June 19, 2001

To: Administration Committee

From: City Auditor

Subject: Selection and Hiring of Professional and Consulting Services Review

Purpose:

To report on the selection and hiring of professional and consulting services in the City, as required by the 2001 audit work plan of the City Auditor approved by Council at its meeting of March 6, 7, and 8, 2001.

Financial Implications and Impact Statement:

There are no immediate financial implications resulting from the adoption of this report. However, the implementation of the recommendations in this report will strengthen the City’s control over its consulting expenditures, and potentially reduce consulting expenditures incurred by the City.

Recommendations:

It is recommended that:

(1) all future reporting of consulting expenditures be based on actual expenditures incurred and not on the value of contracts awarded unless specifically requested by Council. In order to ensure that such reporting is accurate, all consulting costs reported to Council be reconciled to the City’s financial information system by each Department. The Chief Administrative Officer be required to communicate to senior staff the recommended reporting requirement;

(2) the Chief Financial Officer and Treasurer advise all departmental staff of the specific reporting requirements for consulting expenditures. In addition, the Chief Financial Officer and Treasurer emphasize the importance of the need to accurately analyse all consulting related invoices in order to ensure that such expenditures are recorded accurately in the financial information system. Departmental staff be required to review
such accounts on a regular basis and make appropriate and timely accounting adjustments, where necessary;

(3) the Chief Administrative Officer be required to add to the “Policy for the Selection and Hiring of Professional and Consulting Services” the following. “A justification analysis is required prior to the engagement of a consultant which outlines in general terms the costs and benefits of using a consultant, including reasons why the consulting study can not be conducted by internal staff, either in whole or in part.”;

(4) the Chief Administrative Officer to report back on the dollar threshold above which departments are required to prepare detailed business cases prior to the hiring of consulting resources. Consideration be given to the development of a formalized template and/or checklist in order to assist staff in the development of a standard business case. The business case should be approved by each Commissioner and should be filed in the department for future management review and subsequent audit;

(5) the Chief Administrative Officer take immediate steps to ensure that the engagement of all consulting services is made in accordance with the City’s purchasing policies. Consultants not be engaged until the appropriate approvals have been obtained and a duly authorized purchase order is processed and recorded on the financial management information system;

(6) the Chief Administrative Officer require the Commissioners to provide the appropriate information on existing consulting contracts so that purchase orders can be processed by the Purchasing Agent. The Purchasing Agent take the necessary steps to record such purchase orders on the financial information system. Any payments processed in excess of original contract amounts be identified and explanations obtained for such occurrences. The need to process such purchase orders in the future will not be required if proper procedures are followed;

(7) the Chief Administrative Officer advise all Commissioners that in making sole source procurement decisions, clear justification, target completion date of the project, duration of the consulting engagement, and estimated contract value be documented, properly authorized, and, as required by City policy, be submitted to the Chief Administrative Officer, and to the Purchasing Agent for issuance of a purchase order or contract. Where the justification does not meet the City criteria for sole sourcing such contracts be subject to a competitive tender process in accordance with the City’s purchasing policies;

(8) the Commissioners take the necessary action to ensure that staff assigned to project management duties, especially where consultants are hired, have an appropriate combination of training and experience in project management and knowledge in the subject of the assignment, especially in the areas of developing clear and measurable deliverables, milestones, and performance evaluation criteria;

(9) the Chief Financial Officer and Treasurer advise staff that request for proposal documents should not contain information relating to the actual project budget;
(10) the Commissioners be required to re-evaluate the administrative internal controls in their departments in order to ensure that invoices submitted by consultants are reviewed for reasonableness, proper supporting documentation and verified to the terms of the contract prior to authorization for payment. The review should also ensure that individuals approving invoices are in a position to assess whether the service has been rendered. In regard to reimbursable out of pocket expenses, consideration be given to including all such expenditures as part of the original contract price;

(11) the Commissioners take the necessary steps to ensure that:

(a) measurable standards and acceptance criteria are included in contracts executed with consultants;

(b) regular, properly documented, meetings are held with consultants to ensure that the consultant is meeting contractual obligations and performing as required; and

(c) upon completion of a project, the consultant’s performance is documented and made available for review to relevant City staff, including the Purchasing Agent, when considering consultants for new projects;

(12) the Chief Administrative Officer, in consultation with the City’s Commissioners, identify areas where departments have skill shortages or insufficient staff resulting in the consistent and extensive long-term use of consultants and:

(a) present the appropriate business cases justifying meeting long-term operational demands by increasing staffing levels, such increases to be financed by the transfer of funds from consulting budgets to salaries and wages budgets;

(b) where possible, ensure sufficient City staff are trained in skills required frequently and on a long-term basis, thus reducing the City’s reliance on consultants to perform such duties; and

(c) ensure that the continuous operation of critical management information systems is not dependant upon a single individual consultant;

(13) the Chief Administrative Officer communicate to and remind each Commissioner of the policy relating to the hiring of former employees, either directly or indirectly, as consultants for a specified period of time after they participated in the employee separation program of the City;

(14) the Chief Administrative Officer review the practice whereby individual consultants are required to contract with consulting firms for providing their services to the City rather than being engaged directly as individuals;
in view of the fact that the recommendations contained in this report may be relevant to the City’s Agencies, Boards and Commissions, the General Manager of each of these entities be required to report to their respective Boards by August 31, 2001 on such recommendations and their applicability in relation to their operations. In addition, the respective Boards be requested to forward such reports to the City Audit Committee;

the Chief Administrative Officer be required to add to the “Policy for the Selection and Hiring of Professional Consulting Services” specific details relating to the consequences of non-compliance with the policy. The amendment to the policy be reported to the Administration Committee by August 31, 2001; and

the Chief Administrative Officer be required to report to the next meeting of the Administration Committee on the plans and timetable relating to the implementation of recommendations contained in this report.

