

The logo features a stylized graphic of a building with three vertical bars of increasing height on the left, followed by the word "TORONTO" in a large, bold, sans-serif font. To the right of "TORONTO" is the text "STAFF REPORT" in a smaller, bold, sans-serif font. A horizontal line is positioned below the text.

TORONTO STAFF REPORT

April 11, 2005

To: Administration Committee

From: Shirley Hoy, City Manager

Subject: Letter to Commissioner Bellamy on the Status of City of Toronto Initiatives

Purpose:

To communicate the City of Toronto's submission to Commissioner Bellamy on a summary of initiatives undertaken in the areas of procurement, management controls, integrity and governance since the Chief Administrator's appearance at the Inquiry in January, 2004.

Financial Implications and Impact Statement:

There are no financial implications arising from this report.

Recommendations:

It is recommended that:

- (1) this report be received for information.

Background:

On April 5th Audit Committee requested the Chief Administrative Officer to communicate her report to the Bellamy Commission to Administration Committee. In January, 2004, the Chief Administrative officer appeared before the Good Governance Phase of the Inquiry to present the City's ongoing efforts to address processes and procedures within the broad areas of integrity, procurement, enhanced management controls and governance.

As a result of this appearance, the Commissioner requested an update of any additional work the City has undertaken since that time. The Chief Administrative Officer provided a summary of initiatives as well as a binder of supporting documentation to the Commissioner. The summary is included as Attachment 1.

Conclusion:

As requested by Audit Committee on April 5, 2005, this report forwards the summary of initiatives prepared by the Chief Administration for the Bellamy Commission to the Administration Committee for their information.

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Shirley Hoy
City Manager

List of Attachments:

Letter to Commissioner Bellamy Regarding City of Toronto Initiatives Since January 2004.



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Dear Commissioner Bellamy:

I am writing as a follow up to my appearance before the good governance phase of the Inquiry in January, 2004. At that time I presented the City's ongoing efforts to address some of the issues raised within the broad areas of integrity, procurement, enhanced management controls and governance.

I am attaching several documents to this letter:

- 1) A summary of initiatives I feel address the status of work that I spoke of during my appearance at the Inquiry in early 2004. It follows the broad categories mentioned above and updates areas of activity within each. (Tabs 1-5)
- 2) An update on the status of the report on the Forensic Audit on Various Consulting Contracts (Beacon and Remarkable). (Tab 6)
- 3) The additional Good Governance questions have been answered. (Tab 7)

I am forwarding a binder of supporting documentation for the summary of initiatives. I hope you find this update and accompanying material of assistance in your final deliberations.

With a comprehensive internal and external auditing regime now in place at the City, the result will be continuous improvement to our policies, processes and procedures as witnessed last week with the release of the Auditor General's report on the Telecommunications Review. Unfortunately, given the open nature of local government, the media often focuses on only one side of the story, the recommendations for improvements as outlined by the Auditor General, without regard to the action taken by staff through the management response.

I can advise you that some of the actions taken by the City were, at least in part, prompted or informed by the subject-matter of the Inquiries and the evidence you have heard. We have been mindful of that evidence and as well the suggestions provided by the panellists in the good government phase. You can be assured that, although the City does not yet have your recommendations, the Inquiries have not gone unnoticed in terms of the City's direction.

Yours truly,

Shirley Hoy
Chief Administrative Officer

Summary of City Initiatives Since January 2004

INTEGRITY

Conflict of Interest (Tab 1.1)

City Council at its meeting of February 1, 2, and 3, 2005, adopted the Audit Committee's recommendation that the guidelines supporting the Conflict of Interest Policy be amended to include additional reporting requirements. Of particular concern were situations involving attending events and the receipt of gifts or meals from any vendors or potential vendors.

These new guidelines (Tab 1.1) provide additional information on the Conflict of Interest Policy with respect to the receipt of gifts, meals and attendance at conferences and fundraising events and set out the additional reporting requirements for these situations. The Chief Administrative Officer recently communicated these new guidelines to all staff.

Integrity Commissioner (Tab 1.2 & 1.3)

The purpose of having an Integrity Commissioner for the City is to support and uphold the Code of Conduct for Members of Council. City Council appointed Mr. David J. Mullan as Integrity Commissioner effective September 1, 2004. Mr. Mullan is a consultant and adjudicator and is a retired Professor of Law at Queen's University.

His duties include:

- Providing advice to individual Members on their obligations under the Code of Conduct
- Investigating complaints against Members under the Code of Conduct
- Providing advice to Council on general matters of integrity and ethics, including improvements to the Code of Conduct.

As part of the City of Toronto Act negotiations, the City is seeking authority to confer additional powers on the Integrity Commissioner, in accordance with a position Council has already adopted, namely:

- providing the Integrity commissioner with immunity from civil proceedings arising from his or her actions;
- exemption from freedom of information legislation to ensure that the details and personal information of complaints (e.g. a complaint affidavit) cannot be accessed;

- exemption from privacy legislation to allow Council to report findings in a public forum;
- powers for Council to impose meaningful sanctions and penalties.

Lobbyist Registry

The purpose of the Lobbyist Registry is to regulate the conduct of lobbyists at City Hall. However, to date there has been no change in the limitation on City Council's ability to establish a lobbyist registry. As part of the City of Toronto Act negotiations, the City is seeking authority to enact a registry or otherwise regulate the conduct of lobbyists, in accordance with a position Council has already adopted (Tab 1.6). In the meantime, certain Members of Council continue to maintain an informal lobbyist registration on a voluntary basis (Tabs 1.4, 1.5).

