OFFICE OF THE
AUDITOR GENERAL
MANITOBA

Web version

Department of Tourism, Culture, Heritage, Sport and Consumer Protection
Department of Labour and Immigration
Department of Municipal Government

2

Citizen Concerns

Executive Management
Carol Bellringer
Brian Wirth

Principal
James Wright

Auditor
Ryan Riddell

Table of contents

Our approach

Issues are brought to our attention throughout the year by concerned members of the public, Members of the Legislative Assembly, or government employees. Our Act does not include a complaint mechanism, and we are not obliged to follow-up these issues, however we choose to do so.

We conduct preliminary examinations of all such issues, decide which ones are within our mandate and which ones are better investigated by another organization, such as the Office of the Ombudsman or appeal boards. When an issue is better investigated by another organization, we monitor the work performed to ensure it is appropriately resolved. Sometimes the issues are information requests or requests for contact details, in which case we answer those requests. Sometimes we are unable to examine the issue because we are not provided with enough information. Where possible, we request further information. When the issue falls within our mandate and there is enough information to proceed, we initiate limited scope audits.

Occasionally, we receive correspondence or calls which are not easily understood, include inappropriate language or have been sent to us anonymously. We do not dismiss these concerns, in case they are valid. However, where possible, we recommend a more positive approach, help identify the organizations and processes in place to resolve concerns raised. When appropriate, we conduct limited scope audits.

Prior to April 2011, we did not formally track the results of our limited scope audit procedures. Since then, we have done so. When our limited scope audit procedures are complete, we report our findings to the Minister responsible and the Minister of Finance. The following is a summary of our completed audit work.

Findings and recommendations

1. Manitoba Property Registry – Department of Tourism, Culture, Heritage, Sport and Consumer Protection

We were provided with an allegation that an employee of the Manitoba Property Registry (MPR) and an employee of Manitoba Finance were in a conflict of interest. It was alleged that the employees recommended awarding a contract to a company in which they have a financial interest.

We examined records from the Companies Office for the individuals and the companies they were alleged to be associated with. We examined the tender file for one of the contracts awarded to the company named in the allegation and met with MPR officials.

We did not find any evidence that the employees had a financial interest in the company that was awarded the contract. We did find that one of the employees had done some work in the past for the successful bidder, but that was 9 years ago.

But, we have a concern with the makeup of the committee that evaluated the proposals received for the contract. Three people were appointed to the committee which should have provided for an independent evaluation. However, the 2 employees named in the allegation were part of the 3 person committee and are married to each other. In our view, there may be a perception that their personal relationship influenced the decision.

2. Office of the Fire Commissioner – Sale of vehicles – Department of Labour and Immigration

What we found

We found that a former Office of the Fire Commissioner (OFC) employee, who retired in April 2010, purchased 2 OFC vehicles for $700, a price significantly below Manitoba Public Insurance Corporation's (MPIC) combined estimated market value of $15,000. The sales were outside of OFC's normal process to dispose of vehicles through public auction. After the sale date for one of the vehicles, OFC paid $12,940 for vehicle enhancements and repairs despite the bill of sale indicating the unit was sold as is. The former employee later sold the other vehicle to a northern community council for $5,500. These transactions were approved by the same OFC employee, who is no longer with OFC, in his roles as Deputy Fire Commissioner and Fire Commissioner.

We have provided our detailed findings to the Department of Finance for potential legal action.

Findings

First Vehicle, 1995 Ford F350

The first vehicle was a 1995 Ford F350 crew cab pickup truck. MPIC records showed that the vehicle was registered to the OFC/Province of Manitoba since 1995. On November 3, 2009 the vehicle was sold by OFC to the employee for $200. The bill of sale and transfer of ownership document was approved by the Fire Commissioner. MPIC's estimated market value of the vehicle, at the time of sale, was $7,500. Therefore the vehicle was purchased for 2.7% of its market value.

After the sale, OFC paid $7,472 to supply and install a rear deck on the vehicle, despite the bill of sale indicating the unit was to be sold as is. OFC also paid $5,468 for a safety inspection and repairs to this vehicle, also after the sale date. OFC processed these 2 invoices on December 1, 2009 almost a month after the vehicle was sold to the former employee. Both invoices were approved by the Fire Commissioner.

At the time of our audit, MPIC records indicate the vehicle was still registered to the former employee.

Second Vehicle, 1992 Ford F700

The second vehicle was a 1992 Ford F700 truck. MPIC records showed that the vehicle was registered to the OFC/Province of Manitoba since 1996. OFC paid $2,618 for a safety inspection and repairs to the vehicle on September 29, 2009. On October 6, 2009 the vehicle was sold by OFC to a company for $500. The bill of sale and transfer of ownership document was signed by the Deputy Fire Commissioner on behalf of OFC and by the former employee on behalf of the company purchasing the vehicle. MPIC's estimated market value of the vehicle, at the time of sale, was over $7,500. Therefore the vehicle was purchased for 6.7% of its market value.