Background:

The development of the City Auditor’s annual work plan is based on a number of factors, one of which relates to the level of expenditures incurred in specific areas throughout the City. In preparing our 2001 Work Plan in November 2000, we noted the significant increase in consulting expenditures which had occurred between 1998 and 1999. Consulting expenditures in 1998 were reported as $29 million while in 1999 they had increased to a level of $159 million. Even allowing for the significant amount of 1999 expenditures related to the Year 2000 project, (approximately $70 million), the level of expenses on consulting costs had increased significantly. Consequently, it was determined that the 2001 Work Plan of the City Auditor should include a review of consulting expenses. The Work Plan was approved by Council at its meeting of March 6, 7 and 8, 2001.

In March 2001, the Chief Administrative Officer and Chief Financial Officer and Treasurer issued a report entitled “Policy for the Selection and Hiring of Professional and Consulting Services”. The purpose of this report was to “recommend a uniform purchasing policy for the selection and hiring of professional and consulting services for the City of Toronto.”

Also in March 2001, the Chief Administrative Officer presented a report to the Administration Committee entitled “The Use of Consultants and Expenditure Reduction Strategies”. The purpose of this report was to provide an “overview of the incidence and benefits of professional and consulting services, and to introduce parameters on the use of consulting assistance, as well as a policy to ensure standards and accountability when selecting and hiring consultants.” In addition, the report recommended “a corporate-wide reduction goal and new annual budget and in-year reporting measures to achieve meaningful results in 2001 and beyond.”

The Administration Committee, in considering the above reports at its meeting on March 27, 2001, passed the following motions:
“(a) defer consideration of these reports until it considers the City Auditor’s report on the use of consultants;

(b) request the City Auditor to present his report on the use of consultants to the June 5, 2001 meeting of the Administration Committee;

(c) request the City Solicitor to submit a report to the aforementioned meeting of the Administration Committee on any outstanding legal concerns, if any; and

(d) request the Chief Administrative Officer to submit a report to the aforementioned meeting of the Administration Committee on the implications of a 20 percent reduction in the use of consultants.”

In addition, the Administration Committee requested the Chief Administrative Officer to “submit a report directly to Council for its meeting scheduled to be held on April 24, 2001, respecting the placing of a moratorium on the hiring of new consultants unless specifically approved by Council, until such time as the Administration Committee gives consideration to the forthcoming report from the City Auditor in regard thereto at its meeting scheduled to be held on June 5, 2001.”

As a result of the request of the Administration Committee, the City Auditor’s proposed review of consulting services originally scheduled to be conducted in September of 2001 was moved forward to April and May 2001.

Audit Objectives and Scope

The audit objectives were to review the City's practices in procuring consulting and professional services and to determine whether:

- expenditures relating to consultants’ contracts were accurately reported;

- the need for consulting services was appropriately determined, justified and documented;

- consulting services contracts were awarded based on sound business practices and in accordance with established procurement by-laws, policies and procedures;

- adequate justification existed for waivers from required procedures;

- consulting contracts were effectively managed to ensure the contract deliverables were achieved and “value for money” was obtained; and

- payments were made in accordance with the terms of the contract.
The observations in this report are a result of our assessment of a sample of 90 payments made to various consultants and a review of 26 consulting contracts that were active in the year 2000. Our review included all Departments in the City and included discussions with staff from the Chief Administrator’s Office, Finance, Corporate Services, and other appropriate staff.

Our review did not include an audit of the actual consulting amounts reported to Council in 1998 and 1999. Neither did it include a review of procedures and practices used by Agencies, Boards and Commissions in their selection and hiring of professional and consulting services.

Comments:

A summary of the major issues identified during the course of our review is included in the following Summary of Overall Audit Observations. Further details relating to each one of these observations, along with our recommendations, are provided in the body of the report.

Summary of Overall Audit Observations

(1) Consulting expenditures for both 1998 and 1999 reported to Council as $29 million and $159 million respectively, are misstated. The extent of the misstatements can not be accurately determined. In a report dated September 6, 2000, the limitations relating to the 1998 and 1999 expenditures were acknowledged by the Chief Administrative Officer.

(2) Several non-Year 2000 Information Technology service contracts were awarded under the delegated Year 2000 authority without open competition and without the involvement of the Purchasing Agent, as required by the Toronto Municipal Code, Chapter 195, Purchasing, which establish procedures and authority for the procurement of goods and services.

(3) In some cases, internal administrative controls to ensure that consulting and professional service contracts are awarded and extended in compliance with corporate purchasing policies and procedures have been by-passed.

(4) Sole source procurement often did not meet the criteria set forth in the City’s guidelines. In many cases, sole sourcing was justified as “continuing prior work” and “previous work relationship”. Generally, there is no documented evidence to demonstrate that the sole source consultant is the only, or best, firm to provide the service at the best price for the City.

(5) In many cases justification for the hiring of consultants is not documented. Formal business cases or justification analyses have not been prepared which, in general terms, should include the benefits and costs of hiring a consultant. There is no evidence to indicate that alternatives were considered, such as the use of City staff in whole or in part.
A number of Request for Proposals disclosed the approved funding for the project. Proposals received for these requests tended to be priced in a narrow range near the maximum approved funding amount. In such cases, there is no assurance that the City has received the best price for the goods or services acquired.

Invoices submitted by consultants often provide insufficient information to allow staff responsible for invoice approval to determine whether the service has been rendered or that the amount invoiced is reasonable and legitimate. In two of the contracts that we reviewed, out of pocket expense reimbursements, in our view, were excessive.

Project scope and deliverables are often not defined in sufficient detail to permit the effective management of consulting contracts, and to ensure that the project objective has been, or is being, met.

The City, in certain areas, has put itself at significant risk due to its reliance on various consulting organizations. The termination of certain services provided by consultants at the present time would have significant impact on the ability of the City to continue its day-to-day operations. In these cases, there is no long-term plan to replace the knowledge of those consultants, who are critical to the operation of the City, with City staff.

Consultants are often required because of insufficient staff resources or an absence in the skills necessary to complete certain work. Opportunities for cost savings exist where departments can identify a long-term need for these skills or resources.

Detailed Observations

Reporting of Consultant Expenditures

According to the Chief Administrative Officer’s report to the Policy and Finance Committee entitled “Contracting of Consulting Services in 1999”, the term “consultant” was defined as:

“Any firm or individual providing expertise, advice, or professional services that are not readily available from City staff” (i.e., skills that are not present or are not able to be accommodated internally in a timely fashion).