Also, in 2004 the City amended its Lobbying Disclosure Policy for Competitive Calls and Requests (Tab 1.7). The new "Lobbying Disclosure Policy for Requests for Proposals and Tender/Quotation Calls" (Tab 1.8) requires bidders in any competitive procurement process to ensure that no lobbying of any Member of Council, City employee, or any appointed member of any City agency, board, commission, task force or related organization takes place without the communication being disclosed in accordance with the policy. The previous policy applied only to competitive calls or requests (RFP's, RFQ's etc.) issued by PMMD that were for high-value contracts, long term contracts, or high profile contracts with the likelihood of intense lobbying.

Toronto Election Finance Review – Task Force Recommendations (Tab 1.9)

In 2002, Council authorized the establishment of the Toronto Election Finance Review Task Force (the "Task Force"). Its mandate was to examine all aspects of municipal election campaign financing and make recommendations to Council on legislative amendments and process improvements that would enhance the public accountability of candidate financial disclosure. The Task Force discharged its mandate and made its recommendations.

At its meeting of September 28, 29, 30 and October 1, 2004, (Tab 1.9) Council directed that a request be made to the provincial Minister of Municipal Affairs and Housing to amend the *Municipal Elections Act, 1996* so as to (among other things):

- prohibit corporations and trade unions from making municipal election contributions, and that such legislation include provisions to permit a municipal council to pass a by-law to provide for a method of public funding to candidates
- limit contributions by an individual to a maximum of \$750 to any one candidate for councilor, and \$5,000 to all candidates for councilor

- limit contributions by an individual to a maximum of \$2,500 to any one candidate for the office of head of a municipality, and a total of \$2,500 to all candidates for that office

The City is seeking authority to enact these limitations, along with the rest of the recommendations adopted by Council, as part of the City of Toronto Act negotiations.

PROCUREMENT

The changes implemented in procurement have been broad and sweeping.

When I last reported on the City's activities around procurement, the City was in the process of implementing the recommendations contained in the Auditor General's report as approved by Council on April 14-16, 2003. This was called the Procurement Processes Review (Tab 2.1). Much of the work the Auditor General focused on in his report was either in place or under development at the time of his report. However, the report provided an opportunity for the City to further review and fine tune its procurement processes given ever changing requirements.

A report on the status of every one of the Auditor-General's recommendations as of the end of 2004 as reported to Council is found at Tab 2.2.

For purposes of this Inquiry Update, however, I will focus on recent developments relating to what I believe are some of the main recommendations. I have also attached a number of documents that provide additional detail on the status of this work. Where a particular action is specifically related to one of the Auditor's recommendations, I have noted the recommendation number for your ease of reference.

Changes to the overall procurement framework

At its meeting of July 20, 21 and 22, 2004, Council adopted a number of measures to set the framework for proper and effective procurement processes in the City (Tab 2.3):

- The previous Chapter 195, Purchasing, of The City of Toronto Municipal Code, was repealed and a revised one enacted in its place which applies to all procurement calls (RFP, RFQ, etc.) issued after November 1, 2004 (Tab 2.7 a).
- Council adopted the "Procurement Processes Policy" effective for all procurement calls issued after November 1, 2004 (Tab 2.7 b)
- The previous Chapter 71, Financial Control, of the City of Toronto Municipal Code, was amended (Tab 2.7 c)

The changes to The City of Toronto Municipal Code refine and clarify the authority and discretion Council is delegating to staff.

The Procurement Processes Policy is a requirement of the *Municipal Act, 2001*, and it sets out specific and detailed procedures to be followed by staff. For example, among many other things, the Policy sets out the action to be taken in response to specified irregularities that may be found in vendor responses to procurement calls issued by the

City. It also requires there be one official City point of contact named in all procurement calls from the time of issuance to and including the announcement of award.

Together, these By-laws and the Policy form the City's overarching procurement framework.

Training and compliance with procurement policies and procedures [Auditor's recommendations #1, 2, 5]

A training program has been developed in consultation with Corporate Services, Human Resources, and is being delivered by Purchasing & Materials Management Division (PMMD), to ensure that staff involved in the procurement process understand their roles and responsibilities. Training for all affected City staff on the policies and procedures and by-laws began in February 2005 and will become a regular session offered in the City's corporate training calendar. All PMMD staff have been advised that they are required to attend the training sessions.

Compliance with purchasing policies and procedures will be part of the employee performance evaluation. All policies and procedures have been posted on the PMMD intranet and internet websites. PMMD Client Services staff will commence periodic random quality control checks in 2005 to ensure compliance with policies and procedures. The purpose of these measures is to ensure that risks are minimized in the procurement process, that staff understand their roles and responsibilities, and that cases of non-compliance are detected.

Relevant policies and procedures enacted since my attendance in January 2004 are attached (Tab 2.7).

Service Level Agreements [Auditor's Recommendation #1]

Service level agreements between PMMD and service departments are intended to define the roles, responsibilities, authorities and accountability of PMMD and the respective departments for each step of the procurement process and to outline standards and expectations with respect to level of service and turnaround time at each step.

The first service level agreement is with the Water and Wastewater Services Division (Tab 2.8), which will be implemented in the second quarter of 2005. Service level agreements with all other service areas will be developed in 2005. Recognizing that one size does not fit all, once implemented, service level agreements will provide each of PMMD's customers with a customized accountability, responsibility and authority framework. The City believes these agreements will address a number of problems that surfaced in TCLI about who does what at various points in the procurement process.

