emergency work or pre-approved for after-hours billings. Thirteen invoices did not have a documented rationale that overtime was warranted.

We asked management to examine eight of the 13 invoices to see if overtime was necessary after the Auditor General's review determined five appeared reasonable. Management determined that four out of the eight overtime was justified and that they were not able to confirm if the other four were unnecessary. We then reviewed the latter four invoices with the vendor. The vendor confirmed that they:

*"...only complete after hour work when it is requested by the facility manager for reasons such as it is an ... emergency or the work will interfere with the occupants during regular hours. Many times in the past we have been verbally instructed by the FM that a ...call is now an emergency ... however we now request they update the request ...Sometimes they do it and sometimes they do not."*

The vendor further noted:

*"I can also confirm we lose money on most overtime calls as per local 46 regulations we have to pay our staff 4 hours minimum & or double time for a majority of the after-hours calls so we would never complete a call after hours unless the customer demanded it."*

**Policy and procedures required to approve overtime by the Vendors**

Currently, there are no policies or procedures (above and beyond the RFQ) requiring supervisors to pre-approve overtime work. To facilitate invoice approval and subsequent invoice audit, CREM should require additional information to be provided in either the Work Order or the service reports to document why after-hours billings are warranted.

**Recommendation:**

- 18. City Council request the Executive Director, Corporate Real Estate Management, to ensure after-hours work is approved and justified, and the rationale for overtime work documented.**

**C.5. Separate work orders and billings for a series of inspections or identical equipment in one building or even one floor of a building**

**Multiple annual inspections in one building on one floor billed individually at flat rate**

One RFQ allows a flat rate for to be charged for the annual inspection of relief valves at each site. For a large building, there are multiple relief valves in the building, or on the same floors of a building.

A vendor charged the City 13 hours for inspecting thirteen relief valves in Metro Hall even though the technician spent only 3.75 hours onsite. City staff issued thirteen separate Work Orders for this inspection. Eight of these relief valves were located on the same floor. Had the City issued only one work order for this work, the cost to the City would have been less than \$300, rather than the \$1008 (before HST) billed.

**Billings in compliance with contract but improvements needed in future procurements**

Although the vendor is billing in accordance with the contract, the City should better plan this kind of work. CREM staff commented that they issued thirteen work orders because it is important to track the status of PM for each relief valve separately.

Going forward, it is important for CREM to have a better gauge regarding how much time it takes to complete the work when setting up future procurement solicitations/calls.

**C.6. Undeclared subcontractor technician and subcontractor work**

**Undeclared subcontractor work that was billed at journeyman rate**

In our sample, we noted that six invoices from one City vendor involved subcontractor employees, but the vendor did not declare that subcontractors were being used. The vendor billed the City as if the subcontractors were its own employees.

- Further, these invoices involved work that was not considered licensed trade but the vendor billed at the journeyman rate of a licensed trade.
- The total billing for the subcontractor employees' labour hours related to the six invoices was \$3,729.

Clarifications of how to bill for non-licensed trades needs to be included in the contract and future procurement solicitations/calls.

**Vendors used subcontractors in emergency headquarters and billed as if they were their own employees without CREM's knowledge**

Similarly, when reviewing logs, we found two invoices where the work was done by subcontractors, but the vendor did not disclose on its invoices that it was its subcontractors completing the work. Neither invoices had service reports nor supporting receipts from the subcontractor. The service locations for these invoices involving undisclosed subcontractors included Police stations, Fire and EMS Headquarter, and Civic Centres – locations where emergency /sensitive information is processed and handled.

**City should have knowledge of who was servicing City buildings to ensure that vendors comply with fair wage policies and for security reasons**

It is important for the City to know which subcontractors are completing the work on behalf of vendors because CREM conducts work in City emergency related buildings and needs to ensure that the City's security is not compromised. In addition, the City needs to know whether its vendors are charging for subcontractors appropriately and complying with the City's fair wage policies.

**It is important to request supporting documentation to substantiate vendor billings**

The above information regarding subcontractors became clear to the Auditor General's Office only after its staff requested and obtained the supporting documentation such as technician qualifications, log book records for work duration, and materials back-up receipts from vendors. This finding underlines the importance of requesting supporting documentation to substantiate vendors' invoices and service reports.