According to the report, the term “consultant” does not include “anyone considered an employee, nor does it include contracts for the purpose of services such as soil or concrete testing, language translation, certain inspections or other fee-for-service activities, such as training course instructors, required to support operations.”

In the new policy proposed by the Chief Administrative Officer and Chief Financial Officer and Treasurer, in their March 2001 report entitled “Policy for the Selection and Hiring of Professional and Consulting Services” the definition was slightly modified as follows:
“Any firm or individual providing time limited expertise, advice, or professional services that are not readily available from City staff. The skills are not present because it is not economical for the City to hire staff for that purpose, or the work is not able to be accommodated internally in a timely fashion.”

In a report dated August 31, 1998, prepared by the City Auditor entitled “Use of Long Term Consultants” in the Works & Emergency Services Department, it was recommended that “the Chief Administrative Officer be requested to report to Council every six months on the use of consultants by the City and all its Agencies, Boards and Commissions.” This recommendation was approved by Council, but at a later date was amended to require that such information be reported on an annual basis. Reports for 1998 and 1999 have been forwarded to Council. The information related to 2000 is still in progress and is expected to be submitted to the July 2001 Administration Committee meeting.

(1) Consulting Expenditures Reported for 1998

At its meeting on January 13, 1999, the Budget Committee requested the Chief Administrative Officer to report on “the hiring of outside consultants City-wide, including Agencies, Boards and Commissions.” In order to comply with the request of the Budget Committee, all City Departments, Agencies, Boards and Commissions were contacted and asked to “provide details on the consulting services they contracted in 1998.”

The Chief Administrative Officer, in his report, also indicated that the “contracts included in this report are for consulting services only and do not include contracts for the purchase of services, such as soil testing, medical professionals, translation services, etc. made by City Departments, Agencies, Boards and Commissions.”

In his report to the Policy and Finance Committee in June 1999, the Chief Administrative Officer noted that City Departments, Agencies, Boards and Commissions issued 928 consulting contracts, inclusive of amalgamation, transition and restructuring consulting contracts, having a total value of $29 million in 1998. Of this total, City Departments issued 760 consulting contracts (with a total contract value of $19 million), and Agencies, Boards and Commissions issued 168 consulting contracts (with a total contract value of $10 million).

While the request for information from the City’s Departments, Agencies and Commissions was explicit, certain responses were not in compliance with the request. For instance, our review of the $29 million in consulting expenditures for certain departments indicated that in some cases this amount did not consist of the amount of contracts awarded but represented actual expenditures incurred during the year. It is possible and, in some cases, likely that these reported expenditures related to contracts awarded prior to amalgamation.

In actual fact, it is unclear as to what information Council requested in terms of the use of consultants in 1998. The request from Council was a requirement to report on the “hiring of consultants”. There was no reference as to whether the total contract awards should be reported on actual expenditures or contracts awarded. The amounts reported to Council represent a mix of consulting contracts awarded during 1998 and expenditures incurred during 1998.
The amount of $29 million in consulting costs reported to Council is, therefore, inaccurate. The extent of this inaccuracy has not been determined.

(2) Consulting Expenditures Reported for 1999

In September 2000, the Chief Administrative Officer reported to the Policy and Finance Committee details related to the contracting of consulting services in 1999. In his report to the Policy and Finance Committee, the Chief Administrative Officer indicated that in 1999, City Departments, Agencies, Boards and Commissions incurred expenditures of $159 million (approximately 2.3 percent of the City budget) on consulting services.

In the Chief Administrative Officer’s report of September 2000, City Council was advised in reference to 1998 expenditures that “the 1998 data submitted was acknowledged by Departments as questionable for some operations and it was concluded that consulting expenditures were likely under reported for that year.” In addition, City Council was also advised that for the “1999 data, departments were asked to not submit data on contracts for purchased services. An examination of the data submitted, however, suggests that this has not been adhered to consistently. In addition, departmental tracking and reporting management systems are still evolving. It is expected that more accuracy and clearer trends on City consulting expenditure levels will emerge in future years through continued analysis using improving systems.”

While the Chief Administrative Officer has recognized the limitations relating to the accuracy of consulting expenditures reported to City Council, the extent of the inaccuracies are significant. For example, our review of 1999 consulting expenditures reported to Council identified the following:

(a) the reported 1999 consulting costs included the value of consulting contracts related to six multi-year projects (commenced in late 1999) totalling $35 million;

(b) certain departments only reported payments on new contracts issued in 1999, and excluded payments on active contracts committed prior to 1999;

(c) certain departments reported all contract expenditures paid in 1999; and

(d) contracted-out professional services were also included in the total amount reported.

The reporting of consulting expenditures to Council for 1999 was inaccurate. Departments have generally been unclear as to what is required to be reported and as a result, information from departments has been inaccurate, inconsistent and, in some cases, incomplete.

(3) Consulting Expenditures for 2000

We understand that consulting expenditures for the year 2000 will be reported to the July 3, 2001 meeting of the Administration Committee. At the time of our review, the compilation of this information was in process. However, our initial review of the financial information system in relation to year 2000 consulting expenditures identified the following:
(a) Our review of 90 payments to various consulting organizations that total $13.1 million, identified 16 of these payments related to non-consulting expenses. The dollar value of these items was $6.8 million, which included $5.6 million of direct capital construction payments. Thus, of the $13.1 million that we reviewed, $6.8 million (52 percent) should not have been classified as consulting expenditures given the proposed definition of consulting; and

(b) We also noted five instances where payments to consultants were recorded in non-consulting accounts such as regular salaries and utilities. These payments totalled almost $200,000 but represent a small sample of the expenditures we reviewed.

Summary

The reporting of prior years consulting expenditures has been a mix of the value of contracts awarded along with actual expenditures incurred.

Should Council wish to know the value of consulting contracts issued as well as the value of actual consulting expenditures incurred during a particular year, these can be reported independently. Financial reporting, for the most part, including regular variance reporting, is based on actual expenditures incurred and this is the basis on which consulting expenditures should be reported.