Organizational Restructuring of PMMD [Auditor's Recommendation #3]

A Consultant hired by the City undertook a review of various organizational models. The result was a new Organization structure developed in 2004. The new structure adopts a more client based procurement model as opposed to the existing commodity based model. It realigns activities where they more appropriately belong within PMMD, clarifies roles and responsibilities and type and mix of positions with an emphasis on corporate administration of the purchasing program. (Tab 2.3 at p.15 contains greater detail about this re-organization).

This new proposed structure was communicated to staff in the first quarter of 2005 and will be implemented in the second quarter of 2005. An implementation Plan for the new structure has been developed. (An organization chart is found at Tab 2.10)

Policies and procedures

Conflict of Interest Policy for Bidders [Auditor's Recommendation #14]

A conflict of interest policy for bidders was developed and approved by Council in April 2004 (Tab 2.7 d) This policy prohibits a vendor, supplier or consultant that is involved in the preparation of a call/request from submitting a response to the call/request.

Policies and procedures directed at ensuring a proper evaluation process [Auditor's Recommendation #15]

One of the most significant of the Auditor's recommendations is about ensuring relevant staff have the necessary knowledge to manage and participate in the procurement process. In addition to training measures outlined above, a need was identified to ensure more explicit definition of roles and responsibilities, time-lines, and scope of analysis needed

In response to this recommendation, new policies were developed in 2004 and approved by Council where required so as to address all of the above concerns. In particular:

- Procurement Processes Policy (Tab 2.7 b). As set out above, along with the Procurement and Financial Control By-laws, this policy sets the framework for the City's procurement.
- Request for Proposal Procedures (Tab 2.7 e). These procedures outline the steps involved in preparing, issuing, receiving, evaluating, awarding and administering RFP calls. They set out who is responsible for specific tasks at each step of the process, and refer the reader to other applicable policies and procedures, as well as the forms to be used.
- Request for Quotation Procedures (Tab 2.7 f). These procedures are the RFQ call counterpart to the RFP Procedures, and are similar in purpose, form and design.

- Request for Tender - Construction Procedures (Tab 2.7 g). These procedures are the construction tender counterpart to the RFP and RFQ Procedures.
- Non-Disclosure & Conflict of Interest Declaration (Tab 2.9). This declaration, developed in consultation with Legal Services, is to be signed by members of RFP evaluation teams, and requires them to declare they are not in a conflict of interest respecting any of the proponents to be evaluated.

In addition:

- an RFP Financial Analysis Evaluation template has been developed (Tab 2.7 h). This template has been implemented for the corporate financial analysis that may be required for Requests for Proposals. The Project charter will be used internally by Corporate Finance when corporate financial analysis in support of a RFP is requested by a program.
- an RFP checklist of key considerations has been developed and provided to program heads to assist them in ensuring a proper, fair and effective RFP process is used. (Tab 2.7 i)

Retaining Appropriate Documentation [Auditor's Recommendation #16]

A procedure stipulating the documentation to be retained from all Calls (RFP, RFQ, etc.), how to maintain a file for each Call, and responsibility for doing so, was implemented in December 2004. (Tab 2.7 j). It is expected that this procedure will systematize procurement document retention, and will enable procurement decisions to be supported after the fact if necessary.

Council and Committee Report Information [Auditor's Recommendation #18]

A template for staff reports to committees and Council that clearly presents key information has been developed and is being reviewed by the Financial Planning Division. It will be finalized in April 2005. This template will be posted to the PMMD Website and will be part of staff training provided by PMMD. The template includes:

- the bid/proposal solicitation method
- evaluation criteria, including weight assigned to each factor
- composition and technical knowledge of evaluation team
- justification for contract award
- length of the contract, including any renewal options
- total value of contract
- total value of any contingencies in contract
- key terms and conditions in the contract

Reports will continue to be reviewed and approved by both Manager of Purchasing and Director of PMMD to ensure the new format is applied.

Purchases under \$7500

Departments have been given delegated authority to issue Departmental Purchase Orders (DPO's) for one time purchases up to \$7,500.00. The procedure (Tab 2.7 k) for issuing DPO's was updated and included on the PMMD Intranet website in 2004.

The procedure ensures that DPO's are not used for repetitive purchases where a bulk price contract can be established, or where a blanket contract exists. It requires that at least 3 quotes are obtained for purchases between \$3,000.00 and \$7,500.00. The procedure is included as part of the training provided by PMMD to all City Departments.

Blanket Contracts [Auditor's Recommendation #38]

Procedures were developed and implemented around blanket contracts in 2004. The procedures (Tab 2.7 l) include how to define the need for the goods/services, preparation of a call document, evaluation of bids received, the contract award process, how to purchase from a blanket contract, and the administration/monitoring of a blanket contract to ensure that contract value is not exceeded. A detailed explanation of the purpose of these procedures was reported to Council in May 2004 (Tab. 2.4 at p.3).

These procedures are part of the training provided by PMMD to all City staff. SAP and business training was provided in 2004 to key administrative PMMD and departmental staff.

Blanket Contract Values are monitored by both the Departments and PMMD staff, in accordance with the procedure to ensure that blanket contract amount is not exceeded.

Procurement Complaints System

In order to ensure the highest standards of integrity with respect to dealing with complaints from vendors, a formal procedure has been developed reflecting existing practices for handling complaints. The procedure was approved by Council in July 2004 as part of the "Procurement Processes Policy", item 11.0 (Tab 2.7 b).

