



AUDIT COMMITTEE AGENDA

Audit Committee Meeting
Tuesday, November 17, 2015
Tom Davies Square

COUNCILLOR MIKE JAKUBO, CHAIR

Deb McIntosh, Vice-Chair

4:00 p.m. AUDIT COMMITTEE MEETING
COUNCIL CHAMBER

Council and Committee Meetings are accessible. For more information regarding accessibility, please call 3-1-1 or email clerks@greatersudbury.ca.

**DECLARATIONS OF PECUNIARY INTEREST AND THE GENERAL NATURE
THEREOF**

PRESENTATIONS

1. Report dated November 3, 2015 from the Interim Auditor General regarding Report on Freedom of Information Request.

3 - 18

(ELECTRONIC PRESENTATION) (FOR INFORMATION ONLY)

- Vasu Balakrishnan, Interim Auditor General

(Audit report on Freedom of Information requests.)

ADDENDUM

CIVIC PETITIONS

NOTICES OF MOTION

QUESTION PERIOD AND ANNOUNCEMENTS

ADJOURNMENT

Presented To:	Audit Committee
Presented:	Tuesday, Nov 17, 2015
Report Date	Tuesday, Nov 03, 2015
Type:	Presentations

For Information Only
Report on Freedom of Information Request

Recommendation

For Information Only

Signed By

Report Prepared By

Vasu Balakrishnan
Interim Auditor General
Digitally Signed Nov 3, 15

Auditor General

Vasu Balakrishnan
Interim Auditor General
Digitally Signed Nov 3, 15



Audit of Freedom of Information requests processing

By: Vasu Balakrishnan, Interim Auditor General

To: Audit Committee

November 04, 2015.

Background – FOI Act principles

1. Information to be available to Public



2a. Exemption from access to be limited and specific.

2b. Decisions on disclosure should be reviewed independently of institution controlling the information.

3. Individuals right of access to personal information held by institutions about themselves recognized.

Result of FOI Appeals to IPC*

Number of appeals against decision of CGS for information requests to IPC:

7 in 2014

6 in 2015 (*As of June 5, 2015*)

Total : 13 Appeals



CGS decision upheld &/or appeals abandoned by applicants

by

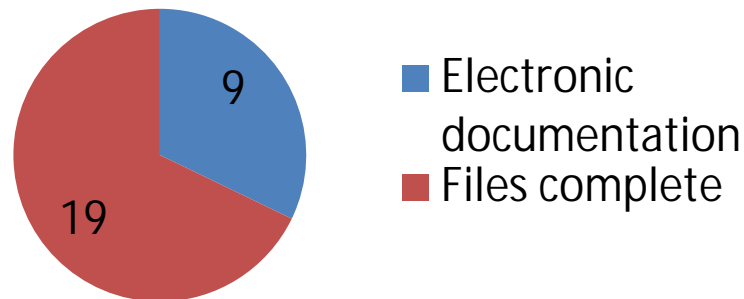
** Information Privacy Commissioner*

Finding 1. Information request files

A typical information request file contains:

- Access request
- Acknowledgement of notice,
- Notice of decision and
- Proof of fees payment.