Recommendation:

1. All future reporting of consulting expenditures be based on actual expenditures incurred and not on the value of contracts awarded unless specifically requested by Council. In order to ensure that such reporting is accurate, all consulting costs reported to Council be reconciled to the City’s financial information system by each Department. The Chief Administrative Officer be required to communicate to senior staff the recommended reporting requirement.

Detailed information and analysis relating to consulting expenditures is not yet available on a centralized basis on the current SAP financial information system. Consequently, the collection of information required to compile the analysis of consulting expenditures for Council is requested by the Finance Department on a department by department basis. As a result, there is a significant time delay in preparing the annual report on consulting costs. Recently, the Finance Department, in consultation with the Chief Administrators’ Office, has amended the account structure of the City’s financial system to facilitate the recording of consulting costs. In order to provide relevant, complete and accurate information on the City’s annual consulting costs, it is important that City staff understand what constitutes consulting expenditures, and how they should be accounted for in the City’s financial system. Regular scrutiny of expenditures recorded in consulting and other professional services accounts will also minimize the risk of inaccurate reporting of the consulting expenditure.
Recommendation:

2. The Chief Financial Officer and Treasurer advise all departmental staff of the specific reporting requirements for consulting expenditures. In addition, the Chief Financial Officer and Treasurer emphasize the importance of the need to accurately analyse all consulting related invoices in order to ensure that such expenditures are recorded accurately in the financial information system. Departmental staff be required to review such accounts on a regular basis and make appropriate and timely accounting adjustments, where necessary.

The Justification for the Hiring of Consultants

The responsibility for ensuring that the use of consulting services is required rests with departments. Our review of various documentation and discussions with departments noted that while departments may have implicitly assessed their need for consulting services, there was often no business case, or justification analysis, formally documenting the determination of the need for such services.

Specifically, there was little documentation to demonstrate that departments had adequately considered alternative service delivery options, such as using internal resources or offering longer-term employment contracts to qualified proponents. In addition, there appeared to be little consideration given as to whether it is necessary to have a consultant complete all stages of a project rather than using staff to conduct the major portion of the work and engaging the consultant on a more limited basis to provide direction and advice at critical stages of the project.

While it is possible that certain of these steps have been considered, there was generally little documentation in place which would confirm this to be the case.

The Chief Administrative Officer and the Chief Financial Officer and Treasurer, in a joint report dated March 8, 2001 entitled “Policy for the Selection and Hiring of Professional and Consulting Services”, provided detailed information relating to the administrative requirements for the selection of consultants. This policy does not, however, contain information relating to the requirement that the hiring of consultants be justified from a business case perspective.

Given the significant consulting expenditures incurred by the City, the requirement for a properly documented business case, or justification analysis, would impose a degree of discipline and consistency in the engagement of consultants. In addition, it would ensure that the need for consulting services is justified and that the project will be conducted in the most cost-effective manner. Given the varying size of consulting contracts, it may be advantageous to implement a scaleable business case process based on the dollar value of the project being considered.

Recommendations:

3. The Chief Administrative Officer be required to add to the “Policy for the Selection and Hiring of Professional and Consulting Services” the following, “A justification analysis is required prior to the engagement of a consultant which outlines in general terms the costs
and benefits of using a consultant, including reasons why the consulting study can not be conducted by internal staff, either in whole or in part.”

4. The Chief Administrative Officer to report back on the dollar threshold above which departments are required to prepare detailed business cases prior to the hiring of consulting resources. Consideration be given to the development of a formalized template and/or checklist in order to assist staff in the development of a standard business case or justification analysis. The justification analysis should be approved by each Commissioner and should be filed in the department for future management review and subsequent audit.

Compliance with the Toronto Municipal Code, Policies and Procedures

The Toronto Municipal Code, Chapter 195, Purchasing, established procedures and authority for the procurement of goods and services. The Municipal Code provides the “Purchasing Agent” (defined as “the person holding the position of Director of Purchasing and Materials Management in the City’s Finance Department and whose responsibility it is to supervise and carry out the procurement function on behalf of the City in accordance with the by-law, and includes his or her designate.”) with the authority to make an award and enter into a commitment on behalf of the City. The purchase order is the mechanism used by the Purchasing Agent to authorize payments for a commitment.

The Chief Administrative Officer and Department Heads are authorized to make an award, in respect of consulting services, where the commitment resulting from the award is within the spending authority for such persons under the provision of the Financial Control By-law.

The following table summarizes the conditions and spending authority delegated by the Chief Administrative Officer.

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<tr>
<th>Authority</th>
<th>$ Amount</th>
<th>Conditions</th>
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<tr>
<td>Chief Administrative Officer</td>
<td>- Up to $500,000</td>
<td>- Where approved procurement procedures have been followed.</td>
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<td>Commissioners</td>
<td>- Up to $250,000</td>
<td>- Where normal purchasing procedures are not possible, i.e., sole source, emergencies, time constraints, or where for economic reasons it is not possible to follow accepted procedures, etc.</td>
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<tr>
<td></td>
<td>- Up to $50,000</td>
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<tr>
<td>General Managers*</td>
<td>- Up to $250,000</td>
<td>- Where approved procurement procedures have been followed.</td>
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<tr>
<td>Executive Directors*</td>
<td>- Up to $25,000</td>
<td>- Where normal purchasing procedures are not possible, i.e., sole source, emergencies, time constraints, or where for economic reasons it is not possible to follow accepted procedures, etc.</td>
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<tr>
<td>Executive Director of HR</td>
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<td>City Clerk</td>
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<td>Medical Officer of Health</td>
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<td>City Solicitor</td>
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<td>City Auditor</td>
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<tr>
<td>Directors*</td>
<td>- Up to $100,000</td>
<td>- Where approved procurement procedures have been followed.</td>
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* subject to delegation from the Commissioners
The Financial Control By-law requires that any commitment in excess of $500,000 be approved by the Bid Committee, Standing Committee or Council.

Once staff have made the final selection of a consultant and obtained proper authority to award a contract, the Purchasing Agent is required to make a formal commitment on behalf of the City in the form of a purchase order or contract.