The procedure reinforces that all procurement complaints are first to be directed to the Director of PMMD for resolution. The appropriate Standing Committee of Council only gets involved if the objection cannot be resolved by the Director of PMMD. The procedure has ensured that procurement complaints are directed to the appropriate party (PMMD) for resolution and has allowed fast resolution of complaints without the involvement of Standing Committees of Council.

Delegation of Authority [Auditor's Recommendation #9]

Requests to increase the previously authorized dollar value on purchase orders and contracts now require the approval of the original authorizer's immediate manager as soon as the additional work required becomes known.

The "Purchase Order or Blanket Contract Amendment(s) Procedure" (Tab 2.7 m) specifically states that the approver for increases to original contract or purchase order amounts must be one level higher than the original approver who authorized the purchase order or contract. These procedures are included on the PMMD Website and with the training provided by PMMD to all City Departments.

Accounting Services has drafted a procedure for departments to document the signing authorities delegated to management staff as allowed under the Financial Control By-Law. The draft signing authority procedure has also been extended to document the signing authorities for other day to day business transactions, particularly for human resources and payroll matters. This procedure will be finalized upon the confirmation of the new corporate officers hired under the new City structure. This is expected to be complete in April.

Fairness Consultant [Auditor's Recommendation #20]

The purpose of using a Fairness Consultant is that it provides for an arms-length, objective party to attest to the fairness and appropriateness of a particular procurement process. A Fairness Consultant will assess and provide assurance on the process, not the decision. The consultant does not address whether the right product or vendor was selected. Rather, it is the process of the selection itself that is assessed in terms of whether all participants were evaluated objectively according to approval and required processes.

In July 2004, City Council approved the report "Feasibility of Using Fairness Consultants for Certain Procurements" (Tab 2.5). The report detailed the potential roles of such consultants (i.e., early, mid or later stage of the procurement), and included the costs and benefits involved when considering the use of a Fairness Consultant. In adopting the report, Council approved the criteria to be used by departments when assessing a project for potential use of a Fairness Consultant for complex and high profile procurement processes. Ideally, prior to a call issuance, the following criteria will be used to determine project likelihood of benefiting from the use of a Fairness Consultant:

- rapidly evolving products, especially software
- high-risk endeavours;
- out-of-country vendors challenging required Canadian terms and conditions;
- new technologies such as waste management or information systems;
- competition against a long-term incumbent (to avoid perception of undue advantage);
- innovative forms of procurement;
- new, high-value products;
- development/new use or operation of significant public sites/facilities/properties;

- anticipated high-profile and controversy that can lead to few responses or pressure to take low bid/price regardless of other areas evaluated as best; and/or
- private-public, or public-public, partnerships (known as P-3 projects).

If a department believes a particular procurement may benefit from using a Fairness Consultant, the approved policy provides for consultation with a City Advisory Panel having members from City Legal, Finance, Purchasing and the Office of the CAO. The purpose of the Advisory Panel is to provide guidance and advice to departments in assessing project risk, ensuring proper competitive call processes, and confirming departmental determination on the merits or not, of using an external Fairness Consultant for a particular procurement.

Furthermore, if it is determined that a Fairness Consultant will be hired, the Advisory Panel reminds staff of the need to adhere to City purchasing policies such as the Policy on the Selection and Hiring of Professional and Consulting Services Policy, or the City Sole Source Procedures. The Advisory Panel also emphasizes to departments that the use of a Fairness Consultant does not supplant nor replace the ongoing procurement management responsibilities of City staff. For example, a Fairness Consultant will report to Council on the fairness and clarity of RFP criteria developed by staff, the extent of fair and consistent staff interaction with proponents and the integrity of the evaluation process applied by staff.

While most of the features of the Advisory Panel are contained in the policy report, including the focus on best procurement practices and supporting senior staff in the event that a Fairness Consultant reports problems with a particular procurement process, the role may benefit from formalization. Draft Terms of Reference have been prepared for the CAO to present to department heads and to obtain any further information from departments on how the Advisory Panel may assist them.

As part of the End of Lease Strategy (detailed later), a Fairness Commissioner was retained to oversee the evaluation process for the RFP issued for desktops and related equipment to replace equipment leased through MFP.

Three-Way Match [Auditor's Recommendation #43]

The "three way match" process is the electronic matching of a purchase order (authorization to commit), goods receipt (verification of delivery) and the vendor's invoice before payment is made. Each of these events/documents can be created electronically in the City's financial system and allow for automated matching and verification. This process is well suited to the City's size and its decentralized operations. It allows for on-line controls to be exercised at both field operations offices and at the centralized head office. The process also eliminates the need for paper flowing back and forth between the two.

The City introduced the three-way match process to a limited number of Divisions with the new SAP financial system in 1999. In 2001, a three-way match project was launched

to implement the process City-wide. The implementation of the three-way match process across the City has been a challenge because it was perceived by departmental management as a significant change in their departmental processes that could significantly add to their administrative workload. In addition, breaking the paper habit continues to be a concern.

In order to address these challenges, the three-way match project was revamped into a Payment Process Improvement Project and re-introduced to the departments as a project to help them as opposed to an imposition of a corporate process on them. More emphasis was placed on documenting and rationalizing Operating Program/Divisional purchase order approval and vendor invoice verification processes. The project was broadened to include Purchasing Cards to procure and pay for high volume, low value goods. Before a department can participate in the Purchasing Card program, they must complete the payment process improvement review conducted by Finance.

