

Auditor General's Office

Management Response

2010

Audit Of Greater Sudbury Transit Services

Transit Kiosk and Café Contract Management

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Auditor General, City of Greater Sudbury

Appendix 2

Management Response: 2010 Audit Of Greater Sudbury Transit Services – Transit Kiosk and Café Contract Management

Rec No	Recommendation	Agree (X)	Disagree (X)	Management Comments: (Comments are required only for recommendations where there is disagreement.)	Action Plan/ Time Frame
Overall Management Response					
<p>All of the significant information provided in this Auditor General's report has been communicated by Management to Council in regular updates commencing in August 2009. These updates included correspondence from the CAO as well as in-camera reports to Council from both Legal and Finance. The financial loss has also been made public through the media. Management wishes to assure Council that we view the circumstances related to the Transit Kiosk contract and the subsequent loss of monies owing to the City as a very serious matter. All staff who has had an involvement in this matter acknowledges as we did in 2009 that better business decisions could have been made. Staff have and are examining policies and procedures to ensure that the City's internal control framework is strong and working effectively to ensure that the City's assets are safe guarded.</p>					
1	<p>Before the City enters into a contract, City Management should identify risks in drafting the contract and take care to mitigate these risks. This may include consulting with other departments within the City such as Finance, Legal, the Auditor General's office, etc., and outside legal experts in drafting particular kinds of contracts.</p> <p>Auditor Comments:</p> <p>Departmental signoffs and the Due Diligence process did not work as expected.</p> <p>The facts show that this contract was not</p>			<p>Management does identify business and operational risks (in accordance with the Due Diligence by-law (2001-296F) and factors appropriate provisions into the language of contracts.</p> <p>Departments engage in consultation between departments when contracts are drafted and/or entered into and as appropriate. Where there are multiple department reviews of a contract each department signs off on the contract.</p>	No action required.

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	well written and did not accurately reflect the relationship between the City and the Company. To properly mitigate the risk of loss, the sales proceeds should have been deposited on a timely basis into a City bank account instead of the management company's bank account, and that any outstanding amounts were to be held in "Trust".				
2	Departmental Management should be required to ensure that all contracts are managed and performed according to their terms.			Agreed	Management will undertake a review of the processes and policies and procedures related to contract administration. Timing is to be determined.
3	To obtain full value for money, the City should ensure it receives a final copy of all consultants' reports where draft reports are provided. These reports should be disseminated to appropriate staff. Auditor Comments: When the Auditors attended Transit in our			As per the engagement letter of February 4, 2008, KPMG was engaged by management to provide assistance with the development of cash and ticket handling procedures and train staff in following these procedures. A report was not a requirement of this engagement. What was gained by the City are improved cash and ticket handling procedures. The	No action required.

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	<p>Cash Handling Audit, we found that improved cash and ticket handling procedures were not documented.</p> <p>Transit also used the control deficiencies identified by KPMG in a request to Council for the creation of the Cashier position.</p>			<p>effectiveness of these improvements was reported on in the AG's report regarding Cash Handling at Transit.</p> <p>When consultants are engaged to provide reports, it is City practice to obtain final copies.</p>	
4	When a contract is extended or renewed, the City should ensure that it is not owed any money unless such debt is specified in the contract. Additional contracts should not be awarded if the company owes the City money.			<p>Agreed. As provided by the Records and Reputation clause in the City's procurement documents, the City can choose not to award a contract if there are large outstanding balances owing to the City.</p> <p>Also the Accounts Receivable policy provides for amounts owing to suppliers to be offset by amounts owed to the City.</p>	Staff will review existing policies and enhance business procedures to ensure that these existing controls are effective.
5	Contracts should not be extended or renewed if the terms and conditions of the original contract have not, or can no longer be followed.			See 2 above.	See 2 above.
6	Management should ensure that the City's policies, procedures and bylaws regarding			Although this recommendation is broad, under the terms of this audit it would appear	During 2011, Accounts Receivable Supervisor and the Manager of

