



Office of the Auditor General / Bureau du vérificateur général

FOLLOW-UP TO THE 2010 AUDIT OF THE CITY'S

MANAGEMENT OF A LOAN AGREEMENT

2012

SUIVI DE LA VÉRIFICATION DE LA GESTION D'UN

CONTRAT DE PRÊT PAR LA VILLE DE 2010

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EXECUTIVE SUMMARY

Introduction

The Follow-up to the 2010 Audit of the City's Management of a Loan Agreement was included in the Auditor General's Audit Plan.

The key findings of the original 2010 audit included:

- The Ottawa Firefighters Community Foundation still owes the City of Ottawa \$225,000 even though the loan for a memorial was supposed to be completely paid off by December 2010.
- The original \$550,000 loan was approved by City Council in October 2006 and was scheduled to be fully repaid by the end of 2010.
- While Council has now extended the repayment period by an additional seven years from the original four years, the City should ensure the repayment schedule is properly monitored and that Council is informed on a regular basis.

Summary of the Level of Completion

1. The table below outlines our assessment of the level of completion of each recommendation as of January 31, 2013.

CATEGORY	% COMPLETE	RECOMMENDATIONS	NUMBER OF RECOMMENDATIONS	PERCENTAGE OF TOTAL RECOMMENDATIONS
LITTLE OR NO ACTION	0 – 24	-	-	-
ACTION INITIATED	25 – 49	-	-	-
PARTIALLY COMPLETE	50 – 74	-	-	-
SUBSTANTIALLY COMPLETE	75 – 99	2	1	25%
COMPLETE	100	1, 3, 4	3	75%
TOTAL			4	100%

2. The table below outlines management's assessment of the level of completion of each recommendation as of April 2013 in response to the OAG's assessment. These assessments have not been audited.

CATEGORY	% COMPLETE	RECOMMENDATIONS	NUMBER OF RECOMMENDATIONS	PERCENTAGE OF TOTAL RECOMMENDATIONS
LITTLE OR NO ACTION	0 – 24	-	-	-
ACTION INITIATED	25 – 49	-	-	-
PARTIALLY COMPLETE	50 – 74	-	-	-
SUBSTANTIALLY COMPLETE	75 – 99	-	-	-
COMPLETE	100	1, 2, 3, 4	4	100%
TOTAL			4	100%

Conclusion

Management has addressed all the recommendations of the original audit, and has fully implemented all but one of them.

We found that the Foundation's payments are in compliance with the loan repayment terms as revised in March 2011.

Acknowledgement

We wish to express our appreciation for the cooperation and assistance afforded the audit team by management.

RÉSUMÉ

Introduction

Le Suivi de la vérification de la gestion d'un contrat de prêt par la Ville de 2010 était prévu dans le Plan de vérification du vérificateur général.

Les principales constatations de la vérification de 2010 sont les suivantes :

- L'Ottawa Firefighters Community Foundation (Fondation communautaire des pompiers d'Ottawa) doit encore 225 000 \$ à la Ville d'Ottawa alors que le remboursement du prêt pour le monument commémoratif était censé être terminé en décembre 2010.
- Le prêt original de 550 000 \$ a été approuvé par le Conseil municipal en octobre 2006 et devait être entièrement remboursé à la fin de 2010.
- Bien que le Conseil ait accepté de prolonger de sept années supplémentaires la période du remboursement, qui était à l'origine de quatre ans, la Ville devrait s'assurer que le plan de remboursement soit surveillé et que le conseil en soit informé régulièrement.

Sommaire du degré d'achèvement

1. Le tableau ci-dessous présente notre évaluation du degré d'achèvement de chaque recommandation le 31 janvier 2013 :

CATÉGORIE	POURCENTAGE COMPLÉTÉ	RECOMMANDATIONS	NOMBRE DE RECOMMANDATIONS	POURCENTAGE DU TOTAL DES RECOMMANDATIONS
PEU OU PAS DE MESURES PRISES	0 – 24	-	-	-
ACTION AMORCÉE	25 – 49	-	-	-
COMPLÉTÉE EN PARTIE	50 – 74	-	-	-
PRATIQUEMENT COMPLÉTÉE	75 – 99	2	1	25 %
COMPLÉTÉE	100	1, 3, 4	3	75 %
TOTAL			4	100 %

2. Le tableau ci-dessous présente l'évaluation de la direction concernant le degré de réalisation de chaque recommandation au mois d'avril 2013 en réponse à l'évaluation du Bureau du vérificateur général. Ces évaluations n'ont pas fait l'objet d'une vérification.