Each Department has now agreed to fully participate in the project. Toronto Water, one of the City largest Divisions, implemented the three-way match process in late 2004. It is expected that up to five City Divisions will be converted in 2005. In part to address the paper habit and in part to address archiving needs, Accounting Services intends to purchase a vendor invoice imaging system as part of a larger document management system in 2005 for 2006 implementation. This will allow departments to access copies of vendor invoices on-line.

Clarity of Roles and Responsibilities between Staff and Elected Officials

There is a need to further define and clarify the roles and responsibilities of elected officials and staff with regard to contract management and the procurement process.

Recently the Works Committee requested that the criteria and weighting and/or scoring system for all major works contracts, RFPs and Environmental Assessments be provided to the Committee prior to issuance. This request essentially questioned the role of staff and elected officials in the procurement process.

In response, staff submitted a report to the Policy and Finance Committee for consideration on March 31, 2005 entitled Works Committee Approval of RFP Evaluation Criteria (Tab 2.6). In keeping with the Research Paper from the Good Governance Phase of the Inquiry, staff advised that elected officials should separate themselves from the procurement process and rely on professional staff working within approved procurement policies and processes. The City's Integrity Commissioner concurred with staff's conclusions and suggested the City be attentive to the conclusions of the Research Paper as well.

The role of Purchasing Materials Management Division's role in the evaluation process is to ensure the criteria used in the evaluation are consistent with those specified in the call or request documents and that due process is followed. The procurement guidelines, RFP process checklist, and the engagement of a Fairness Consultant, are all intended to assist staff to ensure that key risks have been adequately dealt with up front in the process

before the RFP is issued, so that the process is fair, effective and conducive to achieving the City's objectives.

The procurement process must be conducted in a timely manner and the Auditor General's April 2003 report clearly indicated that this process was too time consuming. If the City were to have call documents vetted through the Committee prior to issuance this would prolong the process and could negatively impact on City operations. It is my opinion that Council must focus on providing overall direction to staff with respect to objectives, scope and deliverables for a particular project or procurement, and then rely on professional staff working within approved procurement policies and processes to administer the process. I look forward to recommendations from the Commissioner that will assist the City to further clarify roles and responsibilities in this area.

Status of SAP Competency Centre

The City uses the SAP R/3 system for its corporate financial and human resource functions. It is the City's largest and most important management system and a key investment. The system was implemented in phases and although the initial implementation of the system was led by Accounting Services, the care and maintenance of the system has been spread out between Accounting Services, Pension, Payroll & Employee Benefits, Human Resources and Corporate I & T. While these Divisions met and coordinated on system maintenance and minor improvements, there was no capacity to plan and execute long-term, strategic improvements to the system and to expand the use of the SAP modules the City owned but did not use. In 2004, the City created a SAP Competency Centre in Corporate I & T to fill this void. In addition, a sub-committee of the Finance and Administrative Coordinating Team (FACT) has been created (the E-business committee) to provide guidance and direction to the SAP Competency Centre.

A manager of the SAP Competency Centre has been recently hired and she is currently working on a long-term strategic plan for the City's SAP installation. In 2005, one of the more significant SAP projects to be undertaken is the Facilities & Real Estate Division's Business Improvement Project which is centred around the implementation of SAP's asset and lease management modules.

ENHANCED MANAGEMENT CONTROLS

Some of the new measures summarized in the Procurement section above also apply to the area of enhanced management controls. For example, the new procedures pertaining to Blanket Contracts (Tab 2.7 1) cover both the procurement and contract management aspects of that issue. However, so as to avoid repetition, I will not refer again in this section to measures that have been dealt with previously.

Contract Management

Initiatives are underway to help improve contract management in the City, including:

- A contract management improvement project consisting of guidelines, training and internal audits. To this end a contract management checklist has been developed (Tab 3.1) along with Procurement & Contract Management Guidelines (Tab 3.2) and sent to each program head with a request that they advise the CAO on action they have or will take to ensure contracts under their responsibility are being properly managed.
- In addition to the checklist and guidelines, contract management training will be provided to staff, and Internal Audit will be performing select contract management audits in 2005 to see how well programs are doing in this regard.

There were recently reports in the press about problems in the City's contract management practices identified by the Auditor General in his recent Telecommunications Services Review (Tab 3.4). As with the Procurement Processes Review, staff were aware of many of the issues raised by the Telecommunication Services Review, and had already been working to implement many of the Auditor General's recommendations (Tab 3.5). Identifying improvements to our contract management systems and processes is an ongoing effort, and we recognize the important role the Auditor General plays to ensure a check in the system and to identify those areas where additional improvements can be made.

Internal Audit

The Internal Audit Division is currently staffed with 6 positions (5 professional and 1 support staff). Through the last 12 - 14 months since the division has been operational, it is very clear that the division is significantly under funded relative to its mandate and the needs of the City. If the City is serious about providing true value to the various programs and to help ensure effective controls are in place to manage the risk in their respective areas, more resources are required for this area.

With the Mayor's announcement of a new administrative structure for the City (described below) the objectives of providing both corporate and program oversight and control will require a realignment of resources to ensure this area is properly funded to achieve these objectives.

Attached is a copy of the status report prepared for Budget Advisory Committee dated December 17, 2003 (Tab 3.3), which provides an explanation of the new audit framework

(it was not included in the documents provided for my last attendance). It also provides a telling comparison of internal audit programs under the City umbrella (Police, TTC, and us), as well as with the Province, which has a similar, but much larger audit structure.