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	<p>contracts and cash remittances are followed. If there is an exception to these policies, procedures or bylaws, it should be clearly documented and the appropriate approvals received.</p> <p>Auditor Comments:</p> <p>The contract did not exclude interest. It was silent on this point, however, it is encouraging to note that interest is being charged in accordance with the By-law on all active City customers accounts.</p>			<p>to refer to the Accounts Receivable and the User Fee By-law. With respect to this policy and by-law refer to the response in Item 11 below.</p> <p>Further, the contract excluded interest, and the approval of the Chief Financial Officer was not required.</p>	Accounting reviewed all active City customers accounts to ensure that interest is being charged in accordance with the By-law.
7	Once an account is significantly overdue, no further business should be conducted that would increase the amount owing to the City. Management should make all attempts at safeguarding public funds in such risky situations.			<p>It is not the City's normal practice to extend further credit to customers who have significant overdue amounts owing.</p> <p>Payments were received on a regular basis, but they were insufficient. Finance management and Transit management had regular discussions regarding this account and collection efforts were on-going.</p> <p>In the period from January 2008 to August</p>	To continue to monitor and collect accounts receivable in the manner described in the Accounts Receivable Policy.

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				<p>31, 2009, the City received payments from the supplier averaging \$194,000 per month. More specifically and as an example, the City received payments in April 2009 of \$421,550, May of 2009 \$151,000 and July 2009 of \$230,000. The payment history reflects the City's on-going and persistent efforts to collect these amounts.</p> <p>The City has best practice collection procedures that are set out in the Accounts Receivable Policy and these procedures were documented in a report to Council dated April 22, 2010.</p>	
8	Where appropriate, credit limits should be reviewed and established on accounts receivable.			The Accounts Receivable Policy states that appropriate credit limits are to be established by the Director of the Operating Department in consultation with Finance.	Continue to adhere to the Accounts Receivable Policy.
9	Management should consider developing a new policy for determining the amount of the letter of credit. For example, the value of the contract as well as other risks (financial, operational, etc.) should be			The City's construction contracts for capital projects have specific guidelines for the amounts that the City is to collect for bid deposits, bid bonds and letters of credit.	Building on the guidelines in place for construction contracts, Purchasing, in consultation with Legal, will develop a policy and procedure that will apply to other types of contracts by the end of

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	considered in establishing an amount for the letter of credit. The policy should consider instances where exceptions are made, how these exceptions are documented and what approvals are necessary.				the first quarter of 2012.
10	When letters of credit are used, they should be reviewed when contracts are extended and renewed, and changes made as required. Having the ability to review and make changes to the amount of a letter of credit must be included as part of the terms of the contract. If a letter of credit to an acceptable amount cannot be secured, other controls should be put in place to ensure collectability of City funds.			It is the City's practice to review letters of credit and certified cheques when contracts are renewed and extended. As noted by the AG in his comment at 9, there are many factors that are considered when establishing the amount of the letter of credit.	Clarification will be provided by the action plan in Item 2 and 9 above.
11	If the City pursues any further collection attempts on the receivables owing, the City should attempt to collect the full amount of interest payable on the account.			Council has been advised by Legal that the City is in the process of conducting examinations of the Company in an effort to determine if there is any possibility of collecting on the court judgement against the Company.	Legal will consider this as it moves forward.

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				<p>Further comments cannot be provided since they relate to matters where direction was provided by Council in-camera.</p> <p>Regarding the potential interest payable, a balanced discussion of this issue is required. There are two positions that could effectively be made. One is that the interest is owed and the other is that the interest is not owed. The AG's position is that the interest is owed. On the other side of the discussion the following should be noted.</p> <p>The 1999 contract had interest but the 2004 contract did not have an interest provision and therefore it could be argued that there was an agreement not to charge interest.</p> <p>Further, since interest was not billed, the supplier would not have knowledge that interest was owed and consequently it could be argued that no interest applies.</p> <p>If the imputed interest argument fails, then the City is left with the Court rates applicable</p>	