CATÉGORIE	POURCENTAGE COMPLÉTÉ	RECOMMANDATIONS	NOMBRE DE RECOMMANDATIONS	POURCENTAGE DU TOTAL DES RECOMMANDATIONS
PEU OU PAS DE MESURES PRISES	0 – 24	-	-	-
ACTION AMORCÉE	25 – 49	-	-	-
COMPLÉTÉE EN PARTIE	50 – 74	-	-	-
PRATIQUEMENT COMPLÉTÉE	75 – 99	-	-	-
COMPLÉTÉE	100	1, 2, 3, 4	4	100 %
TOTAL			4	100 %

Conclusion

La direction a abordé toutes les recommandations de la vérification originale et les a toutes mises en œuvre sauf une.

Nous avons constaté que les paiements de la Fondation sont conformes aux conditions de remboursement du prêt, telles que modifiées en mars 2011.

Remerciements

Nous tenons à remercier la direction pour la coopération et l'assistance accordées à l'équipe de vérification.

1 INTRODUCTION

The Follow-up to the 2010 Audit of the City's Management of a Loan Agreement was included in the Auditor General's Audit Plan.

The key findings of the original 2010 audit included:

- The Ottawa Firefighters Community Foundation still owes the City of Ottawa \$225,000 even though the loan for a memorial was supposed to be completely paid off by December 2010.
- The original \$550,000 loan was approved by City Council in October 2006 and was scheduled to be fully repaid by the end of 2010.
- While Council has now extended the repayment period by an additional seven years from the original four years, the City should ensure the repayment schedule is properly monitored and that Council is informed on a regular basis.

2 KEY FINDINGS OF THE ORIGINAL 2010 AUDIT

1. Despite the City's collections efforts, loan payments throughout the four year period were consistently past due including an outstanding balance of \$225,000 or 41% of the total \$550,000 loan. This was not repaid within four years, by the December 31, 2010 due date, in default of the City Council-approved loan conditions. The amount remained outstanding as of May 13, 2011;
2. Lack of notation on the documents to evidence that a review of a viable business/fund-raising plan had been undertaken;
3. Lack of an agreement (or agreements), prior to the release of loan funds, with sufficient terms and conditions to protect the City's interests;
4. Lack of a standard audit clause to ensure that costs were reasonable and that funds were used for the intended purpose; and,
5. During the course of the audit, management has indicated that at the request of the OFFCF for an extension to the repayment terms, management did take action by tabling a report to Finance and Economic Development Committee and City Council in March 2011 which included extending the terms of the loan repayment and resulted in City Council amending the motion to extend repayment by seven years.

3 STATUS OF IMPLEMENTATION OF 2010 AUDIT RECOMMENDATIONS

2010 Recommendation 1

That the City ensures that prior to loaning funds that they have a structured process and evidence of a thorough review to demonstrate a viable business/fund-raising plan.

2010 Management Response

Management agrees with this recommendation.

In the case of this loan, Finance staff did review the fundraising plan submitted and determined it was reasonable but did not make any notations on the plan. Unfortunately, the economic downturn in 2008 made the plan unachievable.

Reviews that are performed prior to the decision of Council, to provide either a loan or guarantee, will be noted in the Financial comment section of the Council report. Management notes that not all such requests will require a business plan or fundraising plan but that, in those cases, there should be other information available evidencing financial strength or security to support the transaction. The process will include Finance requesting financial statements and business plans and Finance staff documenting their review in the file.

Management Representation of the Status of Implementation of Recommendation 1 as of July 3, 2012

Reviews that are performed prior to the decision of Council, to provide either a loan or guarantee, will be noted in the Financial Comment section of the Council report. There have been no such reports required for Council since this audit was completed.

Management: % complete

100%

OAG's Follow-up Audit Findings regarding Recommendation 1

In December 2011 there was a Council Member Inquiry relating to the City Policy on Loans or Loan Guarantees for Community Groups. The management response provided on the February 2012 Finance and Economic Development Committee and Council agendas, outlined the practice. The response indicated that as staff do not have delegated authority to approve either a loan or a loan guarantee that a report would be prepared for Council's consideration, outlining the request and the risk and financial costs (if any) of the request.