Much of Internal Audit's work this year will focus on improving the controls relating to the administrative framework in the City, promoting the awareness of risks and controls by City Staff, and providing advice on design/ implementation of new systems and programs. However, there is a list of projects Internal Audit has considered but which cannot be accommodated due to lack of resources.

Information Technology Issues

The focus of TCLI and TECI was, of course, I.T. procurement, contract management, and use of consultants. A number of specific and positive measures have been taken within Corporate I&T since I appeared before you in January 2004 which, in concert with the broader initiatives described previously or elsewhere in this Update, we anticipate will address many of the problems the evidence before you disclosed. While some of these items deal more with procurement or integrity issues than management controls, I thought it better to consolidate them under this one section.

Use of Consultants

Corporate I&T has reduced consultants from almost 10% of the workforce in 2001 to about 3% in 2004. It is not cost-effective to reduce further since most of this headcount is for highly specialized or short-term work. The loss of contractor resources was partially offset by an increase in regular staff over this period. Staff training plans are developed annually to ensure skills remain current.

IT End of Lease Strategy (Tab 3.6)

The Technology End of Lease Strategy (TELS) was established to replace equipment leased through MFP, which is at the end of its useful life – with City purchased and owned equipment. A TELS progress report was submitted to e-City Committee January 27, 2005 (Tab 3.6). TELS established an on-going technology life-cycle replacement program to refresh our technology infrastructure to ensure state of good repair. This approach to ownership of equipment and replacement on a life-cycle ensures that we avoid the complications that can arise from leasing and that we have equipment that meets the performance and reliability needs of the users of the technology at a low maintenance cost.

A public RFP was issued for the desktops and related equipment. A Fairness Commissioner was retained to oversee the evaluation process. Compugen Inc. was the successful proponent. A 2-year agreement has been negotiated, contract executed and equipment ordering has begun. It is expected that the replacement of the leased computers will be completed by December, 2005.

Technology Asset Management

Recognizing its weakness in management of I.T. assets, the City is taking steps to develop a robust asset management system.

As a first step, an interim asset management system (“CTAM”) has been developed to track assets deployed as a result of the TELS project. CTAM was developed internally to capture asset information from the TELS/Compugen contract rollout in 2005.

The City’s permanent asset management solution is the Enterprise Technology Asset Management Project (“ETAM”). This is a more comprehensive software solution we are implementing that will allow decentralized updating of all IT asset management information. The RFP for this solution is expected to be released by April 2005. ETAM will have integration with other systems, such as SAP.

IT Procurement Steering Committee

An Information and Technology Procurement Steering committee has been created and meets monthly to plan IT procurements across all divisions, and to discuss potential issues before they occur.

The Committee includes members from Corporate I&T, Finance, Legal Services and program representatives from across the City. The Committee has monthly meetings, chaired by the Executive Director of Information and Technology Division.

I.T. Vendor Protocol

A vendor protocol has been developed by Corporate I&T for its staff to follow (Tab 3.7). This protocol supplements the City’s main Conflict of Interest Policy.

Contact between City staff and the I.T. vendor community is an essential element of conducting business, but given the conflict of interest issues that arose in Corporate I&T, additional guidance was thought necessary. The protocol sets out not only what kind of staff contact with vendors is acceptable, but also that contact with vendors is essential and expected in the appropriate circumstances.

Paragraph 6 of the protocol refers to soliciting vendor information about products and services through “vendor days” where selected vendors are invited to scheduled meetings with a number of staff who listen to presentations and engage in Q&A. The first vendor day was held on February 21, 2005. Due to vendor demand, and to assist in evaluating the effectiveness of this approach, a second one is planned. An evaluation of these events will be conducted and a recommendation made to continue holding them or not.

IT Procurement Process Review

A review of the Information Technology Purchasing Process has been completed with the objective of improving efficiencies in the process and to clearly define roles and

responsibilities of everyone involved in the process. The IT Procurement Steering Committee will monitor compliance.

This review involved extensive stakeholder interviews and best practice research in order to make recommendations for improving the process. The final report on this topic is expected by the end of April, 2005, and we can provide it when it is available.

GOVERNANCE

Review of the City's Administrative Structure

In May 2004 Mayor David Miller requested that the Chief Administrative Officer begin a review of the City of Toronto's administrative structure. The current structure was put in place in 1998 when the City's principal focus was on implementing the largest municipal amalgamation in Canadian history. Toronto is now one of the largest governments in Canada and must deliver a wide range of public services and respond to a complex array of issues. In this context, and to ensure that Toronto is sufficiently nimble to compete successfully with big cities around the world, the Mayor believes it is essential to refocus our attention on city building. To that end, City Council approved the Mayor's report on November 30th, 2004 for implementation on April 15th, 2005 (Tabs 4.1, 4.2).

Specifically the goals of the report are to ensure that the City has the best senior management model to meet its future challenges, to strengthen corporate oversight capacity, and to increase emphasis and accountability on working together, across program areas to deliver Council's priorities.