The recommendation to address this issue is included in Section A.2.

### **C.7. Lack of process to require vendors to provide estimates and obtain approval prior to proceeding with repairs**

**Lack of process for vendors to provide estimates prior to completing the work**

For the period under review, there were no formal processes requiring supervisors to obtain estimates or pre-authorization prior to work commencement by vendors and no guidance on subsequent invoice review and approval. We observe the following issues:

- Vendors did not need pre-approval before working on site.
- There was no set threshold for CREM to request quotes or estimates.
- It is not clear from reviewing the invoices whether there was a quote or an estimate because estimates often did not accompany invoices. When we requested missing estimates, CREM management also couldn't locate them.
- Estimates that were available were overly simplified and did not provide sufficient information. In general estimates only listed two aggregate amounts for labour and materials. Estimates often did not identify the number of technicians, detailed list of materials, labour hours, and work stages involved. It is questionable whether CREM staff scrutinized the estimates before sending their approval.
- Service reports are not always provided where an estimate is involved.

**Of the sample of 50 invoices, only 12 had an estimate before the work was completed**

For instance, we reviewed 50 invoices and observed the following:

- 12 out of the 50 had estimate/quotes before work was performed, only 4 quotes were accompanying the invoices.
- We requested 8 estimates/quotes that did not accompany invoices. CREM were not able to provide them.
- Two invoices had neither the estimates/quotes nor a service report accompanying the invoices but had been paid by the City. When asked, CREM was not able to locate the service reports either. It leaves the question as to how CREM staff can assess whether invoiced work matched the estimated amount.

**Estimates should be required for work prior to it being completed**

These issues identify the need for CREM to formalize the process surrounding obtaining estimates. CREM should require supervisors to obtain estimate before allowing vendors to carry out work. If vendors identify deficiencies while on site for PM, they should call or email supervisors for approval.

**Estimates, not actuals, were used in billing**

In addition, we noted that invoices were generally billed according to estimates where estimates were obtained, even when the service report showed that actual material and labour were different from estimate.

**Estimates and quotes used interchangeably**

CREM staff may be using estimates and quotes interchangeably despite the difference in definitions. Quotes are supposed to be firm and unalterable. One supervisor told us that the City did not have any firm quotes and only estimates until recently. If that is the case, all invoices should have been billed according to actual materials and labour cost.

**New process requires estimates/quotes for all work above \$750**

CREM management concurred with the above observation and informed us that there was a lot of confusion resulting from the lack of consistent division-wide policy and threshold for requiring estimates/quotes.

***New process***

During our review, in November 2020, management issued a new process requiring supervisors to obtain estimates/quotes for any work exceeding \$750. Further, vendor estimates or quotes greater than \$10,000 will require manager approval in writing and the approval must be attached to the work order.



**Recommendation:**

**19. City Council request the Executive Director, Corporate Real Estate Management, to ensure that estimates and quotes include detailed breakdowns such as the number of technicians, labour hours, equipment, materials list and costs and, in the event that an estimate is provided, the final invoice should be substantiated by a service report and other supporting documentation.**

**C.8. Continuous improvements related to future procurement solicitations/calls**

**Exhibit 1 highlights the areas discussed in the report where improvements in future procurement solicitations is required**

Many of the issues identified in this report resulted from deficiencies, gaps, lack of clarity, and inconsistencies in the RFQs. Improvements in future procurement documents would help mitigate many issues discussed in this report. Exhibit 1 summarizes the various issues and the corresponding areas of improvement needed for future procurement documents.

Recommendations to address procurement gaps including the following have been included in prior sections throughout the report:

- Accurate equipment list
- Apprentice rates for different skill levels
- Subcontractor pre-approvals and cost mark-up
- Contract amendments process and authority to grant such amendments
- Guidance on how to approve contract amendments
- Digital validation of service and work duration

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## Conclusion

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**Billing errors found but intentional overbilling was not noted**

This report highlights the results of our review of CREM processes, including billing accuracy and contract management to determine whether CREM was paying inaccurate or inflated invoices.