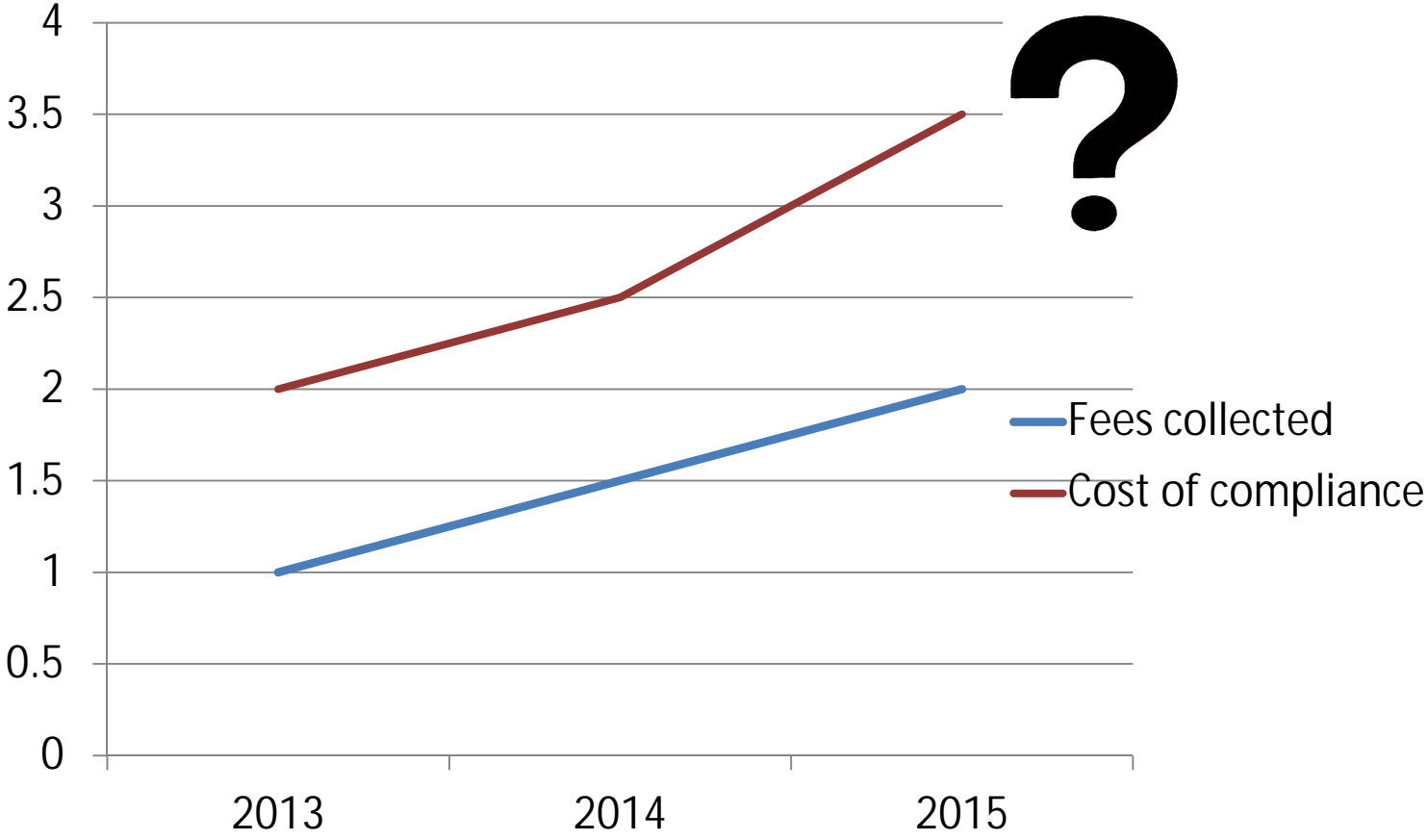
Hard copy files tested



Use checklist.

Record keeping is currently being transitioned to electronic format.

Finding 2. Compliance cost unknown



Finding 3. Other minor findings

1. A single instance of a tested sample of FOI request was erroneously categorized as 'redacted' and
2. An instance of failure to send a notice of interim decision when the fees for information request was likely to exceed \$ 100 was noted. This guideline provides an option to collect 50% of fees when the amount exceeds \$ 100.

Freedom of Information requests processing

Questions?

Freedom of Information

November 4 , 2015
Final report



SUMMARY

Objectives

The objectives of this audit were:

- To assess if the existing system and controls to manage information requests received is adequate to mitigate the risk of non compliance for information requests received and protection of privacy and
- To identify areas, if any, for improvement based on a review of current operational practices.

Background

The purpose of Municipal Freedom of Information and Protection of Privacy Act, 1990 (MFIPPA) which has been in effect since January 1st, 1991 is:

- a) To provide a right of access to information under the control of institutions in accordance with the principles that,
 - (i) Information should be available to the public,
 - (ii) Necessary exemptions from the right of access should be limited and specific, and
 - (iii) Decisions on the disclosure of information should be reviewed independently of the institution controlling the information; and
- (b) To protect the privacy of individuals with respect to personal information about themselves held by institutions and to provide individuals with a right of access to that information

A decision to deny access to information by a municipal government, agency, board or commission may be appealed to the Information and Privacy Commissioner/Ontario (IPC/O).

A review of the spreadsheet indicates a total of 13 appeals (7 in 2014 and 6 as of June 5th, 2015) were filed against the decision of the City with the Information Privacy Commissioner (IPC). The IPC confirmed City decision by either closing these appeals without issuing an order to comply against the City or the appeals were abandoned.

The City Clerk handles all information requests under the Freedom of Information and Protection of Privacy Act for the City of Greater Sudbury. In 2014 (an election year), the city received a total of 205 requests in comparison to the annual average of 166 received during the preceding three years, a 24% increase.