The vehicle was unregistered until February 26, 2010 when it was registered to the former employee. On March 10, 2010 the vehicle was sold by the former employee to a northern Community Council for $5,500.

At the time of our audit, MPIC records indicate the vehicle was registered to the Province of Manitoba/Northern Affairs.

> **Response of officials:** The Department would like to thank the Office of the Auditor General (OAG) for its review of the Office of the Fire Commissioner (OFC), and accepts the findings outlined in this report.
>
> In May 2013, the Office of the Auditor General (OAG) contacted the OFC requesting information about transactions involving former OFC employees. The OFC investigated and discovered two problematic vehicle sale transactions and immediately provided information to the OAG and the Provincial Comptroller. Subsequently, this information was provided to the Royal Canadian Mounted Police and to Civil Legal Services to support related investigations and cost recovery opportunities.
>
> In response to this matter and in follow up to OAG recommendations made earlier in 2013 regarding related financial irregularities involving former OFC staff, the OFC has implemented and continues to implement enhanced control measures.
>
> In this undertaking, the OFC continues to work closely with Internal Audit and Consulting Services (IACS) and has made significant improvements to the oversight of financial operations and governance, strengthened and clarified the relationship between the Department and the Special Operating Agency, and established an Audit Committee.

Comptroller responsibilities have been formally defined and a formal Quality Assurance process has been implemented for the Agency. Policies and procedures are being revised and implemented to reflect requirements of the General Manual of Administration and the Financial Administration Manual. At this time, the OFC is in the final stages of updating its capital asset and disposal procedures. Asset disposals are on hold until the procedures are finalized.

The Department and the OFC are committed to this process of strengthening comptrollership and financial management.

3. Manitoba Hydro Funding of the Keeyask Centre

What we found

We found that Manitoba Hydro provided Tataskweyak Cree Nation (TCN) with $4.9 million for the construction of a community facility, the Keeyask Centre (Centre). $629,306 of this amount was used by TCN for other purposes. Hydro has taken steps to ensure that the funds will be used for the Centre. The Annual Reports provided to Hydro did not include information on the funds provided for the Centre although this was required by the Agreement.

Audit approach

We conducted our limited scope audit between February and July 2013. We examined agreements and correspondence between TCN and Manitoba Hydro. We also had several meetings with Manitoba Hydro staff.

Findings

The Agreement

The Adverse Effects Agreement (Agreement) was signed by Manitoba Hydro and TCN in 2009. Included in the Agreement is funding of $4,000,000 to be provided for the Centre construction and $817,000 ($769,800 plus CPI) for ongoing operations and maintenance of the building. Subsequent to signing the agreement but prior to the funds being disbursed in 2011 and 2012, TCN requested that the $817,000 be switched to capital funding instead of operating and maintenance funding due to the delay in the construction of the Centre. Manitoba Hydro allowed this.

The Agreement requires that TCN provide Hydro with “Annual Program Reports for the Offsetting Programs carried out in the preceding fiscal year. Each Annual Program Report will include an accounting of the use of the Guaranteed Annual Amount in the preceding fiscal year and a narrative report on the implementation of each Offsetting Program in the preceding fiscal year, including qualitative and quantitative details such as the number of Members participating and the results received.”

Reporting

Offsetting Programs for the audit period include both Access Programs and the Centre. We examined the annual reports received by Manitoba Hydro for the years 2009-2012. The reports are titled Access Program Report and include only information about the Access Program. It does not include any information about the Centre as is required by the Agreement.

Funding

$4,908,297 was provided by Hydro to TCN for construction of the Centre over a four-year period ending March 31, 2012. $817,821 of this amount was originally intended as operation and maintenance funding for the Centre. The funding was switched to capital funding at the request of TCN and the approval of Hydro. We examined detailed spreadsheets provided by Hydro to confirm these amounts.

In February 2013 we met with Manitoba Hydro to discuss the Centre and the fact that it had not been built. We were told that Manitoba Hydro was aware that the Centre had not been built and had been in continual contact with TCN. The Centre would be constructed beginning in early 2013. Ground breaking for the Centre occurred in fall 2013.

Audit

We also asked if the agreement with TCN provided Hydro with a right to audit the funds provided to TCN. The agreement does not specifically allow Hydro to audit the project but an audit could be requested through an independent arbitrator.

Unaccounted funds

In March 2013 we requested evidence that the $4.9 million provided by Hydro for constructing the Centre still existed at TCN. Hydro informed us that they would have no way of knowing if the funds still exist as the agreement does not require TCN to provide Hydro with that level of detail.