While we did find some billing errors and invoice processing issues, intentional overbilling was not noted. We also identified areas of procurement and contract management processes for CREM to improve.

We note that CREM is transforming how it is managing vendors and is already moving forward on some invoice processing improvements. Our findings and recommendations will help CREM as it continues to improve how it procures services, manages contracts, and pays invoices going forward.

Many of the issues discussed in this report may exist in other City contracts. The City Manager should require other divisions to review and identify issues that are applicable to them.

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## Objective, Scope and Methodology

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### **Objective - Why we conducted this review?**

This report focuses on our review of billing accuracy and contract management issues related to the employee's allegations and the results of additional work undertaken by the Auditor General's Office.

### **Scope**

We undertook sufficient work to confirm the accuracy of billings and whether there was intentional overbilling. Our review focused on:

- Over 250 invoices reviewed in detail and performed data analytics on approximately 1,500 additional invoices. These invoices cover the period of 2013 to 2020.
- Included in the 250 were 55 invoices that had been previously disputed by the employee as having invoicing and contract issues between 2016 and 2018.

### **Review methodology**

Our review included:

- Extensive Interviews with current and former CREM staff
- Extensive invoice reviews
- Data analytics of invoices and contract spending
- Reviewing procurement documents
- Reviewing CREM process and procedural documents
- Reviewing sample invoices audited by CREM and the associated audit results
- Communications with vendors
- Consulting staff from City Legal Services and Purchasing and Materials Management Division on issues noted in this report

### **This review is not considered a performance audit in accordance with GAGAS**

This is a review, not an audit.

The work performed in relation to this review does not constitute an audit conducted in accordance with Generally Accepted Government Auditing Standards (GAGAS). However, we believe we have performed sufficient work and gathered sufficient appropriate evidence to provide a reasonable basis for our findings, conclusions, and concerns.

# Exhibit 1: Billing Issues and the Corresponding Deficiencies in Procurement Documents

Report Section	Reported Issues	Deficiencies/Gaps in RFQs
<b>Section A.1.</b>	<p>Billed Journeyman rates for apprentice work</p> <p>After-award negotiation between a vendor and the City to allow the vendor to bill journeyman rates for apprentice work</p>	<ul style="list-style-type: none"> <li>• RFQs did not provide labour rates for different skill levels of apprentices or a sliding scale of rates</li> <li>• RFQs did not require invoices to identify technician full names, qualifications, registration with the Ontario College of Trades</li> </ul>
<b>Section A.2.</b>	<p>Vendors charging subcontractor mark-up</p> <p>Negotiation between a vendor and the City to allow the vendor to bill 15 or 20 per cent of mark-up on subcontractor work</p> <p>Vendor subcontracted work to City's vendor on record</p>	<ul style="list-style-type: none"> <li>• RFQs did not stipulate if subcontractor mark-up is allowed</li> <li>• RFQs /Contracts did not specify the process for contract amendments and who can authorize such amendments</li> </ul>
<b>Section A.6.</b>	<p>Flat rate pricings not being used as often as expected; some flat rate items were never used, such as eyewash station inspections and installations</p>	<ul style="list-style-type: none"> <li>• Flat rate items did not specify the relevant standards with which the work must comply with</li> <li>• RFQ did not specify the makes/models of the fixtures that were covered by the flat rate included in the procurement documents</li> </ul>
<b>Section B.3.</b>	<p>Vendors did not sign in and out in log books</p> <p>Log books signing in and out inconsistently enforced at City sites</p>	<ul style="list-style-type: none"> <li>• RFQs did not consistently require vendors to fill out log books at City sites.</li> </ul>
<b>Section C.2.</b>	<p>Billing disputes resulted from duplicated equipment listing in RFQs</p> <p>Lack of updated equipment inventories</p>	<ul style="list-style-type: none"> <li>• Some RFQs contains outdated equipment list, some equipment was duplicated</li> </ul>