The following table is a summary of requests received and processed by CGS in 2014:

Requests received	Number of requests received	Completed during 2014	Completed within stipulated time limit of 30 days	% completed within the initial stipulated time limit of 30 days	% completed within the time limits permitted by the Act after notice of reasons to affected parties.
Personal information requests	21	20	20	100%	0%
General Requests	184	178	160	90%	10%
Total	205*	198	180	91%	9%

* Difference of 7 requests (1+6) represents requests received late in 2014 that were either completed in early 2015 (3), abandoned (1) or appealed (3).

Scope

The scope of the audit included information requests received, exchanges with various stakeholders and processes performed in relation to requests received during the period from January 1st, 2014, to June 5th 2015.

Report Highlights

As indicated in the above table, the majority of requests received under the Municipal Freedom of Information and Protection of Privacy Act was promptly dealt with on a timely basis. However, the following issues were noted for improvement during the audit:

- The need to maintain a complete set of documentation and copies of all correspondence in individual files for every request received,
- The need to control information updates in the spread sheet that is used as a tracking file for annual reporting to Information and Privacy Commissioner of Ontario (IPC)
- The need to maintain costs incurred (or estimates) of compliance with the provisions of the MFIPPA.

This audit was conducted with cooperation and support from staff at all levels of Administrative and Clerk's services.

Interim Auditor General's Opinion

This audit identified opportunities for improvement and cost of compliance by the City Clerk's office in complying with Freedom of Information requests.

Vasu Balakrishnan
Interim Auditor General

For further information regarding this report, please contact Vasu Balakrishnan at extension 4409 or via email at vasu.balakrishnan@greatersudbury.ca

AUDIT REPORT

1. Files maintenance for information requests

CGS assigns a sequential number to every request received under the Municipal Freedom of Information and Protection of Privacy Act and maintains a physical file for every request received, where copies of all documents and correspondence exchanged are filed. Among these documents are the access requests, the acknowledgement notice, the notice of decision, the proof of fees payment and a notice of decision to the requestor outlining the City's response to the information request.

Observation

In 9 out of 28 sampled and tested requests that were received in 2014, some of the supporting documents such as proof of application fees payment, acknowledgement letter and notice of decision were not included in the file. This situation could hinder CGS ability to demonstrate compliance with the provisions of the FOI Act. Further, maintenance of a checklist of all supporting documentation would facilitate the process when responding to the IPC requests for information during appeals.

Management Comment

MFIPPA files are currently being transitioned to completely electronic, rather than paper, format for efficiency of access and ease in responding to email and telephone inquiries. At this time, most correspondence is maintained electronically by FOI file number and a paper copy can be generated quickly from the electronic copy, as required to respond to appeals.

Clerks Services agrees to introduction of checklists for complex files for ease in responding to the appeal process. Complex files are those with voluminous responsive records and/or that require application of multiple exemptions.

The Clerk's Services Department has amended process to ensure that copies of all payment receipts are filed with the corresponding request while the original receipt is retained with all other receipts issued by the department.

Timing

Implementation of checklist from January 2016

2. *Maintenance of the requests tracking spreadsheet*

Observation

CGS maintains a spreadsheet of all the FOI requests received titled - “The tracking list” on a shared drive. This list is shared by authorized users in the City Clerk’s office and provides a current summary of all information relating to individual FOI request files. This spreadsheet forms the basis for annual reporting to the Information and Privacy Commissioner (IPC). During testing, we noted errors in 19 instances in the tracking list such as the status of the case, disposition of request, particulars about fee status and nature of exemption applied. 9 of the errors related to 2014 while the remaining 10 related to 2015. The error rate in 2015 was significantly higher at 11% as compared to 4% in 2014. Such errors in the summary spreadsheet will result in wrong statistics submitted to IPC. A system of checks and controls over this spreadsheet to verify updates by another individual could be introduced.

Management Comment

The spreadsheet was introduced in 2012 as a methodology to track the voluminous and detailed information required for annual reporting to the IPC. The spreadsheet has been significantly amended twice since then to allow for better capture of data across more than 10,000 cells of information annually. In the past year there have been a number of changes in staff assigned to the FOI roles which may have contributed to the increased data entry errors in 2015. In the summer of 2015 the Deputy City Clerk initiated a weekly accuracy review.

Timing

Completed.