In our report dated April 24, 1999 entitled “Review of Commissioner Street Transfer Station Project Expenditures”, we identified a number of situations where policies were not complied with. As a result, this particular audit report recommended that “the Chief Administrative Officer advise all department heads that the selection and engagement of all consulting services be made in accordance with the City’s purchasing policies.” While the Chief Administrative Officer communicated this requirement to the Commissioners, it is apparent that there continues to be instances of non-compliance in regard to purchasing policies.

Our current review identified a number of cases where City policies and procedures were not complied with. The following are some examples.

(a) In our review of 26 professional service consulting contracts, seven were awarded without the involvement of the Purchasing Agent and consequently, a purchase order was not issued. The value of these contracts in total was $1.1 million.

(b) In 1999 and 2000, the Year 2000 Office had the delegated authority from Council, to recommend to the Year 2000 Steering Committee that the City extend, re-negotiate, terminate or enter into new contracts on Year 2000 related projects that affected priority business functions. The City also entered into a master agreement with each of the consulting firms retained to conduct Year 2000 work. While individual contract schedules were issued by the Corporate Services Department to authorize contract awards to these firms, a purchase order was not always issued. In addition, in our review of contracts awarded in 2000 and referenced to the Year 2000 authority, there were a number of instances of new contracts and contract extensions for projects/assignments that do not appear to be Year 2000 related. In these cases the City’s purchasing procedures, such as the normal competitive process, the involvement of the Purchasing Agent and the issuance of a purchase order, as required under the Toronto Municipal Code, Chapter 195, were not followed.

Circumstances where purchase orders are not issued for consulting services, have internal management control consequences. The processing of a purchase order provides assurance that purchasing procedures are in compliance with the authorization to enter into commitments as outlined in the Municipal Code and, in particular, that a competitive process has been followed. Issuing a purchase order also allows complete and accurate information to be centrally maintained in the corporate financial information system for accounting, monitoring, control and reporting purposes. The monitoring of payments to consultants is conducted through the purchase order process as it identifies requests for payments in excess of contracted amounts.
The processing of payment requests through a “non-P.O. voucher” by-passes this control. In these circumstances, there is no central accounting control in place which prevents the payment to a consultant in excess of their contracted amount.

In addition, in our review of 90 payments made to consultants, approximately 71 percent of them were processed as non-P.O. vouchers. Included in our review were four instances where actual payments to the consultant had exceeded the total value of the purchase order issued by the City. In one instance, a consulting firm was paid more than $10 million in 2000, yet the total value of purchase orders recorded in the accounting system relating to this firm was only $2.1 million. The services for this consultant were initially procured prior to amalgamation by the former Metro for the provision of information technology services to Metro departments for the years 1997, 1998 and 1999. The contract with the consultant was subsequently renewed in 2000 with the City under the Year 2000 authority without the involvement of the Purchasing Agent and, as a result, no purchase order was processed.

Contracts totalling approximately $2.1 million were set up on the accounting system under the original authority as these contracts have been processed through the Purchasing Agent. The balance of the contracts were not processed through the Purchasing Agent.

Our review with staff of this particular contract indicated a general level of uncertainty and confusion relating to the need to issue a purchase order for consultants currently engaged by the City.

Recommendations:

5. The Chief Administrative Officer take immediate steps to ensure that the engagement of all consulting services is made in accordance with the City’s purchasing policies. Consultants not be engaged until the appropriate approvals have been obtained and a duly authorized purchase order is processed and recorded on the financial management information system.

6. The Chief Administrative Officer require the Commissioners to provide the appropriate information on existing consulting contracts so that purchase orders can be processed by the Purchasing Agent. The Purchasing Agent take the necessary steps to record such purchase orders on the financial information system. Any payments processed in excess of original contract amounts be identified and explanations obtained for such occurrences. The need to process such purchase orders in the future will not be required if proper procedures are followed.

Control Over Sole Source Procurement Decisions

The objective of the public procurement process is to provide fair and open competition to all interested vendors to ensure the City obtains its required goods and services at the best possible price. The use of sole source contracting is generally discouraged.
There are, however, situations when the service to be provided is of such a unique nature that only one person or firm is clearly and legitimately available to provide the service. In other cases, normal purchasing procedures are not possible due to time constraints. In these circumstances sole sourcing may be appropriate. If so, a purchase order or contract indicating the maximum contract value, will be issued by the Purchasing Agent as a formal commitment from the City.

The proposed Policy for the Selection and Hiring of Professional and Consulting Services, outlines situations where sole source procurement is authorized, as follows:

"Sole Source shall mean entering into a commitment without the issuance of a Request for Quotation (RFQ) or a Request for Proposal (RFP). This is applied only in cases where normal purchasing procedures are not possible (i.e., emergencies, time constraints or where for economic reasons it is not possible to follow accepted procedures)."

Our review of sole source contracts awarded in 2000 found that:

- the justification for awarding sole source contracts often did not meet the criteria set forth in the City’s guidelines.
- the justification for awarding sole source contracts was inadequately documented; and
- sole source contracts were sometimes awarded retroactively;

Our specific observations in relation to sole source contracts are as follows:

(a) In a sample of 24 sole source justification reports, 13 cited “continuity”, “involvement in the earlier phase of the project”, or “previous working relationship with the consultant” as the reason for sole sourcing. In some cases, the consultant was initially sole sourced. New contracts were subsequently awarded to these consultants by using “involvement in the earlier phase of the project” as a reason for sole source contract extensions. Some of these consultants had commenced work before the purchase order was issued or the contract was signed. There was no competitive process in the procurement of these services.

(b) In a number of instances the Purchasing Agent was not notified of sole source contracts contrary to the Toronto Municipal Code.

(c) There was generally very little documentation to demonstrate that the sole source consultant was “clearly and legitimately” the only individual qualified to perform the service, or that it would be more economical to hire a consultant than using City staff.

(d) Two consultants have been engaged as project managers to develop and maintain financial information systems in the Finance Department for a number of years. In 2000, while their contract limits were $180,000 and $100,000, they were paid $501,000 and $456,000 (inclusive of reimbursable expenses such as airfare, hotel accommodation,
meals, etc.) respectively. Although the $180,000 and $100,000 were outlined in a schedule to an existing contract, we were not able to locate a contract specifically relating to the payments in excess of these amounts. We have been informed by staff that the two consultants were retained because of their previous experience and knowledge of the information systems of the former City of North York.