<p><b>Section C.6.</b></p>	<p>Undeclared subcontractor billings</p> <p>Vendors billed for subcontractor employees as if billing for their own employees</p> <p>Vendors billed journeyman rates for subcontractor employees for work that is not a licensed trade</p>	<ul style="list-style-type: none"> <li>• RFQs did not explicitly require vendors to submit a list of subcontractors for pre-approval. Other RFQs merely adopted the wording “approved subcontractors”</li> <li>• RFQs did not have provisions for billing for unlicensed trade</li> <li>• RFQs did not have provisions for billing for subcontractor employees that are licensed trades person</li> </ul>
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# Appendix 1: Management’s Response to the Auditor General’s Report Entitled: “Challenges in Contract Management – Auditor General's Review of the Corporate Real Estate Management Division”

**Recommendation 1:** City Council request the Executive Director, Corporate Real Estate Management, in consultation with the City Solicitor, to identify and assess the recoverability of the Corporate Real Estate Management Division's current vendor billing of journeyman's rates for apprentice work for the City's maintenance contracts where apprentice work is involved.

<b>Management Response:</b> <input checked="" type="checkbox"/> Agree <input type="checkbox"/> Disagree
<b>Comments/Action Plan/Time Frame:</b>  Corporate Real Estate Management will consult with the City Solicitor to assess contracts where apprentice work is involved and determine amounts that may be recoverable. This work is expected to be complete by the end of the second quarter of 2022.

**Recommendation 2:** City Council request the Director, Internal Audit, in consultation with the City Manager, to report back to the Auditor General by mid-2022 on the degree of potential exposure across the City on the apprentice billing rate issue discussed in Section A.1. in Attachment 1 to this report and include proposed recommendations to address the exposure noted and the estimated financial impact.

<b>Management Response:</b> <input checked="" type="checkbox"/> Agree <input type="checkbox"/> Disagree
<b>Comments/Action Plan/Time Frame:</b>  The Internal Audit Division agrees with the recommendation, and will incorporate this engagements into its work plan. This engagement will include a risk based assessment of potential contracts across the city impacted by this recommendation. Pending this initial assessment, Internal Audit will work with impacted stakeholders (e.g. City Manager's Office; PMMD, other Divisions) on recommendations and action plans to address any exposure, and as indicated in the recommendation, the financial impact.

**Recommendation 3:** City Council request the Chief Procurement Officer, to ensure that, in procurements where hourly rates for apprentices are being sought as part of the procurement, the rates being requested from the suppliers are reflective of the different skill levels of apprentices that are applicable to that type of work and that suppliers are required to provide a list of journeymen and apprentices semi-annually to City divisions.

<b>Management Response:</b> <input checked="" type="checkbox"/> Agree <input type="checkbox"/> Disagree
<b>Comments/Action Plan/Time Frame:</b>  PMMD will develop a procedure with respect to procurement where hourly rates for apprentices are sought to ensure that the pricing sheet is reflective of the types of apprentices, and to ensure that the contract language provides that the suppliers is to provide a list of the journeymen and apprentices to the Divisions who use such types of contracts. Time Frame Q2, 2022.

**Recommendation 4: City Council request the Executive Director, Corporate Real Estate Management, to ensure the following for procurements involving apprentice rates:**

- a. vendor invoices or their supporting documentation clarify the following information relating to vendor technician(s) dispatched to repair or maintain City equipment, including:
  - 1. full name(s);
  - 2. certificate(s) of qualification; and
  - 3. registration number(s) with the Ontario College of Trades; and
- b. the City is invoiced at the proper rates.

<b>Management Response:</b> <input checked="" type="checkbox"/> Agree <input type="checkbox"/> Disagree
<b>Comments/Action Plan/Time Frame:</b>  Furthermore, Corporate Real Estate Management will work to ensure that future contracts include language explicitly requiring the vendor to include technician details on supporting documentation. This will be implemented on a rolling basis as existing contracts expire and new procurement call documents and contracts are executed, with full implementation by the end of the second quarter of 2023. However, New processes implemented within Corporate Real Estate Management's Facilities Management service line in January 2021 require vendors to submit service reports alongside invoices. These service reports must include the full names of all apprentice or journeyman including their registration number with the Ontario College of Trade. Therefore, these requirements will be implemented in the major categories, including maintenance contracts such as the ones that were the subject of this audit, over a shorter period of time.