3. *Fees charged*

On receipt of a FOI request, an estimate of fees payable by the requestor is made based on the provisions of the Act. This estimate of fees (referred to as schedule of fees) is attached to the notice of decision sent to the requestor for payment. This schedule of fees comprises fees for search time, record preparation time, photocopying, computer programming, and cost of diskettes/CD and prescribed in the Appendix A to the Act. The head of the institution may waive part or all of the fees depending on the circumstances and based on demonstrated financial hardship. The following is a summary of amount collected in 2014 and 2015:

Item	2014	2015 (till June 5th)
Number of requests received	205	94
Application fees collected	\$ 989	\$ 410
Fees collected	\$ 7,356.70	\$ 1,256.30
Value of information requests not picked up	\$ 5,627.05	\$ 1,191.50

Observation

Currently no estimate of the actual costs to CGS of complying with information requests is being maintained. Tracking actual costs incurred would provide an idea of actual costs incurred and ways to reduce compliance costs.

An instance of excess charge due to a calculation error was noted for a request. The establishment of a review process within the Clerk’s office would prevent these types of errors.

Management Comment

FOI is a mandatory service as established in Legislation. As noted in the Audit findings, certain costs associated with the processing of each FOI request are charged back to the requestor at the rates established in the regulations under the Act and the requestor has to pay those costs prior to receiving any records responsive to the request.

There is no mechanism allowed under the legislation to recover the full costs of the FOI service and processes. Docketing of staff time associated with each step of each request would add complexity to record keeping without adding value in terms of being able to recover these costs. With limited staff, high volumes and legislated timelines, staffs always endeavour to work efficiently on these files.

The Deputy City Clerk reviews and signs every Notice of Decision letter before it is sent out. The instance mentioned above was a calculation error. The search time allocated to the file was 15 minutes which is charged at a rate of \$7.50/15 minutes and the requester was inadvertently charged \$15.00. The \$7.50 overpayment has since been refunded.

Timing

No action proposed.

4. Other issues

a. Privacy maintenance by redaction

Every FOI request received is analyzed to assess and determine the extent to which requested information may be provided in accordance with provisions of the Municipal Freedom of Information and Protection of Privacy Act (MFIPPA). Result of the decision based on consultation with legal department for files with complex legal issues is recorded in a “Notice of Decision” and outlines the extent of access.

Observation:

The notice of decision for a case examined stated that a record was redacted under the provisions of s.14 (1). Inspection of the record indicated no evidence of redaction.

Management Comment

In this instance the Notice of Decision letter incorrectly stated that section 14(1) applied to part of the record. Upon inspection of the FOI file in question the record did not contain any personal information that was protected under the Act. A revised Notice of Decision has been issued, removing the reference to Section 14(1).

Timing

No action proposed.

b. Notice of interim decision

Whenever the estimated amount of fees for an information request is likely to exceed \$ 100, the Act provides an option to an institution of an interim decision be sent to the requestor with the fee estimate. The requestor has to pay half of this amount before processing the request.

Observation

In an instance of information request received in 2014, a notice of interim decision was not sent to the requestor where the fees were over 100 \$.

Management Comment

The IPC’s Guidelines for Government Institutions entitled Fees, Fee Estimates and Fee Waivers, states that where fees are anticipated to be over \$100, the institution **may** choose not to do all the work necessary to respond to the request, until a fee estimate has been provided and a deposit in the amount of 50% of the value has been paid.

In this instance, the fee estimate was moderately over the \$100 threshold and in the interests of better citizen service; the Notice of Decision was issued without the optional, interim step of collecting a deposit for 50% of the value of the file, before completing the work.

Timing

No action proposed.



City of Greater Sudbury Charter

WHEREAS Municipalities are governed by the Ontario Municipal Act, 2001;

AND WHEREAS the City of Greater Sudbury has established Vision, Mission and Values that give direction to staff and City Councillors;

AND WHEREAS City Council and its associated boards are guided by a Code of Ethics, as outlined in Appendix B of the City of Greater Sudbury's Procedure Bylaw, most recently updated in 2011;

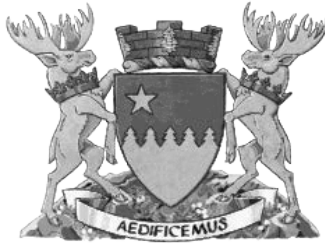
AND WHEREAS the City of Greater Sudbury official motto is "Come, Let Us Build Together," and was chosen to celebrate our city's diversity and inspire collective effort and inclusion;

THEREFORE BE IT RESOLVED THAT Council for the City of Greater Sudbury approves, adopts and signs the following City of Greater Sudbury Charter to complement these guiding principles:

As Members of Council, we hereby acknowledge the privilege to be elected to the City of Greater Sudbury Council for the 2014-2018 term of office. During this time, we pledge to always represent the citizens and to work together always in the interest of the City of Greater Sudbury.