We have confirmed that there has been no new Long Term Accounts Receivable, such as for Loans Receivable, setup in the City's accounting system since the original audit (from November 2010 to January 2013).

OAG: % complete

100%

2010 Recommendation 2

That the various departments at the City ensure that prior to advancing loan funds, that agreements are in place, including standard clauses, where and when applicable, pertaining to reporting requirements, audit, insurance, liability and licences and permits.

2010 Management Response

Management agrees with this recommendation.

Overall, this file has seen significant activity over the last four months as the Ottawa Firefighters Community Foundation requested an extension of the repayment terms and maintenance requirements. A report was presented to the Finance and Economic Development Committee on March 1, 2011 and to City Council on March 10, 2011 that has changed the loan terms and maintenance requirements significantly. The loan is no longer in default due to the changes approved by City Council and the maintenance financial requirements have been modified. As a result of Council direction, Finance staff, in conjunction with the City Clerk and Solicitor department, have drafted a new repayment agreement to incorporate Council direction and approval of the extended payment terms and the maintenance payment. Both the Foundation and the City have executed the agreement.

The repayment agreement includes a revised repayment schedule, a repayment schedule provision, events of default and the City's remedies in the event of default, an enforcement provision, as well as an audit provision that permits the Finance department to inspect and audit the Foundation's books of account and records upon request. This is a standard repayment agreement that has been developed and approved by the City Clerk and Solicitor department. No further action is required.

Provisions with respect to insurance, licences and permits are not applicable to a standard repayment agreement and are, therefore, not included. These issues would be addressed independently by the Real Estate Partnerships and Development Office (REPDO) and the Special Operations branch. REPDO ensures that licences are properly executed with relevant clauses pertaining to liability insurance in place and monitored. Special Operations ensures that the permit process is consistent with the plans and that other items are adhered to including WSIB requirements. Special Operations coordinates with the Building Branch to complete inspections as per permits (plans) and monitors progress of the project.

Ongoing awareness of the responsibilities contained within the agreement and their compliance would be monitored by the client group.

Management Representation of the Status of Implementation of Recommendation 2 as of July 3, 2012

Implementation of this recommendation is complete as per the management response.

Management: % complete **100%**

OAG's Follow-up Audit Findings regarding Recommendation 2

As indicated in the management response, we have confirmed that the March 2011 report to Council changed the loan terms and the maintenance requirements. At this time, the Foundation's payments are up-to-date with the revised terms.

The payment agreement which was drafted in consultation with the City Clerk and Solicitor department contains an audit clause which permits the Manager, Customer Service and Collections to request and audit the Foundation's books, accounts and records to ensure compliance with the terms and conditions of the Payment Agreement. The audit clause differs from the standard wording developed for audit clauses used in other agreements at the City, such as grants and contributions, and limits access to one area of the City. In our opinion, this audit clause should be consistent with the standard audit clause which is less restrictive and allows the City access in general.

The Licence of Occupation Agreement provided by management was approved under delegated authority and includes clauses relating to building permits, relating to requirements to comply with all applicable federal, provincial, municipal statutes, regulations and by-laws which affect the lands and relating to insurance and liability. The latest amendment to the agreement signed and dated May 7, 2009 refers to the maintenance requirement of \$150,000 which was incorrect as it has now been reduced to \$20,000 by Committee and City Council in March 2011. There was not a more current maintenance agreement/licence of occupation agreement which management indicated in the original audit would be in place by Q3 2011.

As noted above, management has made significant progress to put agreements in place, however there are a couple of items which should be further refined in future agreements. Once the items are implemented the recommendation could be considered fully complete.

OAG: % complete **90%**

Management Representation of Status of Implementation of Recommendation 2 as of April 2013

Management agrees with the OAG's follow-up finding, however, further progress has been made.

The repayment agreement includes a revised repayment schedule, a repayment schedule provision, events of default and the City's remedies in the event of default, an enforcement provision, as well as an audit provision that permits the Finance department to inspect and audit the Foundation's books of account and records upon request. This is a standard repayment agreement that has been developed and approved by the City Clerk and Solicitor department. The City Clerk and Solicitor department was asked to consider the OAG's recommendation that the audit clause be revised and has indicated that, in their opinion, the repayment agreement as currently written is adequate. No further action is required with respect to the repayment agreement.