In May 2013 Hydro requested a meeting to update OAG on the latest developments at TCN. Hydro explained that TCN has acknowledged that some of the money that had been provided for the Centre had been used for other purposes. Hydro withheld all further funding until TCN made arrangements to pay back the misused funds. We were provided with a reconciliation of the funds provided to TCN to the funds still on hand at TCN. There was $629,306 of unaccounted funds.

TCN has agreed to make a monthly payment of $78,750 beginning in August 2013 for 8 consecutive months to replenish these project funds. A Band Resolution approving this is dated June 13, 2013. As at December 31, 2013 approximately $315,000 of these funds have been replenished. This has been confirmed by both the firm that has been hired by TCN to manage their finances and a bank confirmation obtained by Hydro.

Recommendation: We recommend that Manitoba Hydro monitor their agreements to ensure that funding provided is being used for the purpose specified.

Response of officials: Manitoba Hydro accepts the recommendation and will enhance its monitoring of the Adverse Effects Agreement to ensure that information on the funds provided for the Keeyask Centre is included in the Annual Report.

The funds identified in the limited scope audit were provided for a specific program under TCN's Keeyask Adverse Effects Agreement. This agreement contemplates a long term annual compensatory payment stream to TCN for adverse effects of the Keeyask Project. The agreement outlines Offsetting Programs developed and proposed by the community at the time the agreement was signed. The agreement outlines that TCN is responsible for the administration and execution of the Offsetting Programs and Manitoba Hydro is responsible for providing payments according to the schedule provided in the agreement.

The agreement requires TCN to prepare annual budgets and reports and review them with its members at public meetings and provide copies to Manitoba Hydro. As per the agreement, TCN has the ability to request program changes based on the priorities of the community.

TCN provided the required reporting for the Offsetting Programs that were being actively implemented which were the Access Programs. In addition, TCN requested a Program Change to move the operation and maintenance funds for the Keeyask Centre, as identified in the Guaranteed Annual Amount, to capital based on the Community's decision to delay the construction of the Keeyask Centre. This was reported to Manitoba Hydro in writing, under separate cover, and approval was provided by Manitoba Hydro. Delay in implementing a program was not specifically contemplated when the Adverse Effects Agreement was negotiated. Manitoba Hydro will work with TCN to determine how reporting of these funds can be incorporated into the Annual Report.

TCN has been providing regular reporting on the progress of the Keeyask Centre since construction was initiated. Manitoba Hydro has also received confirmation that all project funding has been replenished and that the construction of the Keeyask Centre is proceeding as scheduled.

4. Thompson Fire and Emergency Services – Untendered Contract – Department of Municipal Government

What we found

We were provided with information about an untendered contract for fire safety equipment purchased by the City of Thompson (City) for the Thompson Fire and Emergency Services (TFES). The contract was for 20 self-contained breathing apparatus (SCBA) units and supporting equipment. SCBA's are worn by rescue workers to provide breathable air in a hazardous situation.

SCBA units manufactured by Mines Safety Appliances (MSA) were selected and purchased through a Winnipeg supplier (Supplier). The purchase order was placed April 23, 2012 for $136,593.26.

The allegations were that the City did not follow its tendering policy when it purchased the units and that inaccurate information was provided to Thompson City Council (Council) when they were considering the resolution to sole-source the purchase. It was also alleged that a person employed by both TFES and the Supplier had a conflict of interest and may have influenced the decision to purchase the units through a sole-source contract with the Supplier.

We found that the City did not follow its tendering policy and that inaccurate information was provided to Council to justify the sole-source purchase of SCBA units and supporting equipment. We found no evidence that the TFES employee was in a conflict of interest or that the employee influenced the decision to purchase the units through a sole-source contract with the Supplier.

Audit approach

We reviewed employment records, relevant documentation from TFES and the City and spoke to officials from the City, TFES, and the Supplier. We also spoke with an official from Vale, the corporation that runs the mine, refinery and smelter in Thompson.

Findings

The City's procurement policy in effect at the time of the purchase requires sealed quotations for purchases over $10,000. We were told the justification in the procurement policy for using a sole-source contract was based on clause 6 which states:

> Direct by negotiation without obtaining quotes may be used when purchasing special material and services that are not widely available. i.e. entertainment services.

The sole-source contract was promoted at the time by the Fire Chief (now retired). The Fire Chief provided a letter to Council March 19, 2012 promoting the Supplier and the MSA units. The Fire Chief sent a second letter to Council on April 4, 2012 providing justification for a sole-source contract with the Supplier. The letter provided 3 reasons for using a sole-source contract.

The first reason stated in the April 4th letter was "on site comparison and evaluation of units supplied by Draeger, Scott & MSA". We were told TFES selected SCBA units from these 3 suppliers for testing and that all Thompson firefighters tested the 3 SCBA units. A scoring sheet was developed and according to the Fire Chief at the time of our audit, the MSA SCBA units were the most desirable equipment. We were unable to confirm this because the scoring sheets and other records were destroyed. TFES was unable to provide any documentation related to the results of the internal evaluation.