The new model was developed using the following principles and assessment criteria:

Citizen Focused:

- reflects the services that are important to the citizens of Toronto
- easily understood by the public
- supports the achievement of Council priorities
- has strong service delivery capacity

Effective Balance of governance, compliance and delegation:

- develops and monitors management standards, systems of checks and balances
- develops and co-ordinates corporate and inter-program policy
- supports the effective balance of decentralization to enhance innovation and centralization to ensure good governance
- supports effective delegation for day-to-day service delivery

Strategic Leadership:

- enables the development of positive values, culture and behaviour
- promotes strategic planning and development of long term goals
- promotes co-ordination, collaboration and innovation

Adaptable, flexible, innovative:

- promotes effective inter-program and cross-discipline collaboration
- adapts to changing public needs and service priorities
- reduces barriers to innovation
- rewards initiative and encourages the engagement of staff in their work
- encourages a working climate where employees know their work is valued

The previous model was headed by a Chief Administrative Officer (CAO) with a Commissioner-led departmental structure below. This has now been replaced with a new management model. While the City Manager (formerly titled CAO) continues to have overall responsibility for the City's administration and operations and is the head of the Toronto Public Service, the role and capacity is strengthened by the addition of two Deputy City Managers and a Deputy City Manager/Chief Financial Officer who will work with the City Manager to ensure that the administration is in compliance with:

- High standards of public service
- Ethical, professional and apolitical behaviour
- Openness and integrity
- Fiscal responsibility and rigorous financial management
- Sound systems of management policies, standards, practices and procedures.

The two Deputy City Managers will be assigned management oversight responsibility, performance management, and budget development and resource allocation and alignment for several citizen focused services (e.g., Solid Waste Management, Transportation Services, City Planning, etc.). The Deputies will also lead City-wide initiatives and projects as assigned by the City Manager, and will promote collaboration and innovation across the organization to ensure horizontal integration between programs. The Deputy City Manager/Chief Financial Officer will have management oversight, performance management, and budget and resource responsibilities for the corporate finance and administration functions.

In the previous model, Commissioners had responsibility for day-to-day operations and program advocacy, as well as playing a corporate role. In the new model, day-to-day operations and program advocacy will devolve to the heads of the citizen focused services who will focus on operations and program stewardship and will represent their program areas at committees and Council. They will also be responsible for human resource and budget management within approved budgets for their service areas and will be expected to work collaboratively together.

Extensive implementation work has begun in anticipation of the April 15 date, for example:

- Recruitment activities are taking place for the Deputy City Managers and for two new positions of Treasurer and Chief Corporate Officer that will assist the Deputy City Manager/CFO in leading the corporate financial and administrative functions.
- Orientation and leadership development exercises began on February 8 to help all senior staff understand their roles in the new model, and their responsibilities to ensure successful implementation.
- The City Manager has commissioned a Charter of Expectations that will be developed by April 15 to ensure that senior staff behaviours and accountabilities are

clearly articulated and understood by all. The Charter will guide senior staff in practicing a public service ethic; in understanding the complexity of the political environment and the role of the public service in providing professional advice and recommendations to Council; and in exercising a stewardship role within a framework of checks and balances and sound management practice.

- An additional key priority project that will be completed over the next few months is an analysis of how the administrative, financial and technical support services should be delivered in the new structure. This work will include looking at opportunities for improvements to business processes and internal controls, and re-alignment of resources to maintain achieved economies and strengthen the delivery of these functions.

I cannot emphasize enough the importance of the administrative restructuring on the City's ability to focus on many of the oversight and compliance issues as well as the issues around integration and collaboration. In the past several years we have made great progress in developing and introducing processes, procedures and policies to the City that were either not in place or not well understood after amalgamation. This new structure, along with the work of the Internal Audit Division, and the ongoing dedication of City staff, will help to ensure the necessary systems and processes are in place to rebuild the public trust. It will also enable us to test the systems, to see how well people understand and are complying with these processes, procedures and policies.

Finally, I believe that improving the City's oversight and compliance areas corporately and operationally can only happen with adequate resourcing and an appropriate allocation of resources to areas responsible for these functions. In addition to Internal Audit, areas such as Contract Management, Purchasing and Materials Management, Legal Services and the current model of Business Support functions may require an increase to, or reallocation of, resources given the objectives of the new administrative structure.

Toronto Public Service Learning Summit (Tab 5.1)

The Learning Summit, an organizational learning event, developed and attended by City staff was held in May 2004. The event attracted almost 1000 attendees from across the City, including Union, non Union, senior management and front line staff, not including those staff who watched the event in their offices or in staff meetings via Channel 99. It was an opportunity to share our stories and showcase our experiences. Internal and External high profile people were identified as keynote speakers to share their insight, experience and passion for the Toronto Public Service.

This event was the first of its kind for the City and an evaluation held after the fact was undertaken to assist program organizers to understand what worked well and what staff took away from the session. Although a low number of staff indicated they were able to pick up practical new ideas to take back to their own workplace, a greater insight and renewed sense of pride and optimism were more common reactions.

The Learning Summit reminded City staff of the ideals of public service, and the event gave staff the kind of intellectual stimulation that helps to inspire a keen commitment to learning, and invigorates the spirit of co-operation and shared purpose that is required to build a great City. Co-operation in the form of cross-departmental efforts was demonstrated in many of the staff presentations over the two days and a commitment to the highest standards of public service integrity, fairness, accessibility and accountability.

While the City has made great strides in developing comprehensive policies and procedures, their effectiveness depends in part upon a strong City culture informed by these values. To that end, work related to the Toronto Public Service Initiative is continuing.

UPDATE ON RECOMMENDATIONS IN THE BEACON AND REMARKABLE FORENSIC AUDIT (Tab 6)

In his report dated May 31, 2002 (Tab 6.1), the City Auditor made seven recommendations arising out of the forensic audit on Beacon and Remarkable. The Commissioner asked the City for an update on these recommendations.