**Recommendation 5: City Council request the Executive Director, Corporate Real Estate Management, to ensure that all future procurement calls/solicitations include a requirement on the appropriate process for contract amendments, including proper authorization, documentation, and ensuring amended contracts are centrally stored.**

**Management Response:**  Agree  Disagree

**Comments/Action Plan/Time Frame:**

Corporate Real Estate Management will ensure that future contracts are clear on the appropriate process related to contract amendments, including how such changes are formally authorized. Furthermore, CREM is currently implementing new process to centrally manage and store contract amendments and will roll this out across all contracts over the next two years. The implementation of this recommendation will commence with the latest procurement call documents prepared, and will be implemented on a rolling basis as existing contracts expire and new procurement documents and contracts are executed, by the end of the second quarter of 2023.

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**Recommendation 6: City Council request the Executive Director, Corporate Real Estate Management, to ensure vendors obtain pre-approvals for using subcontractors, bill accurately and declare such usage on the invoices/service reports.**

**Management Response:**  Agree  Disagree

**Comments/Action Plan/Time Frame:**

New processes implemented within Corporate Real Estate Management's Facilities Management service line in January 2021 require that vendors obtain approval from the City prior to engaging subcontractors. These processes require that the vendor submit the sub-contractor invoice so that the division can validate the services rendered and the billing prior to approving the invoice, where applicable.

Based on the work completed to date, Corporate Real Estate Management believes the recommended action will be fully implemented within the Facilities Management service line by the third quarter of 2021.

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**Recommendation 7: City Council request the Executive Director, Corporate Real Estate Management, to direct staff to verify that payment for services is consistent with the express terms of contracts.**

**Management Response:**  Agree  Disagree

**Comments/Action Plan/Time Frame:**

New processes and tools implemented within Corporate Real Estate Management's Facilities Management service line over the past couple of years are resulting in greater access to contract terms and stronger scrutiny of vendor billings. As noted in the Auditor General's report, the division had previously implemented a portal that centralized key information about contract terms for staff reference. Furthermore new processes have been explicit about ensuring staff validate billings against contract terms. Lastly, a quality assurance team has been established within CREM. One function of this team will be to develop and implement a process to conduct periodic invoice reviews to ensure invoices billed and paid were consistent with contract terms.



Based on the above, CREM has already begun to implement this recommendation, with full implementation expected by the end 2022.

**Recommendation 8: City Council request the Executive Director, Corporate Real Estate Management, to ensure that where applicable, vendors include full equipment details such as capacity information on the invoices and ensure supervisors verify the rates and the number of equipment serviced before approving the invoices.**

**Management Response:**  Agree  Disagree

**Comments/Action Plan/Time Frame:**

As CREM builds its asset inventory through its asset tagging initiative, future processes will ensure that asset details and quantities (where applicable) will be provided to the vendor when assigning work orders which will aid with invoice verification and approvals. This process is currently being followed for the elevator category where work orders are issued at the asset level. Additionally, new processes implemented within Corporate Real Estate Management's Facilities Management service line in January 2021 require that staff verify the rates and the equipment before approving the invoices.

Lastly, future contracts will require the vendor to include the relevant equipment details within supporting documentation.

The division expects to include the above-mentioned updates to contract language on a rolling basis as existing contracts expire and new procurements and contracts are executed. Full implementation of this recommendation is expected to occur by the end of 2022.

**Recommendation 9: City Council request the Executive Director, Corporate Real Estate Management, to ensure that procurement documents include clear and detailed scope of work and performance expectations for flat rate items, including checklists to perform the work, makes/models of fixtures to be installed, minimum maintenance standards that the work must meet, and/or any other relevant requirement, wherever applicable, to avoid invoice disputes.**

**Management Response:**  Agree  Disagree

**Comments/Action Plan/Time Frame:**

Corporate Real Estate Management is updating work scope and vendor requirements with each new procurement call. This has been included in the new HVAC procurement call documents, as well as within the elevating devices contract. CREM will continue to implement this recommendation across all contracts on a rolling basis as existing contracts expire and new procurement call documents are created. This is expected to be implemented by the end of the second quarter of 2023.