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				to litigation which is very conservative. The rate the City was awarded on the judgment against 1211250 Ontario Inc. was 2% per year (compounded annually) which is much lower than the imputed interest rate of 15% per year. The claim of \$252,000 in accumulated imputed interest is far from certain and would be challenged.	
12	In managing contracts, the City should ensure that all of its policies, procedures and by-laws are followed. Contracts should be written to ensure that they comply with the City's policies, procedures and by-laws. Any exceptions should be clearly noted and approved by Council.			See item 6 and 11 above.	
13	Management should ensure that invoices are paid only in accordance with the contract and, more specifically, to the proper legal entity. No manager is authorized to initiate payments to a legal entity (an individual or a company) for services received, when that legal entity,			Agreed	This will be incorporated in the policies and procedures being developed in Accounts Payable.

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	has not provided those services.				
14	Controls over access to the alternate payee field needs to be reviewed to ensure that there is limited access. Access to the alternate payee field should only be permitted when there are legal documents to support the change, as approved by the City Solicitor.			Agreed that controls over the use of the alternate payee field should be in place. A determination of what type of documentation and approvals are required will be established through the action plan.	These matters will be incorporated into the Accounts Payable policy work described in Item 13 above. With respect to this matter we will consult with Legal. CGS is currently in the process of upgrading the PeopleSoft Financial software to version 9.1 and through the fit gap analysis will be exploring what functionality is available to strengthen internal controls.
15	An exception report should be developed which management can review that would indicate where the payee on the cheque is different than the name on the vendor master file/contract.			See comment in item 14 above.	
16	When City Solicitor authorized changes are required to the name on the vendor master file to reflect any necessary amendments to			See comments at item 14 and further the City has a procedure for the regular deactivation of inactive vendors.	To be incorporated in the action plan item described in 13 and 14 above.

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	the contract, Accounts Payable should inactivate the existing vendor and set up a new vendor with the proper information. This way, the accuracy of historical information is maintained.				
17	<p>In order to simplify lease administration and reduce the risk of payment errors, the City should develop a system to flag when lease and contract renewals are coming due.</p> <p>Auditor Comments:</p> <p>This solution was identified by management, and the Auditor General agrees that this would improve internal controls. It is a normal internal audit practice to recommend improvements working cooperatively and with the advice of management.</p>			<p>The AG has adopted a recommendation in this updated report that was put forward by management in its response to the original recommendation.</p> <p>A system to flag when lease and contract renewals are coming due is required. If there is an effective system in place, then the renewal date should not be an issue. We do not agree that it would be more beneficial to have all leases renewing on January 1 and further it is not common business practice. Renewing leases and contracts can be significant work and having it all occur for January 1 is not practical.</p>	Action plan described in item 2 above.
18	If any further collection attempts can be made, the City should attempt to recover the missed revenues under the terms of the				Legal will assess the City's abilities to collect these amounts. This is on-

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	contracts. Auditing the financial records of the company would determine the actual amount owing to the City.				going.
19	As part of the City's due diligence in awarding contracts, business searches should be considered. The City would need to state in the RFP that the City may request that the vendor submit to a business search prior to the award of the contract. A business search should be mandatory for all revenue generating contracts. Due to the cost of performing such a search, for all other contracts, management should decide and document whether to request that the vendor do a business search.			Management will undertake a review of the processes, policies and procedures related to contract administration (as noted in 2 above). In addition, this will be reviewed when the updated purchasing by-law is presented to Council.	To be reviewed by Legal and Purchasing in 2012.
20	The Auditor General's office should be informed when there is a potential substantial financial loss to the City. The Auditor General can work with management to determine the extent of the loss as well as to recommend			Agreed	

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	improvements to controls intended to prevent similar losses in the future.				
21	The CAO should provide direction to staff that would confirm that the Auditor General's office is required by law to be provided with the information it requests in a timely manner.			Council has provided this direction.	No action required.

Auditors Acknowledgement

We wish to express our appreciation for the cooperation and assistance provided to the audit team by all staff involved in this process.