

**Addenda to the Report of the General Auditor tabled with
city council on September 21, 2009 and the agglomeration council
on September 24, 2009 concerning the audit of the entire process
involving the acquisition and installation of water meters in IBIs,
as well as the optimization of the entire Montréal agglomeration water network**

**November 30, 2009 meeting of city council
December 3, 2009 meeting of the agglomeration council**

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ADDITIONAL REVIEW TO ADD TO CHAPTER III.12

III.12 RESULT OF A CALL FOR QUALIFICATION FOR THE IBI AND NETWORK OPTIMIZATION PROJECT (2006)

III.12.1 Highlights and analysis

ON PAGE 69 OF THE GENERAL AUDITOR'S REPORT, THE FOLLOWING PARAGRAPHS ARE ADDED AFTER THE SENTENCE:

This information illustrates the highly problematic nature of the project. We will return to these elements later in this report.

INDEPENDENT OPINIONS

The call for qualification used to select organizations capable of fulfilling the *IBI and Network Optimization project* provided certain guidelines on diligence of the qualification process for candidates and the administration. Article 1.6 of the call for qualification, entitled "Surveillance du déroulement du processus de selection" [Oversight of the Selection Process] states:

[TRANSLATION]

"The Direction de l'approvisionnement des Services administratifs shall be responsible for the entire candidate selection process. The Direction shall accordingly monitor the process, provide an independent opinion and indicate if the process has been equitable and transparent in terms of the assessment and selection criteria described in the call for qualification document."¹

The City's Internal Auditor will provide an additional opinion on the candidate selection process."²

In the normal course of business, the City's executive committee adopts a resolution to authorize bid solicitation. This implies approval of the subject of the call for tenders and the criteria for adjudication. An existing administrative framework covers professional services.

¹ Emphasis added.

² Emphasis added.

The executive committee had not approved the assessment criteria for the *IBI and Network Optimization* project prior to the call for qualification. However, an administrative framework entitled “Planification et approbation d’appels d’offres en services professionnels” [Planning and approval of calls for tenders of professional services] was issued on September 22, 2005 by the Direction de l’approvisionnement. This guideline refers to s. 573.1.0.1.1 of the *Cities and Towns Act* and sets the following guidelines:

[TRANSLATION]

The establishment of a provisional schedule for calls for tenders of professional services supports the organizational process involved in soliciting service acquisition contracts.

Every quarter, the executive committee approves the schedule of calls for tenders of professional services and bid assessment grids³ and delegates to the Director General the legitimacy to authorize solicitation of these calls for tenders.

We accordingly believe that these administrative rules applied to the call for qualification pertaining to the *IBI and Network Optimization* project.

Following the qualification process, SITE prepared decision summary No. 1061933003 of October 27, 2006. This decision summary was accompanied by relevant documents including the favourable opinion of the Direction de l’approvisionnement. The decision summary said: [TRANSLATION] “*Inform the executive committee of the results of the call for qualification IBI and Network Optimization Project.*” There is no resolution from the executive committee endorsing the decision summary.

This decision summary described the outcome of the call for qualification and in particular stated that the overall qualification process took place under the supervision of the Direction de l’approvisionnement and a neutral observer, namely the Internal Auditor. The same paragraph also thanks the Internal Auditor for his time.

The Internal Auditor confirmed his acceptance in an email sent on October 16, 2006 to the representative of the Direction de l’approvisionnement to perform the audit set out in clause 1.6 by specifying that [TRANSLATION] “the internal audit report will be sent to the Direction de l’approvisionnement . . . This report will describe the audit procedures employed and their results.”

³ Emphasis added.

Earlier the same day, the representative of Direction de l'approvisionnement had in fact clearly told the Internal Auditor by email that the independent opinion [TRANSLATION] "would be transmitted to the party in charge of the call for qualification, in this case being SITE's water management department and that it would appear in the Direction de l'approvisionnement decision in the decision summary following the candidate selection process." The representative of the Direction de l'approvisionnement and the Internal Auditor exchanged emails and phone calls in the weeks following the award of the contract to plan and carry out the audit necessary for processing the Internal Auditor's independent opinion. We did however observe that, for unexplained reasons, the Internal Auditor did not issue the independent opinion, did not advise the Director General (who was his administrative superior at that time) in writing of this situation and did not document his reasons for failing to produce this notice.