**Recommendation 10: City Council request the Executive Director, Corporate Real Estate Management, to consider adding billing accuracy to the vendor performance evaluation criteria and charging administrative fees to the vendor where there are billing errors.**

<b>Management Response:</b> <input checked="" type="checkbox"/> Agree <input type="checkbox"/> Disagree
<b>Comments/Action Plan/Time Frame:</b>  Corporate Real Estate Management has begun to implement improved vendor management practices. This includes the creation of vendor performance dashboards and contract specific key performance indicators that are reviewed on a periodic basis with the vendors. An invoice accuracy criteria has been included within the vendor performance dashboard. Wider roll out of these practices are expected starting in the third quarter of 2021. Billing accuracy will be assessed through regular invoice approvals as well as through the periodic invoice reviews done through CREM's quality assurance program. With respect to administrative fees, in some contracts penalties for incorrect invoices has been included in the Service Level Agreements with the vendors. CREM will consider the application of this, or other means, within future procurement call documents and contracts to ensure billing accuracy is improved. This recommendation is expected to be implemented by the end of 2022.

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**Recommendation 11: City Council request the Executive Director, Corporate Real Estate Management, to consider utilizing a statistical sampling method to systematically validate vendor billings and where appropriate extrapolate to pursue a recovery for the City.**

<b>Management Response:</b> <input checked="" type="checkbox"/> Agree <input type="checkbox"/> Disagree
<b>Comments/Action Plan/Time Frame:</b>  Corporate Real Estate Management is implementing periodic invoice reviews into its quality assurance program. This type of methodology will be included in developing the process and procedures for carrying out these reviews. Where recoverability is assessed and past recoveries are deemed worthy to be pursued, CREM will work with Legal Services to do so, utilizing these types of methods where applicable. The division expects to implement this practice by the end of the second quarter of 2022.

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**Recommendation 12: City Council request the Executive Director, Corporate Real Estate Management, to ensure that supervisors request vendors to substantiate invoiced amounts that reach a certain threshold with supporting documentation before providing approval, with such supporting documentation to include but not be limited to:**

- a. service reports;
- b. material receipts;
- c. equipment rental receipts; and
- d. subcontractor receipts.

<b>Management Response:</b> <input checked="" type="checkbox"/> Agree <input type="checkbox"/> Disagree
<b>Comments/Action Plan/Time Frame:</b>
<p>Corporate Real Estate Management's Facilities Management service line implemented a process in January 2021 requiring that vendors provide supporting documentation (e.g. rental equipment receipts and subcontractor receipts) to substantiate work valued above a set threshold and to ensure that staff have the necessary information to validate invoiced work.</p> <p>The division will work to ensure that materials receipts will be requested as part of a quality assurance process, which will be applied to randomly selected invoices.</p> <p>The division will ensure that these requirements are reflected in future contracts on a rolling basis as existing contracts expire, which will provide further support existing efforts to substantiate invoiced amounts.</p> <p>This recommendation is expected to be implemented by the end of the second quarter of 2023.</p>

**Recommendation 13: City Council request the Chief Procurement Officer, in consultation with the City Solicitor and the Director, Internal Audit, when developing the Centre of Excellence in Contract Management, to provide guidance to City divisions on what due diligence should be considered before approving time and materials invoices where costs appear to be high, with such due diligence to consider, where appropriate, the relationship between a contractor and a supplier.**

<b>Management Response:</b> <input checked="" type="checkbox"/> Agree <input type="checkbox"/> Disagree
<b>Comments/Action Plan/Time Frame:</b>
<p>The Chief Procurement Officer, in consultation with the City Solicitor and the Director, Internal Audit, will create guidance documents for what Divisional staff should consider as due diligence when considering to approve billings based on time and materials. This will be part of the development of the Centre of Excellence for Contract Management. Timeframe Q4, 2022.</p>

**Recommendation 14: City Council request the Executive Director, Corporate Real Estate Management, to ensure that technology is used to validate service time billed by vendors.**

<b>Management Response:</b> <input checked="" type="checkbox"/> Agree <input type="checkbox"/> Disagree
<b>Comments/Action Plan/Time Frame:</b>
<p>Corporate Real Estate Management has been exploring technology solutions to validate work, and has been using geo-tracking and other time and attendance systems within some existing contracts. The functionality of geo-location capture is also available within existing tools used by CREM. CREM will continue to investigate and strategize on the best approach to utilize technology in validating work performed and billed. Requirements will also be incorporated into new procurement documents and contracts as they are executed. Full implementation is expected by</p>

the end of the second quarter of 2023.