Recommendations 1 and 2:

the Chief Financial Officer and Treasurer, in consultation with the City Solicitor, make a demand on Beacon Software Revenue Systems, LLC for the recovery of expenses inappropriately charged to the City as a result of the application of incorrect US exchange rate calculations;

the City Solicitor to report back to the next meeting of Audit Committee on the merits and relative costs of legal action to recover monies inappropriately paid to Beacon Software Revenue Systems, LLC and Remarkable Software, Inc.

Action Taken:

No action in response to these recommendations had been taken until recently given that the Inquiry was pending. An *in camera* and privileged report from the City Solicitor has recently been submitted to the Audit Committee. I can advise that, to date, no legal proceeding has been commenced against either Beacon or Remarkable.

Recommendation 3:

the Chief Financial Officer and Treasurer be required to file appropriate GST rebate claims with Revenue Canada in relation to GST paid on expenses claimed by and reimbursed to Beacon Software Revenue Systems, LLC and Remarkable Software, Inc.;

Action Taken:

The potential of GST rebate claims has been investigated and it has been determined that the GST paid by the consultants on expenses claimed are not recoverable as the consultants had not registered for GST purposes.

Recommendation 4:

the Chief Financial Officer and Treasurer, in circumstances where consultants are reimbursed for expenses, ensure that the necessary supporting documentation is provided to the Finance Department in order that appropriate GST rebates are claimed;

Action Taken:

When the Consultant is registered for GST, the City is able to recover the appropriate rebates on all GST billed and has been doing so. The GST paid on reimbursed expenses of non-registered consultants is not recoverable.

Recommendation 5:

the Chief Financial Officer and Treasurer review the issues relating to non-resident withholding tax and the self-assessment of GST as identified in the body of this report and report to the next Audit Committee meeting on an appropriate course of action;

Action Taken:

The City does self assess GST where required. Since the City now receives a rebate for 100% of all GST paid, the risk of interest and penalties for missed GST self assessments is negligible. Non-resident withholding tax is now being coordinated through the commodity tax specialist in Accounting Services. Information on withholding taxes has been posted to the WES intranet website. Similar information will be posted on the Accounting Services and Purchasing and Material Management intranet websites in 2005.

Recommendation 6:

the Chief Financial Officer and Treasurer create a commodity and sales tax specialist function within the Accounting Services Division of the Finance Department in order to address issues on a proactive basis such as GST, provincial sales tax, various withholding taxes, including non-resident withholding tax and all other relevant commodity taxes and ensure the City is in compliance with applicable tax legislation; and

Action Taken:

A commodity and sales tax specialist has been place since April 2004. A report will be submitted to the Audit Committee in July outlining the results of the specialist's first year and plans for 2005.

Recommendation 7:

the Chief Administrative Officer and Commissioners, in consultation with the City Solicitor, ensure that all contracts with external contractors and consultants contain provisions that allow access by City officials to appropriate supporting documentation respecting the services provided.

Action Taken:

Contract Management Guidelines (Tab 3.2), which incorporate the need for adequate supporting documentation for contractors' billings and access to them, have been posted

to the City's Purchasing and Materials Management website and have been communicated to all departments by the CAO.

ADDITIONAL GOOD GOVERNMENT QUESTIONS (Tab 7)

Question 1:

Ontario Regulation 46/94 of the Municipal Act, 2001 among other things, requires council, prior to entering into a financing lease, to instruct the treasurer to prepare a report that includes a recommendation, assessing costs and possible risks associated with it - including comparing the fixed and estimated costs of the lease being proposed, as well as the risks - with the risks and fixed and estimated costs of other financing methods. After receipt of the treasurer's report, council is required to "consider and give its assessment of the report." Further, prior to entering into a lease, the Regulation requires council to obtain legal and financial advice.

What actions has the City of Toronto taken, if any, on O.Reg. 46/94 since its provincial enactment in 2002?

The attached report and accompanying City of Toronto Leasing Policy (Tab 7.1) were adopted by Council at its meeting held on March 1, 2 and 3, 2004. To date, a financing or capital lease that would be evaluated and reported under this policy has not been presented to Council for approval.

Question 2:

During the testimony of Lou Pagano, a chart was introduced illustrating the number of purchase orders and contracts had been issued in the first year of amalgamation, 1998, as contrasted with 2001. If a more current version of that chart exists, could you please provide us with that?

A current version of the chart is attached at Tab 7.2.

Question 3:

In his testimony, Mr. Pagano made mention of a purchasing manual which was, in early March 2003, in the draft stage. In early 2004, Shirley Hoy noted that Mr. Pagano was assisting in the preparation of a training manual for purchasing staff in the Finance Department, as well as staff at the line departments. What is the status of this (these?) reports?

As detailed earlier, purchasing procedures have been developed/revised, in consultation with departments, Legal and Internal Audit. The procedures are posted on the PMMD Intranet website, and a corporate communication was issued to all City Staff to advise

them of the procedures and how they could be accessed in the website. The “manual” therefore exists electronically on the intranet, not as a bound hardcopy. All changes/updates to the procedures are noted in the change log on the website.

In addition to the procedures, and also as discussed earlier, a training program was developed by PMMD Client Services Section and was offered to all City staff, as required, beginning Feb. 7, 2005. Further training will be offered as new procedures are developed and changes to current procedures are made. The training course will also be part of the Corporate Training Calendar, starting in 2006.

Question 4:

What is the protocol for staff attendance at *in camera* committee or Council meetings? Are members of staff permitted to be in attendance during closed periods of a meeting for which they were not explicitly asked to attend? If this is the case, what is the rationale for such a policy?

The only staff who are permitted to attend *in camera* sessions are those who are required to answer questions pertaining to that item. Other staff are not permitted to attend.