The second reason referred to a "unique financial opportunity presented by the Supplier/MSA". We were told no official pricing had been discussed with other suppliers but that verbal discussions with another supplier indicated a cost per unit which was higher than the Supplier's. Because sealed quotations were not obtained in accordance with the City's procurement policy, there was no way for Council to know whether the Supplier's proposal was a competitive offer.

The third reason stated that "the purchase of the MSA brand makes us, the City, compatible with units purchased by Vale in 2011. This then provides the benefit of additional resources in the event of a major incident experienced by either agency and ability to access 'trained' personnel to address the requirements for annual testing and calibration."

We contacted a Vale official and asked if arrangements had been made to assist in flow testing and servicing new breathing equipment. We were told Vale has a verbal cooperation agreement with TFES and has assisted them by responding to emergency situations in the past. However, there was no agreement to service and flow test TFES's breathing equipment. The Vale official said they would not take on the added liability, nor had they contemplated servicing or flow testing the City's equipment.

We also asked Vale if the MSA units had to be purchased by TFES in order to be compatible with Vale. We were told that Vale also used the Draeger equipment and could fill the Draeger oxygen tanks in an emergency and that Vale staff were trained on the Draeger equipment. Vale used MSA (open) units for surface firefighting and Draeger (closed) units for underground firefighting. We were told that the particular model of Draeger used by Vale was not approved for surface firefighting in Canada. When the City purchased the MSA equipment; Draeger equipment was used by the Manitoba Fire College and provincial emergency services trucks located in Thompson. This was confirmed with an official of the Fire College who also told us they recently purchased some SCBA units from MSA through a tendering process. The official told us the MSA and Draeger units perform comparably and are largely interchangeable but that they chose MSA this time mainly due to pricing considerations.

We found that an individual was an employee of both TFES and the Supplier. We reviewed employment records from TFES and found that the employee was an auxiliary firefighter who had limited involvement with the fire department. We also contacted the Supplier about the employee and were told the employee was not involved in breathing equipment sales, he recharges fire extinguishers. We found no evidence of conflict of interest or that the employee influenced the decision to purchase the units through a sole-source contract with the Supplier.

Figure 1: Toronto firefighter wearing a SCBA

5. Town of Lac du Bonnet – Bulk Water Sales – Department of Municipal Government

What we found

We found that the Town of Lac du Bonnet (Town) cannot reconcile the recorded water sales to the prepaid cards that are used to dispense water at the Town's water facility. Because of this internal control deficiency there is a risk that cash could be misappropriated without being detected.

We were provided with information that the revenue recorded by the Town for bulk water sales did not agree with the amount of water leaving the Town's water facility. Over the 4 year period from 2009 to 2012 the Town's records shows there is approximately $25,000 worth of water that left the facility that is not included in the revenue figures.

The system being used by the Town involves individuals, mostly bulk water sellers, prepaying an amount and having a prepaid card loaded with the amount paid. Town staff enter the amount paid by the customer to the card loading machine and a prepaid card is generated and provided to the customer. Water will not be dispensed unless a prepaid card has been inserted. The Town staff also enter the amount paid by the customer to the accounting records. An error could be made if the amount on the card and the amount in the records are different. The card loading machine cannot generate a report to reconcile the total amount loaded onto cards to the cash recorded.

Findings

The control weakness is caused by the inability of the card loading machine to generate reports. Also the same staff member records cash receipts and issues prepaid cards. There is a risk that staff could receive a cash payment for a water purchase, not record or deposit the cash, but enter the amount received to the card loading machine and generate a prepaid card. There is also a risk that staff could enter an amount to the card loading machine in excess of the amount of cash received and deposited.

An official from the manufacturer of the card loading machine verified that the Town's machine could not generate reports of amounts entered but that the next generation of machines would have that capability.

Town officials told us there have been occasions of malfunctions at the Town's water facility where individuals were able to get more water than they paid for and other occasions where the water was left running all night. These situations would also contribute to the deficiency in revenue recorded by the Town.

One municipality we contacted uses a declining balance card that is pre-loaded with a specified amount. At the end of each quarter the cardholders are billed for the amount of water used. This is determined by subtracting the remaining balance on the card from the originally loaded amount. Municipal officials told us that water losses have declined significantly since this new system was implemented.

Other solutions are possible such as having one staff member issue the cards and having another staff member record the cash.

Recommendation: We recommend that the Town change its internal controls over bulk water sales by either moving to another system or segregating staff duties.

Response - Town of Lac du Bonnet: The Town of Lac du Bonnet recognizes the problem. We are following the recommendations of the Auditor General. We are looking for a better system which is more accountable to replace the existing one in the future.