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**Recommendation 15: City Council request the Executive Director, Corporate Real Estate Management, to formalize the invoice dispute resolution process and ensure that both billing disputes and resolution are documented.**

**Management Response:**  Agree  Disagree

**Comments/Action Plan/Time Frame:**

Corporate Real Estate Management has developed an invoice dispute resolution process, which is currently being deployed and will be fully implemented by the first quarter of 2022.

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**Recommendation 16: City Council request the Executive Director, Corporate Real Estate Management, to develop and maintain a comprehensive and up-to-date equipment inventory list, including but not limited to, where applicable:**

- a. capacity;
- b. make;
- c. model; and
- d. serial number of the equipment.

**Management Response:**  Agree  Disagree

**Comments/Action Plan/Time Frame:**

As part of the asset tagging initiative, CREM is working on collecting and tagging equipment assets in their portfolio. The collection of asset information includes gathering of peripheral information (e.g. make, model, serial number, if available on the asset) and any other relevant information depending on the type of asset (e.g. capacity, voltage etc.). CREM will be including within each applicable procurement call the asset information on hand, and require the vendor to report out on assets that they service. This, along with internal processes developed, will ensure the asset inventory continues to be maintained and kept current. This is expected to be completed by end of the second quarter of 2022.

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**Recommendation 17: City Council request the Executive Director, Corporate Real Estate Management, to develop a Preventive Maintenance plan for equipment that require regular maintenance, and to ensure such work is being completed and tracked in a timely manner.**

**Management Response:**  Agree  Disagree

**Comments/Action Plan/Time Frame:**

As part of the asset tagging initiative, recommended maintenance task lists for each asset type will be leveraged when developing the preventive maintenance plans. These plans will be built into the scope and requirements of procurement call documents, including requirements to maintain maintenance records through asset tags or other means. While the implementation of this recommendation has begun with actions taken to date, full implementation is expected by the end of 2022.

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**Recommendation 18: City Council request the Executive Director, Corporate Real Estate Management, to ensure after-hours work is approved and justified, and the rationale for overtime work documented.**

**Management Response:**  Agree  Disagree

**Comments/Action Plan/Time Frame:**

New processes implemented within Corporate Real Estate Management's Facilities Management service line in January 2021 ensure that after-hours work is justified and approved and that the rationale is appropriately documented. The division will undertake additional quality assurance efforts to validate compliance with these requirements on an ongoing basis, beginning in 2021.

Future procurements will include explicit language relating to pre-approval and substantiation for after-hours work. This will be done on a rolling basis as existing contracts expire and new procurement calls are created and contracts executed. Full implementation of this recommendation is expected by the end of the second quarter of 2023.

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**Recommendation 19: City Council request the Executive Director, Corporate Real Estate Management, to ensure that estimates and quotes include detailed breakdowns such as the number of technicians, labour hours, equipment, materials list and costs and, in the event that an estimate is provided, the final invoice should be substantiated by a service report and other supporting documentation.**

**Management Response:**  Agree  Disagree

**Comments/Action Plan/Time Frame:**

New processes implemented within Corporate Real Estate Management's Facilities Management service line in January 2021 ensure that a detailed breakdown of information, as outlined above, is included in quotes and estimates. The division requires service reports or other appropriate documentation to substantiate invoiced work. The division will undertake additional quality assurance efforts to validate compliance with these requirements on an ongoing basis, beginning in 2021. Full implementation of this recommendation is expected by the end of 2022.

**AUDITOR  
GENERAL**  

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**TORONTO**