An amendment to the Licence of Occupation Agreement was prepared and ratified by the Ottawa Firefighters Community Foundation on April 25, 2013. The Licence of Occupation Agreement as amended now reflects the changes noted in Report ACS2011-CMR-FIN-0005 approved by Council in March 2011. The maintenance requirement of \$150,000 has been deleted and replaced by a maintenance requirement of \$20,000 to be paid in increments of \$4,000 per year. In the future, should the scope of the present monument change, the maintenance costs identified will have to be renegotiated to align with any added features.

Management: % complete

100%

2010 Recommendation 3

That the City reviews the reasonableness of the planned and actual costs.

2010 Management Response

Management agrees with this recommendation.

The Special Operations branch will consult with the Design and Construction branch on the plans and budget to ensure reasonable construction costs and lifecycle budget if the Fire Fighters Group decides to continue with Phase Two or Three of the Monument.

Management Representation of the Status of Implementation of Recommendation 3 as of July 3, 2012

At this point in time, the Public Works department has not been approached by the Firefighters Group regarding plans for Phase 2 or Phase 3 of the Monument.

As indicated in the management response, should the Firefighters Group come forward with plans for Phase 2 and/or 3, Public Works will consult with the Infrastructure Services department on the plans and budget to ensure reasonable construction costs and lifecycle budget.

Management: % complete

100%

OAG's Follow-up Audit Findings regarding Recommendation 3

The 2009 Licence of Occupation Amendment to the agreement indicated that, "any future alterations to the Monument must be approved, in writing, by the Facility Manager at City Hall, City of Ottawa, before any alteration or additional work is commenced."

Management has indicated that the Infrastructure Services department has not been approached regarding Phase 2 or 3 of the Firefighters' Monument.

OAG: % complete **100%**

2010 Recommendation 4

That the City ensures proper establishment of the trust fund by the OFFCF for on-going maintenance and operations expenses relating to the monument, otherwise it could create a budget pressure.

2010 Management Response

Management agrees with this recommendation.

Overall, this file has seen significant activity over the last four months as the Ottawa Firefighters Community Foundation requested an extension of the repayment terms and maintenance requirements. A report was presented to the Finance and Economic Development Committee on March 1, 2011 and to City Council on March 10, 2011 that has changed the loan terms and maintenance requirements significantly. The loan is no longer in default due to the changes approved by City Council and the maintenance financial requirements have been modified. As a result of Council direction, Finance staff, in conjunction with the City Clerk and Solicitor department, have drafted a new repayment agreement to incorporate Council direction and approval of the extended payment terms and the maintenance payment. Both the Foundation and the City have executed the agreement. Public Works is addressing the changes to the maintenance agreement. A maintenance agreement will be in place by the end of Q3 2011.

Management Representation of the Status of Implementation of Recommendation 4 as of July 3, 2012

The current maintenance costs associated with the Monument are covered under the Licence of Occupation Agreement.

Should the Firefighters Group proceed with Phase 2 and/or Phase 3 of the project resulting in an impact to maintenance costs, the Licence of Occupation Agreement will be amended to reflect the appropriate charge-back to the Firefighter Group.

Management: % complete **100%**

OAG's Follow-up Audit Findings regarding Recommendation 4

As indicated in the management response, we have confirmed that the March 2011 report to Council changed the maintenance requirements and that the \$20,000 amount that is due and payable December 31, 2017 is reflected in the Payment Agreement provided by Management.

OAG: % complete ***100%***

4 SUMMARY OF THE LEVEL OF COMPLETION

- The table below outlines our assessment of the level of completion of each recommendation as of January 31, 2013.

CATEGORY	% COMPLETE	RECOMMENDATIONS	NUMBER OF RECOMMENDATIONS	PERCENTAGE OF TOTAL RECOMMENDATIONS
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TOTAL			4	100%

5 CONCLUSION

Management has addressed all the recommendations of the original audit, and has fully implemented all but one of them.

We found that the Foundation's payments are in compliance with the loan repayment terms as revised in March 2011.

6 ACKNOWLEDGEMENT

We wish to express our appreciation for the cooperation and assistance afforded the audit team by management.