Accordingly, we commit to:

- Perform our roles, as defined in the Ontario Municipal Act (2001), the City's bylaws and City policies;
- Act with transparency, openness, accountability and dedication to our citizens, consistent with the City's Vision, Mission and Values and the City official motto;
- Follow the Code of Ethical Conduct for Members of Council, and all City policies that apply to Members of Council;
- Act today in the interest of tomorrow, by being responsible stewards of the City, including its finances, assets, services, public places, and the natural environment;
- Manage the resources in our trust efficiently, prudently, responsibly and to the best of our ability;
- Build a climate of trust, openness and transparency that sets a standard for all the City's goals and objectives;
- Always act with respect for all Council and for all persons who come before us;
- Ensure citizen engagement is encouraged and promoted;
- Advocate for economic development, encouraging innovation, productivity and job creation;
- Inspire cultural growth by promoting sports, film, the arts, music, theatre and architectural excellence;
- Respect our historical and natural heritage by protecting and preserving important buildings, landmarks, landscapes, lakes and water bodies;
- Promote unity through diversity as a characteristic of Greater Sudbury citizenship;
- Become civic and regional leaders by encouraging the sharing of ideas, knowledge and experience;
- Work towards achieving the best possible quality of life and standard of living for all Greater Sudbury residents;



Charte de la Ville du Grand Sudbury

ATTENDU QUE les municipalités sont régies par la Loi de 2001 sur les municipalités (Ontario);

ATTENDU QUE la Ville du Grand Sudbury a élaboré une vision, une mission et des valeurs qui guident le personnel et les conseillers municipaux;

ATTENDU QUE le Conseil municipal et ses conseils sont guidés par un code d'éthique, comme l'indique l'annexe B du Règlement de procédure de la Ville du Grand Sudbury dont la dernière version date de 2011;

ATTENDU QUE la devise officielle de la Ville du Grand Sudbury, « Ensemble, bâtissons notre avenir », a été choisie afin de célébrer la diversité de notre municipalité ainsi que d'inspirer un effort collectif et l'inclusion;

QU'IL SOIT RÉSOLU QUE le Conseil de la Ville du Grand Sudbury approuve et adopte la charte suivante de la Ville du Grand Sudbury, qui sert de complément à ces principes directeurs, et qu'il y appose sa signature:

À titre de membres du Conseil, nous reconnaissons par la présente le privilège d'être élus au Conseil du Grand Sudbury pour le mandat de 2014-2018. Durant cette période, nous promettons de toujours représenter les citoyens et de travailler ensemble, sans cesse dans l'intérêt de la Ville du Grand Sudbury.

Par conséquent, nous nous engageons à :

- assumer nos rôles tels qu'ils sont définis dans la Loi de 2001 sur les municipalités, les règlements et les politiques de la Ville;
- faire preuve de transparence, d'ouverture, de responsabilité et de dévouement envers les citoyens, conformément à la vision, à la mission et aux valeurs ainsi qu'à la devise officielle de la municipalité;
- suivre le Code d'éthique des membres du Conseil et toutes les politiques de la municipalité qui s'appliquent à eux;
- agir aujourd'hui pour demain en étant des intendants responsables de la municipalité, y compris de ses finances, biens, services, endroits publics et du milieu naturel;
- gérer les ressources qui nous sont confiées de façon efficiente, prudente, responsable et de notre mieux;
- créer un climat de confiance, d'ouverture et de transparence qui établit une norme pour tous les objectifs de la municipalité;
- agir sans cesse en respectant tous les membres du Conseil et les gens se présentant devant eux;
- veiller à ce qu'on encourage et favorise l'engagement des citoyens;
- plaider pour le développement économique, à encourager l'innovation, la productivité et la création d'emplois;
- être une source d'inspiration pour la croissance culturelle en faisant la promotion de l'excellence dans les domaines du sport, du cinéma, des arts, de la musique, du théâtre et de l'architecture;
- respecter notre patrimoine historique et naturel en protégeant et en préservant les édifices, les lieux d'intérêt, les paysages, les lacs et les plans d'eau d'importance;
- favoriser l'unité par la diversité en tant que caractéristique de la citoyenneté au Grand Sudbury;
- devenir des chefs de file municipaux et régionaux en favorisant les échanges d'idées, de connaissances et concernant l'expérience;
- viser l'atteinte de la meilleure qualité et du meilleur niveau de vie possible pour tous les résidents du Grand Sudbury.