The contracts with these consultants in 2000, totalling $180,000 and $100,000 respectively pertained specifically to the Year 2000 project. The Finance Department, however, also engaged the services of these consultants for day to day systems maintenance activities without a formal contract outlining the services to be rendered and the upset limit.

The engagement of consultants in the circumstances described above could be construed as providing preferential treatment to certain consultants simply because they had previously performed work for the City. It also does not afford the City assurance that an equally qualified firm is given an opportunity to provide the same quality service at a fair market price.

The justification for sole sourcing citing reasons such as “continuity”, “involvement in the earlier phase of the project”, and “previous working relationship”, in our view, does not meet the criteria for sole sourcing.

The Chief Administrative Officer issued a directive to the Commissioners, dated January 15, 2001, entitled “Sole Sourcing of Consultants”, which states “sole sourcing of consultants should be the exception in hiring consultants. It is important staff understand this means that with the exception of unforeseen circumstances, the hiring of consulting services should be done through proper purchasing procedures. Increasing a sole source amount, directly soliciting proposals, having work done before obtaining approvals and allowing projects to run close to or past the deadline dates are not valid reasons for sole sourcing.”

Recommendation:

7. The Chief Administrative Officer advise all Commissioners that in making sole source procurement decisions, clear justification, target completion date of the project, duration of the consulting engagement, and estimated contract value be documented, properly authorized, and, as required by City policy, be submitted to the Chief Administrative Officer, and to the Purchasing Agent for issuance of a purchase order or contract. Where the justification does not meet the City criteria for sole sourcing such contracts be subject to a competitive tender process in accordance with the City’s purchasing policies.

Contract Management

Our review identified a general need for improved management of consulting contracts, particularly with respect to the management of the consulting project’s scope, schedule and budget, as well as the payment process. The Chief Administrative Officer has recognized the need for an upgrading of staff skills in this area and has initiated project management training for appropriate staff.
Project Scope, Schedule and Budget

Best practices call for a consultant’s scope of work statement to communicate to consultants what is required of them in clear, measurable statements of expected services and clearly defined performance standards (quality, quantity and timeliness) whenever possible.

Our review noted instances in which contracts were awarded without clearly defined and measurable deliverables, making it difficult to monitor project progress, control project costs, and to determine the extent to which the deliverables were achieved.

If the scope of work is not clearly defined, opportunities exist for disagreements related to the extent of the work contracted for. For instance, in one situation, a consultant was awarded a contract with a submitted bid of $67,000. Due to the generality in which the deliverables were defined, the consultant was able to successfully argue that the scope of the work was expanded beyond the original requirements identified, and the value of the contract was increased to $107,000.

We also noted a number of instances where billings for system development and maintenance projects were issued based on hours worked, instead of by service delivered (e.g., specified deliverables, milestones or other productivity measures). In these circumstances, the payments to the consultant may not necessarily be commensurate with the value of the services rendered, and there is no assurance that the City is receiving value for money. Without a clear definition of the deliverables, it is also difficult to determine completion, with one possible result being that the contract continues with no finite end, and with no process in place to monitor and control its costs.

It is important that appropriate benchmarks are developed against which to measure the performance of each consultant in order to ensure that the project satisfies the needs for which it was undertaken. How well deliverables are defined and articulated will have a direct impact on the quality of the consultant’s performance, and the ability of the City to manage the consultant contract thus ensuring the City receives value for consulting fees paid.

In addition, our review of consulting contracts pertaining to system development and maintenance projects noted a number of situations where the requirements with respect to system documentation were not adequately defined. Discussions with departmental staff indicate that the technical documentation provided by the consultants, in many cases, was not detailed enough to facilitate the transfer of knowledge to City staff. This exposes the City to the potential risk of receiving a non-supportable system and may result in a dependency on the consultant for the future maintenance and support of the system.

Recommendation:

8. The Commissioners take the necessary action to ensure that staff assigned to project management duties, especially where consultants are hired, have an appropriate combination of training and experience in project management and knowledge in the
subject of the assignment, especially in the areas of developing clear and measurable deliverables, milestones, and performance evaluation criteria.

Procurement

According to the City’s Purchasing Policy, the Purchasing Agent is required to issue a Request for Quotation (RFQ) or a Request for Proposal (RFP) when the value of a consulting assignment is expected to exceed the Departmental Purchase Limit. A RFQ is used when tasks and deliverables for the consulting project are highly specific, and consultants will likely use a similar approach to the project. A RFP is used when there is no clear or single solution to a complex problem or matter to be resolved, although the objectives, timing and deliverables can be defined, and as such, the method of reaching the results will be left to proponents to submit for comparative evaluation, and the price is not necessarily the primary factor for evaluation.

We noted that whenever the Purchasing Agent was involved in the procurement process, either a RFQ or RFP was appropriately developed jointly by the Purchasing Agent and the user department, and issued for competitive calls. Bids were received and opened by the Purchasing Agent, and later forwarded to the user department for review. An evaluation team, comprised of key departmental staff members who have relevant knowledge and experience of the project, evaluated the bids according to pre-determined criteria and submitted their evaluation summary and recommendation for award. The Purchasing Agent would then review the evaluation results to ensure adherence to proper procedures, and accordingly, issue the purchase order.

Our review did, however, identify several instances in which the RFP disclosed the budget for the assignment. With all bidders submitting similar quotes, all being at or near the disclosed budget amount, there is no assurance that the City has received the best price.

The Purchasing Agent indicated to us that the disclosure of the actual proposed budget was only done at the insistence of the user departments and is not a practice recommended by the Purchasing Agent. Departments indicated that they sometimes have a limited budget for the assignment and the disclosure of the upset limit for the assignment eliminates the need to re-tender if all bids exceeded the approved funding level. In those situations, the price factor was assigned a weighting factor of 10 percent in the evaluation process.

For high dollar value assignments, where the possibility exists for a large disparity in the bids submitted, the disclosure of the project budget does not ensure the City receives a fair, competitive price.

Recommendation:

9. The Chief Financial Officer and Treasurer advise staff that request for proposal documents should not contain information relating to the actual project budget.
Payment and Expense Authorization

Several instances were noted in which the practices with respect to the review and approval of invoices submitted by consultants were inadequate to ensure that expenditures for consulting work was reasonable and accurate.