The executive committee's elected officials were not advised in the decision summary of October 27, 2006 of the requirements set out in clause 1.6 of the call for qualification. Furthermore, they were not told that the Internal Auditor's independent opinion had not been issued.

In the fall of 2007, the city council's elected officials and later, those of the agglomeration council, unanimously approved the contract awarded to GÉNleau, Groupe d'experts by endorsing and ratifying all of the City's actions. This process included retroactive approval of the qualification process, solicitation of proposals and creation of selection committees. Once again, however, the elected officials were not told of the failure to comply with clause 1.6 of the call for qualification document and irregularities that had occurred with respect to the delegation of authority. The elected officials had no way of knowing this information.

As with the call for qualification, the assessment criteria and the requirements of the specifications for the call for proposals had not been endorsed at the time the contract was awarded.

ON PAGE 70 OF THE AUDITOR'S REPORT, THE FINDING 21.1 IS ADDED TO FINDING 21.

Finding 21.1

The lack of an independent opinion from the Internal Auditor does not alter our opinion that the qualification process was invalid. It would be surprising for a court to conclude that the absence of this opinion would necessarily suggest that the candidate selection process failed to comply with standards without any other factual evidence to that effect.

It should however be noted that the Internal Auditor had at the time of the call for qualification requested a study from PricewaterhouseCoopers that he subsequently included in the audit report. It was entitled “Appels d’offres, attribution et gestion de contrats de voirie, d’aqueduc et d’égouts de la Ville de Montréal” [Call for tenders, award and management of road, water supply and sewer system contracts for Montréal]. This study states, for example, that: “*The City operates in an environment that is not completely competitive (. . .). As a result of the absence of measures to prevent and detect collusion, fraud, conflict of interest and other unlawful acts, as well as of alternative solutions available to carry out the work, the City is not in position to obtain the required services economically.*” It should be noted that the report in question was addressed to SITE management (see pages 55 *et seq.* of this report).

In view of the foregoing, the major stakes involved for the City in awarding a contract of this size and the specific requirement set out in clause 1.6 of the call for qualification documents, the issuance of an independent opinion from the Internal Auditor becomes all the more important. If we add to that the lack of awareness among elected officials of the requirement for an independent opinion and our findings as to the validity of criteria used in Montréal, various violations of the candidate selection process become evident.

Furthermore, decision summary No. 1061933003 provided incorrect information to the executive committee’s elected officials. It stated that the summary of the overall⁴ qualification process was performed under the supervision of the Internal Auditor and the Direction de l’approvisionnement, which suggested consent to and endorsement of this process by both parties. No independent opinion had in fact been issued by the Internal Auditor. Furthermore, the work performed by the Internal Auditor to evaluate the overall process was insufficient to issue an independent opinion for this purpose. In addition, the decision summary in question does not report the lack of compliance with clause 1.6 of the call for qualification to the elected officials.

Furthermore, rules of delegating approval of assessment criteria for the call for qualification and the call for proposals were not observed.

⁴ Emphasis added.

THE FOLLOWING FINDING IS ADDED TO THE END OF THE FINAL FINDING OF SEGMENT 3 OF PAGE 157 OF THE REPORT:

- The executive committee's elected officials were not advised that the independent opinion that was supposed to be issued by the Internal Auditor, as required by clause 1.6 of the call for qualification for the *IBI and Network Optimization* Project, was not produced. Furthermore, decision summary No. 1061933003 misled the executive committee's elected officials by stating that the entire qualification process occurred under the supervision of the Internal Auditor, acting as a neutral observer, suggesting that the Internal Auditor endorsed the process as a whole, although his audit did not permit him to issue such an independent opinion and in any event, this opinion was not produced. Moreover, since delegation rules with respect to assessment criteria have been bent, it would have been difficult to issue this independent opinion.

THE FOLLOWING RECOMMENDATIONS ARE ADDED ON PAGE 163 OF THE REPORT:

- Generally, we recommend that the City acquire robust quality control mechanisms to ensure the quality of executive decisions. Among other things, a written statement must be required by the authors of executive decisions on the completeness and accuracy of their content. The authors of each executive decision should implement quality control mechanisms to formally ensure the completeness and accuracy of content of executive decisions.
- More specifically, with respect to this mission, we recommend that SITE's water management development department deploy mechanisms in conjunction with the Direction de l'approvisionnement to ensure compliance with clauses appearing in calls for qualification (and possibly calls for tenders) and to make sure to include significant, relevant and accurate information in executive decisions to assist elected officials in making informed decisions.