

Auditor General's Office – Review of Complaint Regarding the June 29, 2016 Toronto Transit Commission Briefing Note

Date: October 13, 2017
To: TTC Board and Audit Committee
From: Auditor General
Wards: All

SUMMARY

This report provides the Auditor General's findings primarily in relation to whether there was any political interference involved in the crafting and dissemination of a particular briefing note about large transit project options for the City of Toronto. The title of this particular briefing note is "*Issues Relating to Re-introduction of LRT Replacement for Line 3 (SRT)*"

We found:

- i. no evidence of any lack of integrity on the part of CEO Byford or other TTC personnel in its preparation.
- ii. no evidence of a systemic problem of political interference or staff being pressured by elected officials, including the Mayor and his office, in relation to the development of the ridership numbers and the preparation and distribution of the note.
- iii. in our view, the briefing note estimate was within an acceptable range given the stage of the project, the nature of a briefing note and the caveats contained therein. The briefing note highlights that the figures are "*estimates only*," intended for a "*high level cost comparison*". After evaluating the reasonableness of the figures, it is our view that even if construction on the SLRT could have begun several years earlier, the potential difference between the briefing note figures and our calculated escalated cost is within an acceptable range for estimates at that stage of completion.

We made recommendations to prevent similar situations from arising in the future. This report contains 3 recommendations along with management's response to each. Management accepts all recommendations.

RECOMMENDATIONS

The Auditor General recommends that:

1. The Board request the Chief Executive Officer, Toronto Transit Commission, to provide more clarity in relation to the assumptions being relied on when the information is used in briefing notes.
2. City Council request the City Clerk implement protocols defining when it is appropriate to share briefing notes, as well as an online public repository to house briefing notes, bulletins, announcements and similar communications issued by City divisions and agencies, similar to the one maintained by the City of Vancouver, and direct the City Manager to ensure that City divisions and agencies submit copies of any such correspondence to the City Clerk for the register.
3. The Board request the Chief Executive Officer, Toronto Transit Commission, to ensure its briefing note distribution protocols align with and integrate seamlessly with the City distribution protocols.

FINANCIAL IMPACT

The financial impact, if any, is not determinable at this time.

DECISION HISTORY

A briefing note was prepared in the context of the TTC presenting a report EX 16.1 entitled "Developing Toronto's Transit Network Plan to 2031" to Executive Committee and City Council on June 28 and July 12, 2016, respectively.

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2016.EX16.1>

COMMENTS

The main complaint is that political interference resulted in inaccurate, incomplete and misleading information being provided to City Council about the costs of the Scarborough Subway Extension (SSE) compared to the Scarborough Light Rail Transit (SLRT) option. The complainant provides examples to support their assertion that misleading information was provided as a result of political interference. One of those examples is the briefing note. An analysis of other examples is included in the report.

The complainant asked the Auditor General's office to essentially do three things:

- i. to conduct *"an examination of the circumstances involved with the decisions to construct the SSE instead of the SLRT"*. More specifically, the complainant alleges that the briefing note *"erroneously and deliberately inflated the price of the SLRT option by approximately \$1 billion."*

ii. *"to investigate whether the mayor, city council and city administrators have appropriately exercised their responsibility of stewardship over public funds"* in making the decision that they made to proceed with the SSE option.

iii. to investigate whether the SSE will achieve value for money.

The report addresses how the briefing note came to be drafted, evaluates the reasonableness of financial and other information in the note, addresses possible pressures influencing the contents of the note, and considers the process used to distribute the note.

It is not the Auditor General's role to question the policy decisions of elected officials, nor is it the Auditor General's role to reopen City Council decisions. Therefore, the Auditor General did not investigate items 2 and 3. A value for money/performance audit to examine management practices, controls, and reporting systems to achieve Council's direction in a cost-effective manner is within the purview of the Auditor General, and may form part of a future audit.

Our investigation included our own staff, as well as a Senior Managing Director of an external reputable forensic firm to lead the investigation.

The Auditor General's report submitted to the TTC Board and the City's Audit Committee is provided as Attachment 1.

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SIGNATURE

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ATTACHMENTS

Attachment 1: Auditor General's Report - Review of Complaint Regarding the June 29, 2016 Toronto Transit Commission Briefing Note