Approximately 24 percent of the 90 payment vouchers examined during the course of our review did not contain sufficient information to identify the nature of the service provided, project progress, hours worked or the rates charged. Given the circumstances, it is difficult to comprehend how staff were able to determine the appropriateness of the amounts invoiced and whether or not the services or the payment terms were in accordance with the provisions of the contract.

In certain consulting contracts, provision is made for the reimbursement of out of pocket expenses such as air fare, hotels, meals, transportation and other sundry expenses. In two particular cases, our review indicated that expense reimbursements totalling approximately $100,000 in 2000 were paid to two consultants as invoiced but without supporting documentation. The expense reimbursements included weekly air fares to and from Toronto to the United States, as well as reimbursements for meal expenses totalling as much as $175 per day.

In regard to the administration of reimbursable out of pocket expenses, certain municipalities in North America require that all such expenditures be included in the original contract price. Such a process would eliminate the need to administer and evaluate the appropriateness of out of pocket expenses.

Recommendation:

10. The Commissioners be required to re-evaluate the administrative internal controls in their departments in order to ensure that invoices submitted by consultants are reviewed for reasonableness, proper supporting documentation and verified to the terms of the contract prior to authorization for payment. The review should also ensure that individuals approving invoices are in a position to assess whether the service has been rendered. In regard to reimbursable out of pocket expenses, consideration be given to including all such expenditures as part of the original contract price.

Quality Control

The eventual design of a system or the receipt of a report does not in itself provide evidence that proper quality management was exercised or that value was received for money paid to a consultant. As part of our work, we reviewed ten consulting contracts to determine if the work being conducted by the consultants was effectively managed to ensure that directed actions were carried out as planned to achieve the desired action or goal.
While four of the projects noted that regular project status meetings were held with the consultant, there were no minutes maintained providing evidence that issues identified were addressed in a timely manner, if at all.

In addition, in all cases, there was no formal documented evaluation of the consultant’s work at the completion of the project to assess the quality of the consultant’s performance and to determine whether the consultant fully honoured the terms and conditions of the contract. A number of the consulting projects which we reviewed did not have pre-established measurable standards or acceptance criteria, to facilitate such an evaluation in order to determine whether the goals and objectives of the project had been achieved.

Recommendation:

11. The Commissioners take the necessary steps to ensure that:

   (a) measurable standards and acceptance criteria are included in contracts executed with consultants;

   (b) regular, properly documented, meetings are held with consultants to ensure that the consultant is meeting contractual obligations and performing as required; and

   (c) upon completion of a project, the consultant’s performance is documented and made available for review to relevant City staff, including the Purchasing Agent, when considering consultants for new projects.

Reducing Reliance on Consultants and Contracted Services

Consultants are required for their specialized expertise, professional advice, impartial third-party evaluations, and to supplement existing staff resources. The implementation of policies and procedures outlined in the Chief Administrative Officer’s proposed Policy for the Selection and Hiring of Professional and Consulting Services will provide consistency across the City for selecting, evaluating and awarding professional and consulting contracts, and support City staff in effectively controlling the use of consulting and professional services for the assignments.

However, there are opportunities to reduce the cost of consulting and professional services in the City. Over the past two years, circumstances such as restructuring and amalgamation activities, as well as significant one-time Year 2000 Project activities, were key drivers of consulting costs. While the demands driven by the Year 2000 project are now greatly reduced, the level of ongoing initiatives in the City, combined with staffing levels inadequate to meet these needs as well as day to day operational needs, will likely necessitate an ongoing need for the use of consultants and contracted services. Opportunities for cost savings exist where departments can identify a long-term need for a resource or particular set of skills. Where such needs are identified, every effort should be made to evaluate all service delivery alternatives prior to the hiring of consultants.
Notwithstanding the obvious benefits of using contracted professional services, such as easy access to “just-in-time resources”, rates charged by consulting firms for these professionals, which also include the firms administrative charges and overhead, are relatively high.

Our review identified a number of situations where there are opportunities to reduce consulting costs and, more importantly, makes the City less vulnerable to reliance on certain consultants.

(a) Two consultants have been working on projects such as the Property Database, Tax Billing and Water Billing systems since 1998 at the City and prior to that at one of the amalgamating municipalities. Total payments to these consultants were in the range of $1 million in both 1999 and 2000. We were advised that since these systems need regular maintenance to address ongoing changes in provincial legislation, long-term ongoing full-time support is required. If this is truly a long-term need, consideration should be given to bringing this in house. An immediate plan is required to transfer the skills to City staff ensuring adequate depth of knowledge.

(b) In 2000, a consulting firm was contracted to provide, among other information technology related services, a number of desktop support staff to City Departments at approximately $110,000 each per year. The contract limit established for the engagement of desktop support staff totalled $1 million for the first six months of 2001. City staff who work in similar capacity are paid significantly less. Again, savings may be achieved by either hiring staff to fulfil this long-term need or, investigating other alternative service delivery methods.

(c) Two former City employees are currently working as sole source consultants on a system development project that is targeted for completion in 2004. The approved maximum contract value for each of them is approximately $344,000 for 2001. In comparison, the pay scales of their positions, as City employees prior to amalgamation, were approximately $80,000 to $100,000 annually (including benefits). The work these consultants are doing is expected to take in excess of one year from start to finish. In such a case, savings may have been achieved by engaging the necessary staff as contract employees, if possible.

In relation to these two consultants, they were originally engaged individually. Subsequently, a decision was made by the City to engage these consultants through a consulting firm, thus avoiding employee/employer relationships and its potential employee/employer withholding tax consequences. These two consultants were subsequently engaged by that firm and continued providing services to the City with their time being billed through the consulting firm. As a result of these changed arrangements, the cost to the City for these consultants increased by approximately 60 percent.

It should also be noted that one of the above former City employees took advantage of the employee separation program of the City in January 1999. According to the City policy entitled “Re-employment of Former Employees After Reorganizing”, such employee is prohibited from participating, as a consultant, in projects directly or indirectly related to the City or its special purpose bodies for a period of two years. The
policy also stipulates that the Chief Administrative Officer must recommend and City Council approve any re-hiring under extenuating circumstances before the two-year period expires.

The engagement of this former City employee in June 2000 was in contravention of the above City policy.

In many cases, significant cost savings could be realized through in-sourcing, particularly in situations where there may be an on-going requirement for certain skills or expertise. It makes good business sense to meet this long-term resource requirement through a combination of contracted service, in-house staff training and development, hiring new staff with the required skills, and hiring professionals as contract employees, perhaps at premium rates. In certain cases this may require adding to the City’s complement of full-time employees. This should be considered only where the need is long term and the skills are transferable between projects or departments.

Recommendations:

12. The Chief Administrative Officer, in consultation with the City’s Commissioners, identify areas where departments have skill shortages or insufficient staff resulting in the consistent and extensive long-term use of consultants and:

   (a) present the appropriate business cases justifying meeting long-term operational demands by increasing staffing levels, such increases to be financed by the transfer of funds from consulting budgets to salaries and wages budgets;

   (b) where possible, ensure sufficient City staff are trained in skills required frequently and on a long-term basis, thus reducing the City’s reliance on consultants to perform such duties; and

   (c) ensure that the continuous operation of critical management information systems is not dependant upon a single individual consultant.

13. The Chief Administrative Officer communicate to and remind each Commissioner of the policy relating to the hiring of former employees, either directly or indirectly, as consultants for a specified period of time after they participated in the employee separation program of the City.

14. The Chief Administrative Officer review the practice whereby individual consultants are required to contract with consulting firms for providing their services to the City rather than being engaged directly as individuals.

Agencies, Boards and Commissions

This report contains a number of recommendations, which, in all likelihood, will have relevance to the City’s Agencies, Boards and Commissions. It is therefore important that these entities be
required to review the recommendations in this report, and implement those recommendations applicable to their operations.

Recommendation:

15. In view of the fact that the recommendations contained in this report may be relevant to the City’s Agencies, Boards and Commissions, the General Manager of each of these entities be required to report to their respective Boards by August 31, 2001 on such recommendations and their applicability in relation to their operations. In addition, the respective Boards be requested to forward such reports to the City Audit Committee.

The March 16, 2001 report of the Chief Administrative Officer articulates specific policies in relation to the selection and hiring of consultants and provides clear direction and the need for consistency across the City for selection, evaluating and awarding consultants contracts in a fair, open and competitive process. The policy, however, is of little value if its contents are disregarded. Many of the issues in this audit report are examples of circumstances where current existing policies have been disregarded. The policy needs to clearly establish staff accountability for compliance and consequences for non-compliance.

Recommendations:

16. The Chief Administrative Officer be required to add to the “Policy for the Selection and Hiring of Professional Consulting Services” specific details relating to the consequences of non-compliance with the policy. The amendment to the policy be reported to the Administration Committee by August 31, 2001.

17. The Chief Administrative Officer be required to report to the next meeting of the Administration Committee on the plans and timetable relating to the implementation of recommendations contained in this report.

Management Initiates Underway to Address Concerns

Initiatives are in process which address certain of the concerns outlined in this report. These initiatives include the following:

- The development of a policy for the Selection and Hiring of Professional and Consulting Services.

- Recent recommendations made by the Chief Administrative Officer in various reports, such as the development of a review and approval process to justify the use of consultants.

- Training programs in project management sponsored by the Chief Administrative Officer’s Department.
- Plans by the Commissioner of Corporate Services to review all consulting positions in the Departments within 60 days and, where appropriate, bring such contracts in-house.

- Plans by the Commissioner of Corporate services to issue requests for proposals in those cases where current contracts have been inappropriately sole sourced.

- Hiring the position of Director of Information Technology in the planning area who will ultimately oversee contract management.

- Increasing staff in the Contracts Management Office in the Information Technology Division of the Corporate Services Department.

We support the above initiatives as being a step in the right direction in addressing many of the recommendations in this report.

Conclusions:

In the first three years of the new City, there was a general need to use consultants. In fact, Council clearly directed early in its first term that staff should obtain objective, impartial third party advice to assist in dealing with issues specific to the amalgamation process. Combined with the issues relating to amalgamation were concerns associated with the Year 2000 computer problem. Both of these areas were a contributing factor to the inordinately high levels of consulting expenditures incurred at the new City since its formation. In 2001, there should be a significant decline in consulting expenditures and, in fact, a process should be in place where certain consulting work is transferred to City staff.

Since amalgamation in 1998, there have been improvements to definitions, data collection efforts, and reporting on the use of consultants in the City. Audit Services concurs with recent reports from the Chief Administrative Officer which indicate more work is required. Definitions need to be tightened or clarified, data accumulation structures need to be refined, and reporting made less cumbersome and more timely.

Some of the circumstances surrounding certain consulting agreements we have reviewed indicate inadequate attention on the part of staff to ensuring the City has received value for the money it has paid in consulting fees. In the systems development area particularly, in several cases, the City has left itself in a position where critical systems cannot be maintained without the services of external consultants. Immediate steps need to be taken to ensure that the City has the necessary information to continue operating critical systems should a consultant decide to withhold services. Plans need to be formulated to transition from a dependence on these consultants to developing sufficient depth of in-house expertise for these critical applications.

The actions required to achieve these goals will need support at the senior City staff level and the political level. Resources are required to continue existing and future projects. If staffing is insufficient to meet the demand, then continued reliance on consultants can be expected. In some cases creative compensation arrangements may be necessary to attract and retain the required expertise. These situations will need to be carefully reviewed to ensure value for money
is obtained on a long-term basis. Diligence must be exercised to ensure that staffing is not increased merely to meet short-term needs for resources. Thus, there will continue to be a need for consultants in an organization with such diverse services as the City of Toronto. However, savings are possible through investigation of alternative service delivery options and improved control over the processes involved in procuring, compensating, and evaluating consultants engaged by the City.

Action is being taken by senior staff to address certain of the concerns raised in this report. Clearly, there is a need to improve how and in what circumstances consultants are hired and how their performance is managed. The recommendations contained in this report will assist the City in better managing consulting costs throughout the City.

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